

The Auroville Foundation

v.

Natasha Storey

(Civil Appeal No. 13651 of 2024)

17 March 2025

[Bela M. Trivedi* and Prasanna B. Varale, JJ.]

Issue for Consideration

Matter pertains to the applicability of the doctrine of “clean hands and non-suppression of material facts” to the writ petition filed by the respondent seeking substantially the same relief without disclosing the material fact of the dismissal of earlier petition; the correctness of the impugned order passed by the High Court entertaining the said writ petition; and as regards the right of the Residents’ Assembly to be part of any committee or council constituted by the Governing Board of the appellant Foundation.

Headnotes[†]

Constitution of India – Art. 226 – Invocation of extraordinary jurisdiction of High Court – Applicability of doctrine of “clean hands and non-suppression of material facts – On facts, disgruntled residents of Auroville to obstruct the development work of Auroville as per the Master Plan filed unnecessary petitions in the High Court one after the other – Respondent filed writ petition challenging the office order issued by the appellant Foundation and sought direction against the Foundation to appoint the members nominated by the Residents’ Assembly through its working Council to the Auroville Town Development Council – Dismissed by the High Court holding that the activities provided u/s.19, to be undertaken by the Residents’ Assembly are only in the nature of supplementing and not supplanting the main powers and functions vested with the Governing Board – Respondent again filed writ petition seeking substantially the same relief without disclosing the material fact of the dismissal of earlier petition – Preliminary objections by the appellant regarding the maintainability of the petition and

* Author

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suppression of material facts by the respondent, however, High Court without dealing with the same, entertained the writ petition – Correctness:

Held: Doctrine of “clean hands and non-suppression of material facts” is applicable with full force to every proceedings before any judicial forum – Party invoking extraordinary jurisdiction of the High Court u/Art.226 must come with clean hands and disclose all correct and material facts in his Writ Petition – If it is brought to the notice of the Court that the petitioner has been guilty of suppression of material and relevant facts or has not come with clean hands, such conduct must be seriously viewed by the courts as the abuse of process of law and the petition must be dismissed on that ground alone without entering into the merits of the matter – Non-disclosure of the material facts at the instance of the respondent should have been seriously viewed by the High Court, as the abuse of the process of court – Furthermore, neither the Act nor the Rules contemplate or confer any right upon the Residents’ Assembly, or upon an individual resident of Auroville to be part of any committee/council constituted by the Governing Board for the efficient discharge of its duties and functions under the Act – Governing Board is vested with all the powers and is empowered to discharge all the functions as may be exercised or discharged by the Foundation, and that the general superintendence, direction and management of the affairs of the Foundation vests in the Governing Board alone – Functions of the Residents’ Assembly are confined only to advise the Governing Board in respect of the activities relating to the residents of Auroville and to make recommendations as specified in s.19, and not any further – Though, s.19(1)(c) required the Residents’ Assembly to assist the Governing Board to formulate the Master Plan of Auroville, however, the said stage already over, when the Master Plan was prepared by the Governing Board in consultation with the Residents’ Assembly and was then approved by the Central Government – Thus, the impugned Standing Order does not suffer from any legal infirmity – High Court misdirected itself in misinterpreting the provisions of the Act and in setting aside the impugned Notification containing the Standing Order – Impugned order being highly erroneous set aside – Writ Petition filed by the respondent before the High Court was to abuse the process of law, to hamper the development of Auroville and to cause obstructions in the smooth functioning of the Governing

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Board of the Foundation – Cost of Rs.50,000/- imposed on the respondent – Auroville Foundation Act, 1988 – ss.11(3), 19, 16(1), 17 – Auroville Foundation Rules, 1997 – r.5. [Paras 9-11, 15-19]

Case Law Cited

S.J.S. Business Enterprises (P) Ltd. v. State of Bihar & Ors. [2004] 3 SCR 56 : AIR 2004 SC 2421; *General Manager, Haryana Roadways v. Jai Bhagwan & Anr.* [2008] 3 SCR 1156 : (2008) 4 SCC 127; *Prestige Lights Ltd. v. State Bank of India* [2007] 9 SCR 112 : (2007) 8 SCC 449 – referred to.

