IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 28th OF AUGUST, 2023

WRIT PETITION No. 20174 of 2023

BETWEEN:-

UMASHANKAR AGNIHOTRI S/O LATE SHRI BHAGWAT PRASAD AGNIHOTRI, AGED ABOUT 58 YEARS, OCCUPATION: SERVICE POSTED AS MANDI INSPECTOR KRISHI UPAJ MANDI SAMITI HANUMANA DISTRICT REWA (MADHYA PRADESH)

.....PETITIONER

(BY SHRI MUKESH KUMAR AGRAWAL – ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH AGRICULTURE MARKETING BOARD THROUGH ITS MANAGING DIRECTOR 26 ARERA HILLS KISAN BHAWAN BHOPAL (MADHYA PRADESH)**

2. **SHRI GAUTAM SINGH ADDITIONAL DIRECTOR, M.P. STATE AGRICULTURE MARKETING BOARD 26 ARERA HILLS KISAN BHAWAN BHOPAL (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI K.S. BAGHEL – GOVERNMENT ADVOCATE)

This petition coming on for admission this day, the court passed the following:

ORDER

This petition under Article 226 of the Constitution of India has been filed against the order dated 01.08.2023 passed by respondent No.2 in Files No.Estt./A-1/710/497 and Estt./A-1/710/499 by which a show cause notice has been issued to the petitioner on the allegation that in W.P.No.10430/2022 the petitioner had suppressed the fact that he was served with a charge sheet in the year, 2018.

2. It is the case of petitioner that earlier he was working as Mandi Secretary in Krishi Upaj Mandi Samiti, Sidhi. By order dated 28.01.2022, he was transferred to Krishi Upaj Mandi Samiti, Sausar, District Chhindwara.

3. Being aggrieved by the said order, the petitioner preferred W.P.No.3416/2022 and the said petition was disposed of by a Coordinate Bench of this Court with a direction to decide the representation and till then he was permitted to continue at Sidhi. Accordingly, by order dated 08.04.2022, the representation filed by the petitioner was dismissed. However, his place of posting was modified and in place of Krishi Upaj Mandi Samiti, Sausar, District Chhindwara, he was posted at Krishi Upaj Mandi Samiti, Devendra Nagar, District Panna. Against the order dated 08.04.2022, the petitioner preferred W.P.No.10430/2022 by specifically pleading that no departmental action was ever initiated against him and the order dated 08.04.2022 has been passed on erroneous allegations. The said writ petition was dismissed by this Court by order dated 10.08.2022.

4. It is submitted that now even the order of Devendra Nagar, Panna has been modified and at present petitioner is posted in Krishi Upaj Mandi, Hanumana. It is submitted that by the impugned show cause notice dated 01.08.2023, the petitioner has been called upon to explain as to why two increments with cumulative effect be not withheld on account of making false averment before the High Court in W.P.No.10430/2022.

5. Challenging the impugned show cause notice, it is submitted by counsel for petitioner that although petitioner had already filed his detailed reply but the respondent No.2 may spoil his career. The In-charge Managing Director has no power to issue a show cause notice. Although, the petitioner has submitted the entire material before respondents but the petitioner is not expecting any justice from their end.

6. It is submitted that after the order of transfer was modified by order dated 08.04.2022 in which it was mentioned that he has been transferred on account of pendency of departmental enquiry, the petitioner sought an information under RTI with regard to pendency of departmental enquiry. However, the Joint Director (RTI Act) of the respondent No.1 intimated that the petitioner can seek information from Krishi Upaj Mandi Samiti, Sidhi and did not supply any information with regard to pendency of departmental enquiry. It is further submitted that a non official note was prepared by Joint Director, (*Bhavantar Bhugtan Yojna)*, M.P. Rajya Krishi Nigam Board, Bhopal to suggest that no involvement of petitioner was found. Even in

W.P.No.10430/2022 the respondents did not disclose the details regarding pendency of departmental enquiry.

7. Since, no information was supplied to petitioner with regard to pendency of any departmental enquiry, therefore he specifically mentioned in W.P.No.10430/2022 that no departmental enquiry is pending. The said categorical assertion made by petitioner in W.P.No.10430/2022 was a bonafide lapse on his part. However, the same was corrected by petitioner by filing rejoinder in W.P.No.10430/2022 in which he admitted that he had received a copy of charge sheet, which was duly replied by him but no further action was taken by the respondents and thus it is submitted that the impugned show cause notice dated 01.08.2023 may be quashed.

