

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 6802 of 2023

Applicant :- Dr Sudha Garg

Opposite Party :- Professor K.P. Singh Vice-Chancellor, M.J.P. Rohilkhand University

Counsel for Opposite Party :- Rohit Pandey

Hon'ble Rohit Ranjan Agarwal, J.

1. Heard Dr. Sudha Garg, the applicant in person, through video conferencing and Sri Rohit Pandey, learned counsel for the University.

2. It is contended by learned counsel appearing for University that complying the order of writ Court dated 17.07.2023 passed in Writ-A No.14616 of 2022 along with Writ-A No.19389 of 2022, the Vice-Chancellor has passed a detailed order on 04.10.2023. The said order has been challenged by the applicant before this Court through Writ-A No.18909 of 2023.

3. The applicant, who has appeared in person, does not dispute the fact that the order passed by Vice Chancellor has been assailed before the writ Court. She, however, contends that compliance as to the direction as contained in sub-clause (c) of the order has been done by the authorities but the directions as given in sub-clause (b) of the order, as to the handing over of the documents, as demanded by the applicant, was not complied with by the University. According to her, the documents, which has been mentioned in the order of the Vice-Chancellor being document at serial Nos.8, 9 and 10, are not the documents as demanded by her. She further submits that the University authorities are wrong in denying other documents and stating that the applicant may approach the College for the said documents. According to her, all the documents are in possession of the University authorities and the University authorities are not correct in relegating the matter to the College for the said documents.

4. I have heard the applicant in person through video conferencing and the counsel appearing for the University and perused the material on record.

5. It is not in dispute that the order passed by the writ Court on 17.7.2023 has

been complied with by the Vice Chancellor of the University and a detailed order, after hearing all the affected parties, was passed on 04.10.2023. There is a discussion as to the documents as demanded by the applicant and handing over of some of the documents by the University authorities as well as directing the College to hand over rest of the documents.

6. As the applicant herself has challenged the order passed by the Vice Chancellor and has assailed the findings recorded therein, the contempt application has been rendered infructuous.

7. Moreover, the disputed question of fact as to the documents which were handed over to her, mentioned at serial Nos.8, 9 and 10, are not the same document as demanded by her cannot be decided under the contempt jurisdiction exercising power under Section 12 of the Contempt of Courts Act as held by the Apex Court in case of **Dr. U.N. Bora, Ex. Chief Executive Officer and others Vs. Assam Roller Flour Mills Association and another 2022 (1) SCC 101**. Relevant para 8 of the judgment is extracted hereas under :

"8. We are dealing with a civil contempt. The Contempt of Courts Act, 1971 explains a civil contempt to mean a willful disobedience of a decision of the Court. Therefore, what is relevant is the "willful" disobedience. Knowledge acquires substantial importance qua a contempt order. Merely because a subordinate official acted in disregard of an order passed by the Court, a liability cannot be fastened on a higher official in the absence of knowledge. When two views are possible, the element of willfulness vanishes as it involves a mental element. It is a deliberate, conscious and intentional act. What is required is a proof beyond reasonable doubt since the proceedings are quasi-criminal in nature. Similarly, when a distinct mechanism is provided and that too, in the same judgment alleged to have been violated, a party has to exhaust the same before approaching the court in exercise of its jurisdiction under the Contempt of Courts Act, 1971. It is well open to the said party to contend that the benefit of the order passed has not been actually given, through separate proceedings while seeking appropriate relief but certainly not by way of a contempt proceeding. While dealing with a contempt petition, the Court is not expected to conduct a roving inquiry and go beyond the very judgment which was allegedly violated. The said principle has to be applied with more vigor when disputed questions of facts are involved and they were raised earlier but consciously not dealt with by creating a specific forum to decide the original proceedings."

8. In view of the said fact, as the order passed by Vice Chancellor is engaging attention of the writ Court and the writ petition has been filed by the applicant

herself assailing the said order, no case for contempt is made out. The contempt applicant is hereby **dismissed**.

9. However, it is open to the applicant to raise all the issues before the writ Court as available to her.

Order Date :- 21.11.2023

Kushal