List of Acts

Auroville Foundation Act, 1988; Auroville Foundation Rules, 1997; Auroville (Emergency Provisions) Act, 1980.

List of Keywords

Doctrine of clean hands; Non-suppression of material facts; Right of the Residents' Assembly, to be part of any committee or council constituted by the Governing Board; Extraordinary jurisdiction of High Court; Disgruntled residents of Auroville; Obstruction of the development work of Auroville as per the Master Plan; Working Council to the Auroville Town Development Council; Suppression of material facts; Judicial forum; Abuse of process of law; Non-disclosure of the material facts; Master Plan of Auroville; Cost of Rs.50,000/-; Auroville (Emergency Provisions) Ordinance, 1980.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 13651 of 2024

From the Judgment and Order dated 15.03.2024 of the High Court of Judicature at Madras in WP No. 25882 of 2022

Appearances for Parties

Advs. for the Appellant:

N. Venkatramani, AG, Vaibhav R. Venkatesh, K. Shiva, Balaji Srinivasan.

Advs. for the Respondent:

MV Swaroop, Nishanth Patil.

Digital Supreme Court Reports**Judgment / Order of the Supreme Court****Judgment****Bela M. Trivedi, J.**

1. The legality and validity of the Judgment and Order dated 15.03.2024 passed by the High Court of Judicature at Madras in Writ Petition No. 25882 of 2022, allowing the said Writ Petition filed by the Respondent-Natasha Storey and setting aside the impugned Notification dated 01.06.2022 containing the Standing Order No. 01/2022 issued by the Appellant-Foundation, is under challenge before this Court by way of instant appeal.
2. Before adverting to issues involved in the Appeal, it would be apposite to peep into the history of Auroville, and the objects and reasons of enacting the Auroville Foundation Act (hereinafter referred to as the “A.F. Act”).

3. Prelude on the History of Auroville: -

- (I) In 1965, the “Mother” (Mirra Alfassa, a French Lady), a spiritual collaborator of Sri Aurobindo (a Spiritual reformer, Philosopher and Educationist), envisioned to launch the project of Auroville, with an aim to establish an international universal township, where men and women of all countries are able to live in peace and harmony, above all creeds, all politics and all nationalities and to realise human unity. The project of Auroville was formerly inaugurated by the “Mother” in 28.02.1968. The Charter of Auroville given by the “Mother” was the following:

“1. Auroville belongs to nobody in particular. Auroville belongs to humanity as a whole. But to live in Auroville one must be a willing servitor of the Divine Consciousness.

2. Auroville will be the place of an unending education, of constant progress and a youth that never ages.

3. Auroville wants to be the bridge between the past and the future. Taking advantage of all discoveries from without and from within, Auroville will boldly spring towards future realisations.

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4. Auroville will be a site of material and spiritual researches for a living embodiment of an actual Human Unity.”

- (II) The original Master Plan of the Auroville was conceptualized in Galaxy shape, and was planned to eventually accommodate 50,000 residents, a number which the “Mother” considered sufficient to allow the experiment in human unity to take on a meaningful and significant dimension. Picture of Galaxy Model Plan conceptualized in 1968 is shown below:

The Galaxy model from 1968



- (III) The project Auroville was legally started as the project of a charitable organization, “The Sri Aurobindo Society” in Pondicherry, which was created to diffuse Sri Aurobindo’s thoughts. The development of Auroville in the initial few years showed good progress and it further developed at a rapid pace. Number of Indians and foreigners settled down in Auroville and devoted themselves to various activities showing a remarkable harmony amongst the members of Auroville, which gave a promise to the Government of India of an early fulfilment of the ideals for which Auroville was established. It was also encouraged by UNESCO and other International Organizations of the world. However, after the “Mother” passed away in 1973, the situation changed, and number of complaints came to be received by the Government of India with regard to the mismanagement in the working of the Sri Aurobindo Society. Following the requests by majority of Auroville residents, the Government of India issued a Presidential Ordinance called the Auroville (Emergency Provisions) Ordinance, 1980, later replaced by the Auroville (Emergency Provisions) Act, 1980.