8. Heard the learned counsel for the petitioner.

Whether petitioner had suppressed material facts in W.P.No.10430/2022 or not ?

9. It is a case where the respondents have issued a show cause notice on the charges that the petitioner had suppressed material facts from the High Court in W.P.No.10430/2022.

10. The only question for consideration is as to whether there was any material suppression by the petitioner in W.P.No.10430/2022 or not ?

11. Accordingly, at the request of counsel for petitioner, this Court by order dated 21.08.2023 had directed to list this case along with record of W.P.No.3416/2022 and W.P.No. 10430/2022 as well as W.P.No.9725/2022.

12. In W.P.No.10430/2022 following categorical pleadings were made by the petitioner, which reads as under:

> "5.14 That, the respondent No.2 by order dated 08.04.2022 has rejected the petitioner's representation and has transferred him instead of Sansaur, District Chindwara to Krishi Upaj Mandi Samiti, Devendra Nagar, District Panna by making an amendment to that effect in transfer order dated 28.01.2022 (Annexure-P-1). A copy of impugned order dated 08.04.2022 is enclosed herewith as **Annexure- P-9**. The petitioner's representation has been rejected on the ground that he has been posted at Sidhi for about 4 years and that there are complaints against him and a departmental enquiry is also pending against him. It is respectfully submitted that the alleged complainants are fabricated against him and that no departmental enquiry is pending against him. The averments made in the impugned order dated 08.04.2022 (Annexure-P-9) that a departmental enquiry is pending against him is thus absolutely false. Till date the petitioner has not received any information about the pendency of any departmental enquiry against him. Thus, rejection of petitioner's by impugned order dated 08.04.2022 is on the basis of incorrect, false and irrelevant considerations. The petitioner's representation has thus not been considered in a fair manner, pursuant to the order of this Hon'ble court dated 15.03.2022 passed in W.P. No.3416/2022,. The impugned order is thus absolutely liable to be set aside."

13. Thus, a specific stand was taken by petitioner that allegation of pendency of departmental enquiry in the order dated 08.04.2022 is factually incorrect. Thereafter, the respondents No. 2 to 5 filed their return on 19.07.2022 and took a specific objection with regard to

pendency of charge sheet. Paragraph-5 of return filed by the respondents No.2 to 5 reads as under:-

> "That, on merits, it is respectfully submitted that there are serious complaints against the petitioner during his posting at Market Committee, Sidhi and even he was subjected to a regular departmental enquiry vide charge-sheet dated 67/03/2018. There are two charges pertaining to negligence in maintaining the records of the registered farmers on the mandi- Portal in execution of *Bhawantar Yojna*, due to which those farmers could not get the payment for their sold crops in time. He was also found *primafacie* guilty of negligence while discharge of duties as Nodal Market Secretary under the referred scheme. The departmental enquiry is being conducted in accordance with the regulations and the petitioner has submitted his reply to the charge-sheet. The departmental enquiry is at the stage of evidence. Copy of the charge-sheet is filed herewith as **Annexure-R/1**. Copy of the letter dated 10/03/2022, reflecting the present status of the proceedings is also filed herewith as **Annexure-R/2**."

14. Thus, respondents No. 2 to 5 brought this fact to the notice of this Court that departmental charge sheet has already been served on the petitioner in the year 2018 and departmental enquiry is pending. A copy of charge sheet dated 07.03.2018 was also filed. Only thereafter, the petitioner admitted in his rejoinder that a departmental enquiry is pending. Paragraph-6 and 7of his rejoinder reads as under:-

> "6. That, furthermore the actions of the respondent department in proceeding with the departmental proceedings against the petitioner speaks louder than its words. The respondent department even after

being fully aware of the fact that the petitioner had filed a detailed reply rejecting all the allegations levelled against him kept absolutely silent for more than four years without having any communication or correspondences in respect of the said departmental proceedings. Such conduct of the respondent department speaks volumes about their intention of not continuing with the said departmental proceedings against the petitioner.

