

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT SRINAGAR**

Reserved on: 30.12.2024  
Pronounced on: 18.04.2025

**WP(C) No. 280/2023**  
**CM No. 821/2025 CM No. 7053/2024**

1. Rahil Choudhary, Aged 25 years;  
S/O Rakesh Kumar Choudhary  
R/O House No. 51 B/D Gandhi Nagar, Jammu
2. Kimat Lal, Aged 58 Years  
S/O: Sh. Koula Ram  
R/O: Raipur Satwari, Jammu
3. Mangal Singh Aged 36 Years  
S/O: Sh. Om Parkash  
R/O: Village Saidgarh, Tehsil Bishnah, District Jammu
4. Amit Gupta, Aged 39 years  
S/O: ShriAshok Kumar Gupta  
R/O: House No.2116,  
Trkuta Nagar Jammu

... Petitioners/Appellant(s)

Through: Mr. A. H. Naik, Sr. Advocate

V/s

1. UT of J&K through  
Commissioner/Secretary to Government,  
Geology and Mining Department,  
Civil Secretariat, Srinagar/Jammu  
Pin code 190001
2. Director,  
Geology and Mining Department,  
Jammu.
3. Deputy Commissioner,  
Shopian.
4. District Mineral Officer  
Geology and Mining Department,  
Shopian.

... Respondent(s)

Through: Mr. Rais-ud-Din Ganaie, Dy.AG

CORAM:

**HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE**

**J U D G M E N T**

**18-04-2025**

1. The petitioners herein have maintained instant petition under Article 226 of the Constitution of India, seeking following reliefs.

- I. BY ISSUANCE OF A WRIT OF MANDAMUS OR ANY OTHER WRIT, ORDER OR DIRECTION, the petitioners be declared as the successful bidders with respect to minor mineral blocks i.e. Blocks Block No. 36 i.e. Bashir Ahmad Khan Chillipora D/Stream Shopian, Block No. 37 i.e. Achan Heeff Bridge to U/Stream Shopian, Block No.40 i.e. Saye Chauhan Sedu Arbal D/Stream Shopian, and Block No. 51 i.e. Bertipora Bridge U/Stream Shopian, entitled for award of mining lease of the aforesaid blocks;
- II. BY ISSUANCE OF A WRIT OF MANDAMUS OR ANY OTHER WRIT, ORDER OR DIRECTION, the respondents be commanded to issue LOI of the minor Mineral Blocks No. 36 i.e. Bashir Ahmad Khan Chillipora D/Stream Shopian, Block No. 37 i.e. Achan Heeff Bridge to U/Stream Shopian, Block No.40 i.e. Saye Chauhan Sedu Arbal D/Stream Shopian, and Block No. 51 i.e. Bertipora Bridge U/Stream Shopian, in favour of the petitioners as per the rate/financial bids submitted by him with respect to the said blocks.
- III. BY ISSUANCE OF A WRIT OF PROHIBITION OR ANY OTHER WRIT, ORDER OR DIRECTION, the respondents be restrained from readvertising and/or cancelling the process initiated vide auction notice No. DGM/DMO/SPN/538-47 dated 19/10/2020 for the minor Mineral Blocks i.e. Block No. 36 i.e. Bashir Ahmad Khan Chillipora D/Stream Shopian, Block No. 37 i.e. Achan Heeff Bridge to U/Stream Shopian, Block No.40 i.e. Saye Chauhan Sedu Arbal D/Stream Shopian, and Block No. 51 i.e. Bertipora Bridge U/Stream Shopian.
- IV. MANDAMUS Commanding the respondents to allow and grant necessary certificates for undergoing the extraction of minor minerals in aforesaid blocks, as per the rules.
- V. The Hon'ble Court may also pass any other order or direction as it may deem fit and proper under the facts and circumstances of the case.