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Finally, the Government of India created a unique status for Auroville by passing the A.F. Act.

4. **The Provisions of A.F. Act: -**

- (I) The long title of the said A.F. Act of 1988 enacted by the Parliament on 29.09.1988 reads as under:

“THE AUROVILLE FOUNDATION ACT, 1988

ACT NO. 54 OF 1988

[29th September, 1988]

An Act to provide for the acquisition and transfer of the undertakings of Auroville and to vest such undertakings in a foundation established for the purpose with a view to making long-term arrangements for the better management and further development of Auroville in accordance with its original charter and for matters connected therewith or incidental thereto.

WHEREAS Auroville was founded by the “Mother” on the 28th day of February, 1968 as an international cultural township;

AND WHEREAS in view of the serious difficulties which had arisen with regard to the management of Auroville, the management thereof had been vested in the Central Government for a limited period by the Auroville (Emergency Provisions) Act, 1980 (59 of 1980);

AND WHEREAS under the management of the Central Government and under the overall guidance of the International Advisory Council set up under the aforesaid Act, Auroville had been able to develop during the last eight years along several important lines and the residents of Auroville have also carried on activities for the development of Auroville which need further encouragement and consolidation;

AND WHEREAS Auroville was developed as a cultural township with the aid of funds received from

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different organisations in and outside India as also from substantial grants received from the Central and State Governments, and the United Nations Educational Scientific and Cultural Organisation also had, from time to time, reflected in its resolutions that the project on Auroville is contributing to international understanding and promotion of peace;

AND WHEREAS for the purpose of encouraging, continuing and consolidating the aforesaid activities of Auroville, it is necessary in the public interest to acquire the undertakings of Auroville and to vest them in a body corporate established for the purpose;

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows: —”

- (II) The relevant provisions contained in Chapter-III, germane for the purpose of deciding the present Appeal are reproduced for ready reference:

“10. Establishment and incorporation of the Foundation. —

(1) With effect from such date as the Central Government may, by notification, appoint in this behalf, there shall be established for the purpose of this Act, a Foundation, to be called the Auroville Foundation.

(2) The Foundation shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Foundation shall consist of the following authorities, namely: —

(a) the Governing Board;

(b) the Residents’ Assembly;

(c) the Auroville International Advisory Council

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11. Governing Board. —

(1) The Governing Board shall consist of the following members, namely: —

(i) not more than seven members to be nominated by the Central Government from amongst persons, who have—

(a) rendered valuable service to Auroville;

(b) dedicated themselves to the ideals of life-long education, synthesis of material and spiritual researches or human unity;

(c) contributed significantly in activities that are being pursued or are envisaged to be promoted in Auroville, including activities relating to environment, afforestation, arts and crafts, industry, agriculture, humanities, sciences and integral yoga;

(ii) two representatives of the Central Government to be nominated by it.

(2) The Central Government shall nominate a Chairman of the Governing Board from amongst the members nominated by it under clause (i) of sub-section (1).

(3) The general superintendence, direction and management of the affairs of the Foundation shall vest in the Governing Board which may exercise all the powers and discharge all the functions which may be exercised or discharged by the Foundation.

(4) The Governing Board may associate with itself in such manner and for such purposes as may be prescribed, any persons whose assistance or advice it may desire in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Governing Board relevant to the purposes for which he has been associated, but shall not have the right to vote.

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(5) No act or proceeding of the Governing Board or any committee appointed by it under section 16 shall be invalidated merely by reason of, —

(a) any vacancy in, or any defect in the constitution of, the Governing Board or such committee; or

(b) any defect in the nomination of a person acting as a member of the Governing Board or such committee; or

(c) any irregularity in the procedure of the Governing Board or such committee not affecting the merits of the case.

12 to 15.....

16. Committees of the Governing Board. —

(1) The Governing Board may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act.

(2) The Governing Board shall have the power to co-opt as members of any committee appointed under sub-section (1), such number of persons who are not members of the Governing Board as it may think fit, and the persons so co-opted shall have the right to attend the meetings of the committee, and take part in the proceedings of the committee, but shall not have the right to vote.