7. That, moreover, it was compulsory and a condition precedent on the part of respondent department to appoint a specially assigned enquiry officer pursuant to the reply being filed by the petitioner. The respondent department took no efforts to appoint an enquiry officer in the said departmental proceedings, meaning thereby the respondents after considering the reply of the petitioner have formed a definite opinion to drop the said departmental proceedings against the petitioner. For the sake of example, the petitioner is enclosing a letter whereby the respondent department has appointed a specially assigned enquiry officer to further prosecute the charge against the accused therein. The same has not been done herein by the respondent department and the actions of the respondent department to justify the said impugned transfer orders with the pending departmental inquiry which was virtually dropped off is totally uncalled for. Hence the impugned transfer orders suffers from malice and arbitrariness and are wholly unjustified in law. A copy of letter dated 02.03.2022 is marked and enclosed herewith as **Annexure-RJ-3**."

15. Thus, it is clear that only after the petitioner was exposed by respondents No. 2 to 5, he admitted that not only departmental charge

sheet was served on him but he had also filed his reply. W.P.No.10430/2022 was dismissed by Coordinate Bench of this Court by a detailed order dated 10.08.2022 and the pendency of departmental enquiry was also taken into note.

16. It is submitted by counsel for petitioner that petitioner had filed an application under RTI Act on 11.04.2022 seeking certain informations and reply was given by M.P. Rajya Krishi Nigam Board on 12.05.2022, by which it was directed that the petitioner can collect the information from Krishi Upaj Mandi Samiti, Sidhi with regard to fact as to whether any departmental proceedings are pending against him or not. Further**,** a non official note was prepared by Joint Director, (*Bhavantar Bhugtan Yojna)*, M.P. Rajya Krishi Nigam Board, Bhopal to suggest that no involvement of petitioner was found.

17. Now the only question of consideration is as to whether the suppression of pendency of departmental enquiry by the petitioner in W.P.No.10430/2022 was *bona fide* or it was *mala fide*.

18. The petitioner had filed W.P.No.10430/2022 on 02.05.2022 whereas petitioner filed an application under RTI on 11.04.2022 i.e. subsequent to filing of W.P.No.10430/2022. Therefore, contention of the petitioner that since he was not given any information regarding pendency of departmental enquiry, therefore the non mention of pendency of departmental enquiry in W.P.No.10430/2022 was *bona fide* lapse cannot be accepted.

19. Furthermore, the respondent No.2 to 5 had filed their return on 18.07.2022, therefore any unofficial note prepared subsequent thereto will not have any effect. Furthermore, the petitioner has not

filed any document to show that he was ever exonerated in the departmental enquiry. In rejoinder dated 26.07.2022, which was filed by the petitioner in W.P.No.10430/2022, it was specifically admitted by him that not only a departmental charge sheet was served on him but he had also submitted reply. Thus, the service of departmental charge sheet is undisputed and cannot be denied by petitioner.

20. Under these circumstances, it is clear that petitioner had suppressed material fact in W.P.No.10430/2022 and was successful in obtaining an interim order dated 09.05.2022.

Whether the petitioner had suppressed material facts in the petition ?

21. In the present petition also the petitioner has not accepted that any departmental charge sheet was issued to him. On the contrary, the entire writ petition is based on the fact that he was never given any information about the pendency of departmental enquiry. Even during the course of arguments, it was argued with vehemence that no information was given to petitioner with regard to pendency of departmental enquiry. Therefore, impugned show cause notice is bad in law.

22. It is well established principle of law that whosoever approaches this Court must come with clean hands.

23. The Supreme Court in the case of **K. Jayaram v. BDA**, reported in **(2022) 12 SCC 815** has held under:

> **"10.** It is well-settled that the jurisdiction exercised by the High Court under Article 226 of the Constitution of India is extraordinary, equitable and discretionary and it is imperative that the petitioner

> approaching the writ court must come with clean hands and put forward all facts before the court without concealing or suppressing anything. A litigant is bound to state all facts which are relevant to the litigation. If he withholds some vital or relevant material in order to gain advantage over the other side then he would be guilty of playing fraud with the court as well as with the opposite parties which cannot be countenanced."

