

*THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

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+WRIT PETITION No.24224 of 2009

% Dated: 09-06-2010

Yalala Swapna

Petitioner

VERSUS

\$ The Hindustan Petroleum Corporation Ltd.,
Mumbai & another.

Respondents

! Counsel for the petitioner : Smt. Lalitha

^ Counsel for respondents 1&2: Sri Srinarayana for
Sri M. Ravindranath Reddy
Counsel for respondent No.3 : Sri G. Kalyanachakravarthy

<GIST:

> HEAD NOTE:

? Cases referred

1. (2010) 2 SCC 114
2. (2010) 4 SCC 728

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE NINETH DAY OF JUNE
TWO THOUSAND AND TEN

PRESENT
THE HON'BLE MR JUSTICE C.V.NAGARJUNA REDDY

—
WRIT PETITION No.24224 of 2009

Between:

Yalala Swapna

... Petitioner

And

The Hindustan Petroleum Corporation Ltd.,
Mumbai & another.

... Respondents

Counsel for the Petitioners: Smt. Lalitha

Counsel for respondents 1&2: Sri Srinarayana for
Sri M. Ravindranath Reddy

Counsel for respondent No.3: Sri G. Kalyanachakravarthy

The Court made the following:

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THE HON'BLE MR JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.24224 of 2009

ORDER:

This writ petition is filed for a Mandamus to declare the action of the respondents in disqualifying the petitioner's application by order dated 15.09.2009 as illegal and arbitrary. The petitioner sought for a consequential direction to the respondents to consider her application for HPCL dealership at Shabad, Ranga Reddy District.

The petitioner is one of the applicants for appointment as dealer for running a retail outlet at Shabad, Ranga Reddy District in pursuance of the advertisement issued on 08.06.2009 by respondent No.1. One Smt. G. Sushmitha, who is impleaded as respondent No.3 at her instance, also applied for the said dealership. Through letter dated 15.09.2009, respondent No.2 informed the petitioner that her application was not in conformity with the conditions of the advertisement, as she has not submitted a copy of marriage certificate or an affidavit in support of her maiden name and name after marriage along with the application and that therefore her application was treated as invalid and disqualified. Assailing the said order, the petitioner filed the present writ petition. In her affidavit, the petitioner has specifically pleaded that in her educational certificates, her name was shown as Swapnik and after her marriage her name was changed as Swapna. She also pleaded that she filed a notarized affidavit dated 17.06.2009 regarding change of her name and in support thereof, she filed a copy of the said affidavit.

This Court, while issuing notice before admission on 10.11.2009, directed the respondents not to issue letter of intent in respect of the

dealership in question.

A counter affidavit has been filed on behalf of respondent Nos.1 and 2. It is *inter alia* averred therein that the petitioner has not submitted either marriage certificate or an affidavit in support of her maiden name and name after marriage, as required in the advertisement. This counter affidavit was received by the counsel for the petitioner in February, 2010. Neither reply affidavit has been filed controverting the abovementioned averments nor the petitioner has filed proof of her sending the marriage certificate or affidavit to the respondents at least after receiving the counter affidavit.

The impleaded respondent in her affidavit stated that she was declared as successful candidate for awarding dealership, that the petitioner obtained interim direction behind her back by raising false allegations and that on account of the interim order, the Corporation has withheld issuance of letter of intent.

None of the parties have filed a copy of the advertisement in pursuance of which the petitioner and respondent No.3 have filed their applications. However, learned counsel for all the parties conceded that Note No.3, which is mentioned in the impugned letter, in pursuance of which the applications contained the following note.

“Married women applicant with change of name after marriage should submit a copy of the marriage certificate or an affidavit in support of the maiden name and name after marriage.”

In paragraph 5 of her affidavit, the petitioner mentioned as under:

“It is submitted that in the 10th Class certificate and till my marriage in all the records my name is shown as Swapnik. After marriage, my husband has changed my name as Swapna. I have filed a notarized affidavit dated 17.06.2009 with regard to change of name. Apart from this, I have filed my passport which stands in my changed name i.e., Swapna.”

As noted above, the petitioner has also filed the purported notarized affidavit dated 17.06.2009. At the hearing, this Court

specifically asked the learned counsel for the petitioner whether the petitioner has proof of filing this affidavit. The learned counsel replied in negative. In this writ petition, the petitioner filed a copy of the letter addressed to the South Central Zone Manager of respondent No.1 Corporation while enclosing her application. She has indicated in the said letter that she was enclosing as many as 13 documents, which included two personal affidavits mentioned at Sl.No.10. The learned counsel for the respondents pointed out that the said two personal affidavits are those which are filed by the petitioner in this writ petition at page Nos.93 and 95 respectively with the material papers and that they are not referable to the purported notarized affidavit said to have been filed by the petitioner regarding change of her name after marriage. This fact is also not controverted by the learned counsel for the petitioner.

In the face of the abovementioned admitted fact position, the petitioner has not only failed to comply with the mandatory requirement of filing a personal affidavit regarding the change of her name, but also made a blatantly false averment in her affidavit filed in this Court and tried to mislead this Court by filing a copy of the purported affidavit with a specific plea that the said affidavit was filed before the concerned authority of the Corporation. I am therefore of the opinion that the Corporation and its officials have not committed any illegality in rejecting the petitioner's application, as it was not in conformity with the conditions stipulated by the Corporation in its notification.

By the conduct of the petitioner in filing deliberately false affidavit supported by a copy of the purported affidavit to buttress her false statement made in the affidavit, the petitioner has polluted the pure stream of justice. While expressing deep anguish at the sagging moral values of life, the Apex Court in **Dalip Singh vs. State of U.P.**^[1] observed:

“For many centuries, Indian society cherished two basic values of life i.e., ‘satya’ (truth) and ‘ahimsa’ (non-violence). Mahavir, Goutam Buddha and Mahatma Gandhi guided the people to

ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the pre-independence era and the people used to feel proud to tell truth in the Courts irrespective of the consequences. However, the post-independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.”

In Oswal Fats an Oils Limited vs. Additional Commissioner (Administration), Bareilly Division, Bareilly and others^[2] the Supreme Court while dealing with the conduct of a party before it in suppressing the material facts observed:

“It is settled law that a person who approaches the Court for grant of relief, equitable or otherwise, is under a solemn obligation to candidly disclose all the material/important facts which have bearing on the adjudication of the issues raised in the case. In other words, he owes a duty to the court to bring out all the facts and refrain from concealing/suppressing any material fact within his knowledge or which he could have known by exercising diligence expected of a person of ordinary prudence. If he is found guilty of concealment of material facts or making an attempt to pollute the pure system of justice, the court not only has the right but a duty to deny relief to such person.”

The Registrar (Judicial) is directed to initiate prosecution against the petitioner for her above conduct in terms of the provisions of the Code of Criminal Procedure, 1973 read with the Indian Penal Code,

1908 for perjury and other related offences. The petitioner is also saddled with costs of Rs.10,000/- for the above abhorrent conduct. The said amount shall be paid to the A.P. Legal Service Authority within a period of four weeks from today. The Member Secretary of the A.P. Legal Service Authority shall initiate appropriate action for recovery of the said amount, if the petitioner fails to deposit the same.

Subject to the above directions, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.31490 of 2009 and WVMP.No.2160 of 2010 are also dismissed.

C.V.NAGARJUNA REDDY, J

Date: 09.06.2010.
ES

LR copies to be marked.

B/o.
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[\[1\]](#) (2010) 2 SCC 114

[\[2\]](#) (2010) 4 SCC 728