17. Powers and functions of the Governing Board. —

The powers and functions of the Governing Board shall be—

(a) to promote the ideals of Auroville and to coordinate activities and services of Auroville in consultation with the Residents' Assembly for the purposes of cohesion and integration of Auroville;

(b) to review the basic policies and the programmes of Auroville and give necessary directions for the future development of Auroville;

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(c) to accord approval to the programmes of Auroville drawn up by the Residents' Assembly;

(d) to monitor and review the activities of Auroville and to secure proper management of the properties vested in the Foundation under section 6 and other properties relatable to Auroville;

(e) to prepare a master-plan of Auroville in consultation with the Residents' Assembly and to ensure development of Auroville as so planned;

(f) to authorise and coordinate fund-raising for Auroville and to secure proper arrangements for receipts and disbursement of funds for Auroville.

18. Residents' Assembly. —

(1) The Residents' Assembly shall consist of all the residents of Auroville who are for the time being entered in the register of residents maintained under this section.

(2) The Secretary to the Governing Board shall maintain the register of residents in such manner as may be prescribed and all the persons who are residents of Auroville and who are of the age of eighteen years and above are entitled to have their names entered in the register on an application made to the Secretary in such form as may be prescribed.

(3) All the names of residents, which have been included in the register maintained by the Administrator appointed under section 5 of the Auroville (Emergency Provisions) Act, 1980 (59 of 1980) immediately before the appointed day, shall be deemed to have been included in the register maintained under this section.

19. Functions of Residents' Assembly.

(1) The Resident's Assembly shall perform such functions as are required by this Act and shall advise the Governing Board in respect of all activities relating to the residents of Auroville.

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(2) In particular, and without prejudice to the foregoing powers, the Residents' Assembly may—

(a) allow the admission or cause the termination of persons in the register of residents in accordance with the regulations made under section 32;

(b) organise various activities relating to Auroville;

(c) formulate the master plan of Auroville and make necessary recommendations for the recognition of organisations engaged in activities relatable to Auroville for the approval of the Governing Board;

(d) recommend proposals for raising funds for Auroville for the approval of the Governing Board.

(3) For the purpose of carrying of its functions, the Residents' Assembly may establish such committees as it may consider necessary which shall represent it in relation to the functions to be performed by the Governing Board."

- (III) Section 31 empowers the Central Government to make rules for carrying out the provisions of the A.F. Act. Accordingly, the Ministry of Human Resource Development (Department of Education) vide the notification dated 10.11.1997 has framed the rules called the "Auroville Foundation Rules, 1997 (hereinafter referred to as the said "A.F. Rules") in exercise of the powers conferred by Section 31 of the A.F. Act.

Rule 5 of the said Rules states about the Committees of the Foundation, which reads as under: -

"5. Committees

The following shall be the Committees of the Foundation, namely –

(a).....

(b).....

(c) Such other Committee or committees as may be constituted by the Governing Board under sub-section (1) of section 16 or by the Residents

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Assembly under sub-section (3) of section 19, as the case may be

(2) Subject to the provision of sub-rule (1), the Governing Board shall determine the composition and functions of every Committee constituted by it

The Residents' Assembly shall determine the composition and functions of every Committee constituted by it

(4).....”

- (IV) Section 32 of the A.F. Act empowers the Governing Board to make regulations not in consistent with the Act and the Rules made thereunder, for enabling the Governing Board to discharge its functions under the Act.

5. **Constitution of Auroville Foundation and its Standing Orders-**

- I. The Government of India notified the Constitution of Auroville Foundation as a Statutory body on 29.01.1991 under the A.F. Act. At present it is under the realm of Ministry of Human Resources Development (Department of Higher Education) as the Central Government Undertaking.
- II. As transpiring from the record, the original Galaxy Plan envisioned by the “Mother” in 1968 was the plan with four zones in Auroville, with the centripetal force, being the “Matrimandir”. The said Galaxy Plan was revised in 1972 as the First Master Plan called the “Town Plan”. As the A.F. Act required statutory Master Plan as contemplated in Section 17(e) read with Section 19(2)(c) of the said A.F. Act, the Master Plan was approved by the Governing Board and the Residents' Assembly of the Appellant Foundation in 1999. The said 1999 Master Plan was further approved by the Competent Authority- the Town and Country Planning Organisation (TCPO), Ministry of Urban Development, on 15.02.2001 under the Model Town and Country Planning Act. The said Master Plan was notified on 16.08.2010 and published in the Gazette on 28.08.2010.
- III. In view of Section 11(3) of the A.F. Act, the Governing Board decided, that “Standing Orders” not inconsistent with the