24. The Supreme Court in the case of **K.D. Sharma v. SAIL,** reported in **(2008) 12 SCC 481** has held under:

> "**34.** The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.
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> **35.** The underlying object has been succinctly stated by Scrutton, L.J., in the leading case of *R.* v. *Kensington Income Tax Commrs.* [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] in the following words: (KB p. 514)
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> > "… it has been for many years the rule of the court, and one which it is of the greatest importance to maintain, that when an applicant comes to the court to obtain relief on an ex parte statement he should make a full and fair disclosure of

> all the material facts—it says facts, not law. He must not misstate the law if he can help it—*the court is supposed to know the law. But it knows nothing about the facts*, and the applicant must state fully and fairly the facts; and the penalty by which the court enforces that obligation is that if it finds out that the facts have not been fully and fairly stated to it, the court will set aside any action which it has taken on the faith of the imperfect statement."
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> (emphasis supplied)

36. A prerogative remedy is not a matter of course. While exercising extraordinary power a writ court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the court. If the applicant makes a false statement or suppresses material fact or attempts to mislead the court, the court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating, "*We will not listen to your application because of what you have done*." The rule has been evolved in the larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it.

37. In *Kensington Income Tax Commrs.* [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] Viscount Reading, C.J. observed: (KB pp. 495-96)

> "… Where an ex parte application has been made to this Court for a rule nisi or other process, if the Court comes to the conclusion that the affidavit in support of the application was not candid and did not fairly state the facts, but stated them in such a way as to mislead the Court as to the true facts,

> the Court ought, for its own protection and to prevent an abuse of its process, to refuse to proceed any further with the examination of the merits. This is a power inherent in the Court, but one which should only be used in cases which bring conviction to the mind of the Court that it has been deceived. Before coming to this conclusion a careful examination will be made of the facts as they are and as they have been stated in the applicant's affidavit, and everything will be heard that can be urged to influence the view of the Court when it reads the affidavit and knows the true facts. *But if the result of this examination and hearing is to leave no doubt that the Court has been deceived, then it will refuse to hear anything further from the applicant in a proceeding which has only been set in motion by means of a misleading affidavit*."
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> (emphasis supplied)

38. The above principles have been accepted in our legal system also. As per settled law, the party who invokes the extraordinary jurisdiction of this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play "hide and seek" or to "pick and choose" the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of writ courts and exercise

would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because "the court knows law but not facts".

39. If the primary object as highlighted in *Kensington Income Tax Commrs.* [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] is kept in mind, an applicant who does not come with candid facts and "clean breast" cannot hold a writ of the court with "soiled hands". Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court.

40. Let us consider some important decisions on the point.

41. In *State of Haryana* v. *Karnal Distillery Co. Ltd.* [(1977) 2 SCC 431] almost an agreed order was passed by the Court that on expiry of the licence for manufacturing of liquor on 6-9-1976, the distillery would cease to manufacture liquor under the licence issued in its favour. Then, the Company filed a petition in the High Court for renewal of licence for manufacture of liquor for 1976-1977, and the Court granted stay of dispossession. In appeal, the Supreme Court set aside the order granting stay of

dispossession on the ground that the petitioner Company in filing the petition in the High Court had misled it and started the proceedings for oblique and ulterior motive.

42. In *Vijay Kumar Kathuria* v. *State of Haryana* [(1983) 3 SCC 333] it was the case of the petitioners that the provisional admissions granted to them were not cancelled and they were continuing their studies as postgraduate students in Medical College on the relevant date. On the basis of that statement, they obtained an order of status quo. The Supreme Court ordered inquiry and the District Judge was asked to submit his report whether the provisional admissions granted to the petitioners were continued till 1-10-1982 or were cancelled. The report revealed that to the knowledge of the petitioners their provisional admissions were cancelled long before 1-10-1982 and thus, the petitioners had made false representation to the Court and obtained a favourable order. Dismissing the petition, this Court observed: (SCC p. 334, para 1)

> "*1*. … But for the misrepresentation this Court would never have passed the said order. By reason of such conduct they have disentitled themselves from getting any relief or assistance from this Court and the special leave petitions are liable to be dismissed."