2. The aforesaid reliefs have been sought on the premise that the Government of J&K notified J&K Minor Mineral Concession, Storage, Transportation of Mineral and Prevention of Illegal Mining Rules 2016, vide SRO 105 of 2016 for extraction of

Minor Minerals from the blocks notified by the State Government and consequently issued an e-Auction Notice dated 19-10-2022 for grant of mining leases for Blocks 36, 37, 40, and 51 at Shopian for a period of 5 years and the petitioners herein being possessed of the eligibility prescribed in the auction notice submitted their bids, qualified the technical bids for participation in the financial bids, which financial bids as well came to be accepted and consequently a report came to be uploaded Online by the respondents declaring the petitioners as highest bidders. However, the respondent 3 subsequently informed the petitioners that their financial bids for the blocks in question, in fact, have not been accepted by the e-Auction Committee as single bids offered have been received against a single block. Thus, feeling aggrieved thereof, the petitioners were compelled to approach this court through the medium of the instant petition.

3. **Objections** to the petition have been filed by the respondents, wherein issuance of e-Auction Notice has been admitted. However, it is being stated that the petitioners though were found to be highest bidders, however were not declared as successful bidders and that the results of the bid proceeding pertaining to Blocks 36, 37, 40, and 51, and 55 were rejected by the e-Auction Committee on the ground that only single participant had put in the bid, thus being non-competitive bid necessitated the rejection of the e-auction proceedings, in that,

the final bid was found to be not more than the starting price, while it is being further stated by the respondents in the objections that prior to the filing of the instant petition, the petitioners 1, 2 and 3 had already filed three suits bearing Nos. 1856, 1855, and 1857 in connection with the matters involved in the instant petition before the court of District Judge Jammu, which fact has been concealed and suppressed by the petitioners in the petition under reply.

**Heard learned counsel for the parties and perused the record.**

4. Counsel for the petitioners, while making the submissions in line with the case set up in the petition, would insist for grant of reliefs in favour of the petitioners, whereas on the contrary, appearing counsel for the respondents raised a preliminary objection *qua* the maintainability of the instant petition insisting that the petition is liable to be dismissed for the sole reason that the petitioners have concealed and suppressed the material fact that they have filed three suits prior to the filing of the instant petition pertaining to the matter involved in the instant petition.
5. It would be appropriate to advert in the first instance to the aforesaid preliminary objection raised by the counsel for the respondents *qua* the maintainability of the petition and the law laid down by the Apex Court in this regard.

The Apex court in case titled as “**Prestige Lights Ltd Vs. State Bank of India**”, reported in **2007 (8) SCC 449** at paras 33, 34 and 35 has held as under: -

*33 . . . The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter.*

*34. The object underlying the above principle has been succinctly stated by Scrutton, L.J., in R V. Kensington Income Tax Commissioners, in the following words:*

*"[I]t 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- 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".*

*35. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a writ court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible.*

In case titled as **“K. D. Sharma Vs. Steel Authority of India Limited and Ors”** reported in **2008 (12) SCC 481**, the Apex Court at paras 34, 35 and 36 has held as 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.

**35.** The underlying object has been succinctly stated by Scrutton, L.J., in the leading case of *R. v. Kensington Income Tax Commrs*, in the following words: (KB P.514):

*".....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".*

**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 larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it.

In case titled as **“Manohar Lal (dead) by LRs versus Ugrasen (dead) by LRs and Ors”** reported in **2010 (11) SCC 557**, the Apex Court at paras 48, 49, 50 and 51, has held as under:-

**48 . . .** When a person approaches a court of equity in exercise of its extraordinary jurisdiction under Article 226/227 of the Constitution, he should approach the court not only with clean hands but also with clean mind, clean heart and clean objective. "Equally, the judicial process should never become an instrument of appreciation or abuse or a means in the process of the Court to subvert justice." Who seeks equity must do equity. The legal maxim "*Jure naturae aequum est neminem cum alterius detrimento et injuria fieri locupletiores*", means that it is a law of nature that one should not be enriched by the loss or injury to another. (Vide *The Ramjas Foundation Vs. Union of India & Ors*, *K.P. Srinivas Vs. R.M. Premchand & ors.* and *Nooruddin Vs. (Dr.) K.L. Anand*.)