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provisions of the A.F. Act and the Rules made thereunder, on the matters that the Governing Board may consider appropriate and necessary, shall be notified from time to time, by the Auroville Foundation. The said Resolution was notified in the Gazette of India, Part III, dated 05.03.2011 by the Ministry of Human Resources Development (Department of Higher Education).

- IV. Since the said approved Master Plan prescribed the “Town Development Council” as the body for implementing the Master Plan with the organizational structure as in Appendix V of the Master Plan, the Governing Board in terms of the provisions of the Master Plan, constituted the Town Development Council for the purpose of implementation of the Master Plan, vide the Standing Order No.6/2011 dated 01.05.2011, which was notified in the Government of India Gazette, Part III, dated 11.06.2011. The said Standing Order dated 01.05.2011 came to be replaced by the Standing Order No.1/2019 dated 04.06.2019.
- V. Again, the said Standing Order dated 04.06.2019 came to be replaced by the Standing Order No.1/2022 dated 01.06.2022, which was notified in the Gazette of India, Part III, on 15.07.2022. On 01.06.2022, the Auroville Foundation issued the Office Order for the re-constitution of the Auroville Town Development Council (ATDC). The Appellant-Foundation thereafter also issued a Corrigendum dated 07.12.2022, to the Standing Order No. 1/2022 dated 01.06.2022, in order to clarify and add the source of statutory power in the Preamble to the said original Standing Order dated 01.06.2022. The said Corrigendum was also published in the Gazette of India, Part III, on 10.12.2022.

6. Series of Litigations: -

It appears that some disgruntled residents of Auroville, instead of cooperating the Governing Board of the Foundation in the implementation of the said legally approved Master Plan and in carrying out the development work of Auroville as per the said Master Plan envisioned by the “Mother,” started causing obstructions by filing the Petitions in the High Court of Judicature at Madras one after the other, dragging the Appellant-Foundation into unnecessary litigations. As transpiring from the records, the following litigations came to be filed.

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- (i) A Writ Petition being No.17181/2020 came to be filed by one Mr. M. Ayyanarappan, challenging some of the clauses of Auroville Master Plan 2010 after the years of its approval and publication in the Official Gazette. The said petition came to be dismissed as withdrawn by the Division Bench of the High Court vide the order dated 15.02.2022.
- (ii) Two other petitions being Writ Petition No.18220/2021 and Writ Petition No.597/2022 came to be filed by the petitioner Mr. A. Suriya, the son of the earlier petitioner Mr. M. Ayyanarappan, challenging some of the clauses of Auroville Master Plan, 2010, and for restraining the Appellant-Foundation from implementing the Auroville Master Plan Perspective 2025. The said two petitions came to be dismissed as withdrawn by the Division Bench vide the order dated 20.01.2022, granting liberty to the said petitioner to avail the remedy in accordance with law against the infraction of his personal interest.
- (iii) The said Writ Petitioner, Mr. A. Suriya filed another Writ Petition No.12378/2022 again challenging some of the clauses of the Auroville Universal Township Master Plan Perspective 2025. The said Writ Petition came to be dismissed by the Division Bench by passing a detailed order on 07.06.2022, on the ground of maintainability and delay of more than 12 years in challenging the Gazette Notification dated 28.08.2010. It was also observed therein by the Division Bench inter alia that the Master Plan cannot otherwise be subjected to challenge unless it is carved out in violation of the Constitutional or Statutory provisions.
- (iv) Some other Writ Petitions being No.11738/2022 and others came to be filed by one Krishna Devanandan and Others in respect of the functioning of the Appellant-Foundation, particularly on the imposition of restrictions on the Residents' Assembly for non-updation of the Register of the Residents. It appears that the said petitions came to be allowed by the Single Bench vide the order dated 12.08.2022 issuing various directions including the directions to the Secretary of Auroville Foundation to give wide publicity of its effective administration for updation of the Register of the Residents Assembly, and further directing the four statutory bodies of the Foundation not to take any policy decision which would alter the existing structure and

