

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 1481 of 2020

Applicant :- Dr. Bheem Rao Ambedkar Shiksha Niketan

Opposite Party :- Sri Manoj Singh, Principal Secretary, Social Welfare

Counsel for Applicant :- Ramakant Singh

Hon'ble Rohit Ranjan Agarwal,J.

This is the second contempt application initiated by the applicant against the opposite party for not complying the order of the writ Court dated 05.12.2014 passed in Writ-C No.45351 of 2011. The order passed by the writ Court is as under:-

"Learned counsel for the parties are not at issue that the similar order of the same date was the subject matter of consideration in identical facts before this Court in Writ Petition No. 44284 of 2011, which has been allowed on 20th August, 2014. Paras 18, 19 and 20 of the judgment dated 20th August, 2014 are reproduced below:

" 18. As material aspects, as noticed above, have not been taken into consideration by the respondent No.1 while rejecting the representation of the petitioner's institution, this Court is of the view the matter requires fresh consideration by the respondent no.1.

19. In view of the above, the order dated 28th June, 2011 is liable to be set aside and is, accordingly, set aside. The respondent No.1 is directed to consider the case of the petitioner's institution for being brought in the grant-in-aid list, afresh, in accordance with law and in the light of the observations made herein above, keeping in mind the observations made in the order dated 21.09.2010 passed in Writ C No. 15429 of 1994. The aforesaid exercise shall be completed, preferably, within a period of three months from the date of filing of a certified copy of this order.

20. With the aforesaid directions/ observations the writ petition stands disposed of. There is no order as to costs."

Considering the above, the order impugned dated 28th June, 2011 cannot be sustained and is set aside.

The respondent No.1 is directed to consider the case of the petitioner's institution for being taken on the grant-in-aid list, afresh, in accordance with law and in the light of the observations made by this Court in Writ Petition No.44284 of 2011 as well as in the order dated 21.09.2010 passed in Writ C No. 15429 of 1994. The aforesaid exercise shall be completed, preferably, within a period of three months from the date of filing of a certified copy of

this order.

With the aforesaid directions/ observations the writ petition stands disposed of. There is no order as to costs."

From the perusal of the aforesaid order, it is clear that the direction was issued to the opposite party to consider the case of the applicant-institution for being taken on grant-in-aid. It appears that pursuant to the order of the writ Court, Contempt Application (Civil) No.3080 of 2016 was filed and following order was passed:-

"An affidavit of compliance has been filed alongwith which an order passed on 06.09.2018 has been annexed whereby the applicant institution has been taken on grant of aid.

Such being the position nothing further survive in the instant matter.

The contempt applicant is consigned to record."

From the perusal of the affidavit of compliance filed by the opposite party in that contempt application, it transpires in para 9 that only averment made in the said affidavit was that the opposite party has decided the claim of the applicant by order dated 06.09.2018.

Again, present contempt application was moved by the applicant and an affidavit of compliance has been filed by the opposite party today, which is taken on record.

In para 4 of the said affidavit, it has been stated that the order dated 05.12.2014 has been complied with and the representation of the applicant has been decided on 20.10.2023, copy of which has been brought on record as Annexure 1 to the present affidavit of compliance.

In view of the said fact as the order of the writ Court has been complied with and the representation of the applicant has been decided by the opposite party, present contempt application is rendered infructuous and the same stands **dismissed**.

It is, however, made clear that the applicant has not brought on record the order dated 06.09.2018 passed by the opposite party, upon which, the earlier Contempt Application (Civil) No.3080 of 2016 was consigned to record. Moreover, in the affidavit of compliance filed by the opposite party, only averment was made that the order of the writ Court has been complied with and the claim has been decided, but there is no averment made in entire

affidavit of compliance that the institution was taken on grant-in-aid.

In view of the said fact, the argument made by learned counsel for the applicant deserved to be rejected.

Order Date :- 9.11.2023

SK Goswami