43. Deprecating the reprehensible conduct of the petitioners as well as of their counsel, the Court stated: (*Vijay Kumar Kathuria case* [(1983) 3 SCC 333] , SCC pp. 334-35, para 3)

> "*3*. Before parting with the case, however, we cannot help observing that the conduct or behaviour of the two petitioners as well as their counsel (Dr. A.K. Kapoor who happens to be a

> medico-legal consultant practising in courts) is most reprehensible and deserves to be deprecated. The District Judge's report in that behalf is eloquent and most revealing as it points out how the two petitioners and their counsel (who also gave evidence in support of the petitioner's case before the District Judge) have indulged in telling lies and making reckless allegations of fabrication and manipulation of records against the college authorities and how in fact the boot is on their leg. It is a sad commentary on the scruples of these three young gentlemen who are on the threshold of their careers. In fact, at one stage we were inclined to refer the District Judge's report both to the Medical Council as well as the Bar Council for appropriate action but we refrained from doing so as the petitioners' counsel both on behalf of his clients as well as on his own behalf tendered unqualified apology and sought mercy from the court. *We, however, part with the case with a heavy heart expressing our strong disapproval of their conduct and behaviour….*"
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> (emphasis supplied)

44. In *Welcom Hotel* v. *State of A.P.* [(1983) 4 SCC 575 : 1983 SCC (Cri) 872] certain hoteliers filed a petition in this Court under Article 32 of the Constitution challenging the maximum price of foodstuffs fixed by the Government contending that it was uneconomical and obtained ex parte stay order. The price, however, was fixed as per the agreement between the petitioners and the

Government but the said fact was suppressed. Describing the fact as material, the Court said: (SCC pp. 580-81, para 7)

> "*7.* … Petitioners who have behaved in this manner are not entitled to any consideration at the hands of the Court."

45. In *Agricultural & Processed Food Products* v. *Oswal Agro Furane* [(1996) 4 SCC 297] the petitioner filed a petition in the High Court of Punjab and Haryana which was pending. Suppressing that fact, it filed another petition in the High Court of Delhi and obtained an order in its favour. Observing that the petitioner was guilty of suppression of "very important fact", this Court set aside the order of the High Court.

46. In *State of Punjab* v. *Sarav Preet* [(2002) 9 SCC 601 : 2002 SCC (L&S) 1085] *A* obtained relief from the High Court on her assertion that a test in a particular subject was not conducted by the State. In an appeal by the State, it was stated that not only the requisite test was conducted but the petitioner appeared in the said test and failed. Observing that the petitioner was under an obligation to disclose the said fact before the High Court, this Court dismissed the petition.

47. In *Union of India* v. *Muneesh Suneja* [(2001) 3 SCC 92 : 2001 SCC (Cri) 433] the detenu challenged an order of detention under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA) by filing a petition in the High Court of Delhi which was withdrawn. Then he filed a similar petition in the High Court of Punjab and Haryana wherein he did not disclose the fact as to filing of the earlier petition and withdrawal thereof and obtained relief. In an appeal by the Union of India against the order

of the High Court, this Court observed that non-disclosure of the fact of filing a similar petition and withdrawal thereof was indeed fatal to the subsequent petition.

48. A special reference may be made to a decision of this Court in *All India State Bank Officers Federation* v. *Union of India* [1990 Supp SCC 336 : 1991 SCC (L&S) 429 : (1991) 16 ATC 454] . In that case, promotion policy of the Bank was challenged by the Federation by filing a petition in this Court under Article 32 of the Constitution. It was supported by an affidavit and the contents were affirmed by the President of the Federation to be true to his "personal knowledge". It was stated: (SCC p. 337, para 2)

> "*2.* … [T]he petitioners have not filed any other similar writ petition in this Honourable Court or any other High Court."