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working of the Auroville Foundation, till the Register of the Residents' Assembly was updated. The said order passed by the Single Bench having been challenged by the Appellant-Foundation before the Division Bench, the same was stayed by the Division Bench vide the orders dated 26.08.2022, in W.A.No.1961-1962/2022. The said interim order was continued till the disposal of the Appeals on 09.09.2022.

- (v) The Respondent herein i.e. Natasha Storey filed the Writ Petition being No. 22895/2022 challenging the office order dated 01.06.2022 bearing no. AF/M/63 issued by the Appellant-Foundation and seeking direction against the Foundation to appoint the members nominated by the Residents' Assembly through its working Council to the ATDC. The said petition came to be dismissed by the Single Bench vide the order dated 13.10.2022, however the Court directed the Appellant-Foundation to issue appropriate corrigendum to the impugned office order dated 01.06.2022, tracing the power under which the said order was issued. The Foundation accordingly issued the Corrigendum dated 07.12.2022 to the Standing Order dated 01.06.2022.
- (vi) The Respondent Natasha Storey again filed the Writ Petition being no. 25882/2022 seeking almost the same relief as sought in the earlier petition, challenging the notification no. AF/M/63/2022-23 dated 01.06.2022 containing the Standing Order No.1/2022 issued by the Appellant-Foundation, published in the official gazette on 15.07.2022. The Division Bench vide the impugned judgment and order dated 15.03.2024 allowed the said Writ Petition and set aside the said impugned Notification and the Standing Order issued by the Appellant-Foundation.
- (vii) This Appeal emanates from the said impugned judgment and order dated 15.03.2024, passed in the Writ Petition No.25882/2002.
- (viii) It may also be noted that the Respondent-Natasha had also filed an application as an intervenor, in the proceedings being O.A. No.239/2021 filed by one Navroz Kersasp Mody before the National Green Tribunal, Chennai. The Appeals being C.A.s Nos. 5781-5782/22 arising out of the orders passed by the NGT in the said proceedings, were also heard simultaneously by this

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Court, along with the present Appeal, and are being decided simultaneously by a separate judgment.

7. ANALYSIS

From the above array of litigations, it is explicitly clear that a small group of disgruntled residents of Auroville, who instead of supporting and cooperating the Governing Body of Appellant-Foundation, in implementing the approved Master Plan and developing Auroville as envisioned by the “Mother,” kept themselves busy by filing the litigations one after the other, and causing obstructions in the smooth implementation of the Master Plan. As narrated hereinabove one Mr. Suriya and his father filed series of petitions one after the other. They all came to be dismissed by the High Court. Then the present Respondent-Natasha Storey herself filed Writ Petition No. 22895 of 2022 seeking almost the same relief as sought in the Writ Petition of the present proceedings, challenging the Office Order dated 01.06.2022 issued by the Appellant-Foundation. The said earlier Writ Petition having been dismissed by the High Court vide the Order dated 13.10.2022, again she filed the Writ Petition No. 25882 of 2022, without disclosing the fact of her filing of the earlier petition, and the dismissal of the same. The Appellant-Foundation (who was respondent in the said Writ Petition) had raised specific preliminary objections in its counter affidavit regarding the maintainability of the petition and regarding the suppression of material facts by the respondent.

8. However, unfortunately the High Court without dealing with such a serious issue, entertained the Writ Petition of the respondent.
9. It is no more *res integra* that the Doctrine of “Clean hands and non-suppression of material facts” is applicable with full force to every proceedings before any judicial forum. The party invoking extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India must come with clean hands and disclose all correct and material facts in his Writ Petition. If it is brought to the notice of the Court that the petition has been guilty of suppression of material and relevant facts or has not come with clean hands, such conduct must be seriously viewed by the courts as the abuse of process of law and the petition must be dismissed on that ground alone without entering into the merits of the matter.