**49.** Similarly, in *Ramniklal N. Bhutta Vs. State of Maharashtra*, this Court observed as under:

*"10 . . . The power under Article 226 is discretionary. It will be exercised only in furtherance of interest of justice and not merely on the making out of a legal point.....the interest of justice and the public interest coalesce. They are very often one and the same. .... The Courts have to weigh the public interest vis-a-vis the private interest while exercising....any of their discretionary powers.*

**50.** *In Tilokchand Motichand Vs. H.B. Munshi, State of Haryana Vs. Karnal Distillery, and Sabia Khan & Ors. Vs. State of U.P. & Ors. this Court held that filing totally misconceived petition amounts to abuse of the process of the Court. Such a litigant is not required to be dealt with lightly, as petition containing misleading and inaccurate statement, if filed, to achieve an ulterior purpose amounts to abuse of the process of the Court. A litigant is bound to make "full and true disclosure of facts."*

**51.** *In Abdul Rahman Vs. Prasony Bai, S.J.S. Business Enterprises (P) Ltd. Vs. State of Bihar and Oswal Fats & Oils Ltd. Vs. Addl. Commr. (Admn), this Court held that whenever the Court comes to the conclusion that the process of the Court is being abused, the Court would be justified in refusing to proceed further and refuse relief to the party. This rule has been evolved out of need of the Courts to deter a litigant from abusing the process of the Court by deceiving it.*

6. Keeping in mind the aforesaid position of law and the preliminary objection raised by the counsel for the respondents, record reveals that the petitioners 1, 2 and 3 indisputably have filed the aforesaid suits before the Court of District Judge, Jammu on 14-09-2011 in relation to the matter involved in the instant petition being extraction of minor minerals of blocks 36, 37, and 40, and subsequently having filed the instant petition on 14-02-2023, before this Court, without disclosing in the petition the fact of filing of the said suits before the Court of District Judge, Jammu thus, not only having suppressed and concealed the said fact, but also having sworn in wrong affidavits while stating in the petition that the petitioners have not filed any other petition, suit, or any other proceeding before any court, including the Supreme Court of India, for the reliefs prayed in this petition.

7. Although the aforesaid undisputed and uncontroverted position obtaining in the matter would disentitle the petitioners 1, 2 and 3 to any relief in the instant petition, yet having regard to the nature of controversy involved in the instant petition it is deemed appropriate to consider the merit involved in the case as well. As has been noticed in the preceding paras the petitioners claim that in the e-auction proceedings their bids entitled them to the allotment of the natural resources in their favour notified in the e-Auction Notice dated 19.10.2022 *qua* Blocks 36, 37, 40 and 51, yet the stand taken by the respondents in the objections can neither be disregarded nor discarded that the bids were non-competitive and that the petitioners though were found to be highest bidders yet were not declared as successful bidders.

In the aforesaid context, a reference to the position of law laid down by the Apex Court in case titled as **“In Re National Resources Allocation”** reported in **2012 (10) SCC 1** would be appropriate and relevant herein, wherein the Apex Court held that *“when natural resources are made available by the State to private persons for commercial exploitation exclusively for their individual gains, State’s endeavour must be towards revenue maximisation”*, while opining further that *“a court cannot conduct comparative study of various methods of distribution of natural resources as it respects the mandate and wisdom of the Executive in such matters and that the methodology pertaining*



*to the disposal of the natural resources is clearly a matter of policy wherein court lacks expertise therefor”.*

8. Having regard to the aforesaid analysis coupled with the fact that the petitioners 1, 2 and 3 have concealed and suppressed material fact of filing of civil suits prior to the filing of instant petition qua the issues involved in the instant petition, this court is not inclined to exercise discretion and display indulgence under Article 226 of the Constitution, and while dismissing the petition in hand, instead of directing institution of appropriate criminal prosecution against the said petitioners 1, 2 and 3 in this regard for swearing of false affidavits thereto in the instant petition, directs imposition of costs of Rs.50,000/- each upon petitioners 1, 2 and 3 herein to be deposited before the Registry of this court within a period of two weeks from today.

9. **Dismissed** as above.

OF JAMMU AND KASHMIR AND

(JAVED IQBAL WANI)  
JUDGE

Srinagar  
18-04-2025  
*N Ahmad*

Whether the order is speaking:	Yes
Whether the order is reportable:	Yes