In the counter-affidavit filed on behalf of the Bank, however, it was asserted that the statement was "false". The Federation had filed a writ petition in the High Court of Andhra Pradesh which was admitted but interim stay was refused. Another petition was also filed in the High Court of Karnataka. It was further pointed out that the promotion policy was implemented and 58 officers were promoted who were not made parties to the petition. In the affidavit-in-rejoinder, once again, the stand taken by the petitioner was sought to be justified. It was stated: "The deponent had no knowledge of the writ petition filed before the High Court of Andhra Pradesh, hence as soon as it came to his knowledge the same has been withdrawn. Secondly, the petitioners even today do not know the names of all such 58 candidates who have been promoted/favoured." It was contended on behalf of the Bank that even that statement was false. Not

only the petitioner Federation was aware of the names of all the 58 officers who had been promoted to the higher post, but they had been joined as party-respondents in the writ petition filed in the Karnataka High Court, seeking stay of promotion of those respondents. It was, therefore, submitted that the petitioner had not come with clean hands and the petition should be dismissed on that ground alone.

49. "Strongly disapproving" the explanation put forth by the petitioner and describing the tactics adopted by the Federation as "abuse of process of court", this Court observed: (*All India State Bank Officers Federation case* [1990 Supp SCC 336 : 1991 SCC (L&S) 429 : (1991) 16 ATC 454] , SCC pp. 340-41, paras 9 & 11)

> "*9.* … There is no doubt left in our minds that the petitioner has not only suppressed material facts in the petition but has also tried to abuse judicial process. …
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> * * *
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> *11.* Apart from misstatements in the affidavits filed before this Court, the petitioner Federation has clearly resorted to tactics which can only be described as abuse of the process of court. The simultaneous filing of writ petitions in various High Courts on the same issue though purportedly on behalf of different associations of the officers of the Bank, is a practice which has to be discouraged. Sri Sachar and Sri Ramamurthi wished to pinpoint the necessity and importance of petitions being filed by different associations in order to discharge satisfactorily their responsibilities towards their respective members. We are not quite able to

> appreciate such necessity where there is no diversity but only a commonness of interest. All that they had to do was to join forces and demonstrate their unity by filing a petition in a single court. *It seems the object here in filing different petitions in different courts was a totally different and not very laudable one.*"
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> (emphasis supplied)

50. "Deeply grieved" by the situation and adversely commenting on the conduct and behaviour of the responsible officers of a premier bank of the country, the Court observed: (*All India State Bank Officers Federation case* [1990 Supp SCC 336 : 1991 SCC (L&S) 429 : (1991) 16 ATC 454] , SCC p. 342, para 12)

> "*12*. We have set out the facts in this case at some length and passed a detailed order because we are deeply grieved to come across such conduct on the part of an association, which claims to represent high placed officers of a premier bank of this country. One expects such officers to fight their battles fairly and squarely and not to stoop low to gain, what can only be, temporary victories by keeping away material facts from the court. It is common knowledge that, of late, statements are being made in petitions and affidavits recklessly and without proper verification not to speak of dishonest and deliberate misstatements. *We, therefore, take this opportunity to record our strong and emphatic disapproval of the conduct of the petitioners in this case and hope that this will be a lesson to the present*

> *petitioner as well as to other litigants and that at least in future people will act more truthfully and with a greater sense of responsibility.*"
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> (emphasis supplied)

51. Yet in another case in *Vijay Syal* v. *State of Punjab* [(2003) 9 SCC 401 : 2003 SCC (L&S) 1112] this Court stated: (SCC p. 420, para 24)

> "*24*. In order to sustain and maintain the sanctity and solemnity of the proceedings in law courts it is necessary that parties should not make false or knowingly, inaccurate statements or misrepresentation and/or should not conceal material facts with a design to gain some advantage or benefit at the hands of the court, when a court is considered as a place where truth and justice are the solemn pursuits. If any party attempts to pollute such a place by adopting recourse to make misrepresentation and is concealing material facts it does so at its risk and cost. Such party must be ready to take the consequences that follow on account of its own making. At times lenient or liberal or generous treatment by courts in dealing with such matters is either mistaken or lightly taken instead of learning a proper lesson. Hence there is a compelling need to take a serious view in such matters to ensure expected purity and grace in the administration of justice."

52. In the case on hand, the appellant has not come forward with all the facts. He has chosen to state the facts in the manner suited to him by giving an impression to the writ court that an instrumentality

> of State (SAIL) has not followed doctrine of natural justice and fundamental principles of fair procedure. This is not proper. Hence, on that ground alone, the appellant cannot claim equitable relief. But we have also considered the merits of the case and even on merits, we are convinced that no case has been made out by him to interfere with the action of SAIL, or the order passed by the High Court."