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10. As held in ***S.J.S. Business Enterprises (P) Ltd. Vs. State of Bihar & Ors.***¹ as a general rule, suppression of material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of the need of the Courts to deter a litigant from abusing the process of court by deceiving it. Similar view has been taken in ***General Manager, Haryana Roadways Vs. Jai Bhagwan & Anr.***², in ***Prestige Lights Ltd. Vs. State Bank of India***³ etc.
11. In the instant case, the Respondent-Natasha Storey had challenged the Office Order dated 01.06.2022 by filing the earlier Writ Petition No. 22895 of 2022, and the High Court while dismissing the same vide its Order dated 13.10.2022 had categorically held, after considering the various provisions of the A.F. Act, that the activities which are provided under Section 19 of the Act, to be undertaken by the Residents' Assembly are only in the nature of supplementing and not supplanting the main powers and functions vested with the Governing Board under the provisions of the Act, and that the writ petitioner could not claim that she being a member of the Assembly, the right of the Assembly was getting affected, or the functions of the Assembly as entrusted through the provisions of the Act were getting affected. Despite the fact that the said judgment and order passed in Writ Petition No. 22895 of 2022 was not challenged by the respondent any further, and had become final, the second Writ Petition was filed by her (i.e., Writ Petition no. 25882/2022 in the present proceedings), seeking substantially the same reliefs without disclosing the said material fact of dismissal of earlier petition. The non-disclosure of the material facts at the instance of the respondent should have been seriously viewed by the High Court, as the abuse of the process of court.
12. So far as the merits of the Appeal are concerned, the learned Senior Advocate Mr. R. Venkatramani for the appellant had strenuously taken the court to the record of the case from which it appears that the Appellant-Foundation is a Statutory body established under the A.F. Act, and is under the realm of the Government of India, in the Ministry of Human Resource Development (Department of Education). The

1 AIR 2004 SC 2421

2 (2008) 4 SCC 127

3 (2007) 8 SCC 449

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said Foundation consists of three authorities i.e., (a) The Governing Board (b) The Residents' Assembly (c) The Auroville International Advisory Council. As per Section 11(3), the general superintendence, direction and management of the affairs of the Foundation vest in the Governing Board, which is empowered to exercise all the powers and discharge all the functions which may be exercised or discharged by the Foundation. Section 16 of the Act empowers the Governing Board to appoint such Committees as may be necessary for the efficient discharge of its duties and performance of its functions under the Act. The powers and functions of the Governing Board are prescribed in Section 17. Clause (e) of Section 17 pertains to the preparation of Master Plan of Auroville in consultation with the Residents' Assembly, and to ensure development of Auroville as so planned. Meaning thereby, as per Section 17(e), the Governing Board was required to prepare a Master Plan of Auroville in consultation with the Residents' Assembly, and further to ensure development of Auroville as per the said Master Plan.

13. As already discussed earlier, the Master Plan of Auroville as envisioned and envisaged by the "Mother" as an international universal Township dedicated to human unity and international understanding, described by her in the Auroville Charter, was approved by the Governing Board in consultation with the Residents' Assembly and was further approved by the Government of India in Ministry of Human Resource Development (Department of Higher Education) vide the letter dated 12.04.2001. It was also notified by the Auroville Foundation with the approval of the Central Government, in the Gazette of India, Part III on 16.08.2010. It was only to ensure the development of Auroville as per the said approved Master Plan, the Auroville Town Development Council (ATDC) was constituted as per the Standing Order dated 01.05.2011 issued by the Governing Board. The said Standing Order was replaced by the Standing Order No. 01 of 2019 dated 04.06.2019, and the said Standing Order No. 01 of 2019 has been further replaced by the Standing Order No. 01 of 2022 dated 01.06.2022 vide the Notification published in the Gazette of India dated 15.07.2022.
14. Though it was sought to be submitted by the learned counsel Mr. M.V. Swaroop appearing for the Respondent-Writ Petitioner that the impugned Standing Order replacing the nominees of the Residents' Assembly with the nominees of Governing Board of the Foundation