25. Now the only question for consideration is as to whether the petitioner is guilty of suppressing of material facts or not.

26. It is well established principle of law that every suppression of fact may not invite dismissal of petition and the Court can refuse to give equitable relief to the litigant if he is found guilty of suppression of material fact. Material fact means that in case if the petitioner had disclosed the said fact at the very beginning, then the Court would not have entertained the writ petition. As already pointed out that petitioner had made specific and categorical declaration/pleading in W.P.No.10430/2022 that no departmental charge sheet was ever issued to him and order dated 08.04.2022 has been issued on wrong facts.

27. There was a specific declaration in W.P.No.10430/2022 that " Till date the petitioner has not received any information about the pendency of any departmental enquiry against him." Only on the basis this declaration, the petitioner had succeeded in getting an interim order dated 09.05.2022. Even it is clear from order dated 09.05.2022, a specific statement was made by petitioner that no departmental enquiry is pending against him and the reason assigned for rejection of his representation is incorrect. While passing the interim order, Coordinate Bench of this Court had also taken note of specific averments made in

paragraph No.5.14 of writ petition that no departmental enquiry is pending against him. Therefore, it is clear that petitioner was guilty of suppression of material fact.

28. The Coordinate Bench of this Court while deciding W.P.No.10430/2022 has taken a note of the aforesaid material suppression of fact and ultimately dismissed the petition. Thus, the contention that suppression of material fact in W.P.No.10430/2022 was *bona fide* cannot be accepted.

29. However, petitioner did not improve his conduct and in the present petition also he did not disclose that a departmental charge sheet was served on him and he had also submitted his reply. On the contrary, he tried to take shelter of an application made by him on 11.04.2023 under the RTI Act and a non official note was prepared by Joint Director, (*Bhavantar Bhugtan Yojna)*, M.P. Rajya Krishi Nigam Board, Bhopal to suggest that no involvement of petitioner was found.

30. It is made clear that W.P.No.10430/2022 was filed prior to filing of application under the RTI Act, therefore, petitioner cannot take advantage of the reply dated 12.05.2022 given by Public Information Officer. Even otherwise, in the said reply, it was merely observed that petitioner can obtain the requisite information from Krishi Upaj Mandi Samiti, Sidhi. It is not case of petitioner that thereafter he has ever approached Krishi Upaj Mandi Samiti, Sidhi for obtaining any information with regard to pendency of departmental enquiry.

31. Although, the petitioner has tried to take advantage of an unofficial note prepared by Joint Director, (*Bhavantar Bhugtan Yojna)*,

M.P. Rajya Krishi Nigam Board, Bhopal dated 21.09.2022 to show that involvement of petitioner was not found but no document has been filed by petitioner to show that he was ever exonerated.

32. Be that whatever it may be.

33. The factum of receipt of charge sheet and filing of reply by the petitioner has been conveniently suppressed by him in the present petition also.

34. Under these circumstances, it is clear that petitioner is guilty of suppression of material facts and petitioner has not approached this Court with clean hands.

35. In view of increasing tendency of the parties to mislead the Court or to suppress the material facts, this Court is of the considered opinion that such type of litigants must be dealt with iron hands.

36. Furthermore, the show cause notice which has been issued to the petitioner is based on correct facts, which were already taken note of by the Coordinate Bench of this Court while deciding W.P.No.10430/2022.

37. Accordingly, this petition is **dismissed** with a cost of Rs.50,000/- to be deposited by petitioner in the Registry of this Court within a period of one month from today, failing which the Registrar General shall not only initiate proceedings for recovery of cost but shall also register a case for contempt of Court.

38. The respondents are directed to conclude the proceedings, which have been initiated by them by issuing impugned show cause notice dated 01.08.2023.

39. The entire exercise be completed within a period of six months from today.

40. The competent authority is directed to submit his report to the Registrar General of this Court on or before 15.03.2024 about the status of proceedings, which has been initiated by the impugned show cause notice dated 01.08.2023.

41. A copy of the order be kept in the service book of the petitioner and compliance be reported to Registrar General of this Court within a period of 45 days from today.

42. With aforesaid observation, the petition is **dismissed**.

(G.S. AHLUWALIA)
JUDGE

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