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was not in consonance with the provisions of the said Act and that the Governing Board did not have the power to appoint any committee of its own as contained in the impugned Standing Order dated 01.06.2022 and the Office Order dated 01.06.2022, we do not find any substance in the same. The ATDC was constituted and reconstituted from time to time by the Governing Board by issuing the Standing Orders, for the proper implementation of the approved Master Plan. It may be noted that in view of Section 11(3), the Governing Board vide the Regulation No.AF/1/2011/Regulations, had also decided that “Standing Orders, not in consistent with the provisions of the Act and the Rules made thereunder, and without prejudice to the generality of the laws enacted by the Parliament of India and/or the legislatures of the States and the Indian Territory, on all the matters covered by the provisions of Section 11(3), and also such other matters that Governing Board may consider appropriate and necessary, shall be notified by the Auroville Foundation from time to time. The said Regulation was also notified in the Government of India Gazette on 05.03.2011. The said Regulation clearly empowered the Governing Board of the Appellant-Foundation to issue the Standing Orders on all the matters covered by the provisions of Section 11(3) as also such other matters that the Governing Board may consider appropriate and necessary.

15. Further, Section 16 of the Act also empowers the Governing Board to appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under the Act. Even as per Rule 5 of the said Rules, the Governing Board is empowered to constitute the committees under sub-section (1) of Section 16. As per Rule 5(2), it is the Governing Board alone which has to determine the composition and functions of every committee constituted by it. Neither the said A.F. Act nor the said Rules contemplate or confer any right upon the Residents' Assembly, much less upon an individual resident of Auroville to be part of any committee or council constituted by the Governing Board for the efficient discharge of its duties and functions under the Act.
16. From the conjoint reading of the provisions of the A.F. Act and the said Rules, there remains no shadow of doubt that the Governing Board is vested with all the powers and is empowered to discharge all the functions as may be exercised or discharged by the

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Foundation, and that the general superintendence, direction and management of the affairs of the Foundation vests in the Governing Board alone. Though, it is true that Section 19(1)(c) required the Residents' Assembly to assist the Governing Board to formulate the Master Plan of Auroville, however, the said stage was already over, when the Master Plan was prepared by the Governing Board in consultation with the Residents' Assembly as contemplated in Section 17(e), and was then approved by the Central Government, Ministry of Human Resource Development way back in 2001. After the publication of the said Master Plan, the Governing Board had issued the Standing Orders from time to time for the implementation of the said approved Master Plan and for the development of Auroville as planned.

17. Having regard to the statutory provisions in the Act and the Rules, we are of the opinion that the impugned Standing Order 01.06.2022 containing the Standing Order No. 01/2022 does not suffer from any legal infirmity. There is no legal or statutory right conferred upon the Residents' Assembly or upon an individual resident to be part of any committee/council constituted by the Governing Board in exercise of its powers conferred under Section 11(3), 16(1) and 17(e) of the said Act read with Rule 5(1) and 5(2) of the said Rules. The functions of the Residents' Assembly are confined only to advise the Governing Board in respect of the activities relating to the residents of Auroville and to make recommendations as specified in Section 19 of the Act, and not any further.
18. In that view of the matter, we are of the opinion that the High Court has thoroughly misdirected itself in misinterpreting the provisions of the A.F. Act and in setting aside the impugned Notification containing the Standing Order dated 01.06.2022. The impugned Order being highly erroneous deserves to be set aside, and is hereby set aside.
19. As demonstrated earlier, some disgruntled and discontented residents kept on filing petitions one after the other dragging the Appellant-Foundation into unnecessary litigations. The Writ Petition filed by the respondent before the High Court was one of such ill-motivated petitions filed by her to abuse the process of law, to hamper the development of Auroville and to cause obstructions in the smooth functioning of the Governing Board of the Foundation.

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Hence, the Appeal is allowed with cost of Rs.50,000/- to be deposited by the respondent before the Supreme Court Legal Service Committee within two weeks from today. The office to follow the compliance.

20. The Appeal stands allowed accordingly.

Result of the case: Appeal allowed.

[†]Headnotes prepared by: Nidhi Jain