

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 1023 of 2022

Applicant :- Islam Ali

Opposite Party :- Manoj Kumar Singh , I.A.S. Prin. Secy. Urban Development Civil Sect. Lko And Others

Counsel for Applicant :- Ravindra Nath Mishra

Counsel for Opposite Party :- Anil Kumar Tripathi, Satish Chandra Kashish

Hon'ble Rajesh Singh Chauhan, J.

1. Heard Sri Ravindra Nath Mishra, learned counsel for the petitioner and Sri Anil K. Tripathi, learned counsel for opposite parties.

2. Sri Mishra has filed objection against the application for dismissal of the contempt petition dated 31.10.2023, the same is taken on record.

3. This Court has passed the order dated 31.10.2023 which reads as under:

"1. Heard Sri Ravindra Nath Mishra, learned counsel for the petitioner and Sri Anil K. Tripathi, learned counsel for the opposite parties.

2. In compliance of the earlier order, Sri Anil K. Tripathi, learned counsel has filed affidavit of compliance on behalf of opposite party Nos.4 & 5. The affidavit of compliance has been filed by Sri Sanjay Kumar Mishra, Executive Officer, Nagar Palika Parishad, District-Gonda, who is present in person today before the Court. The same is taken on record.

3. Along with affidavit of compliance, Sri Tripathi has filed one report of Assistant Account & Audit Officer, Local Bodies Audit & Accounts Department, Devi Patan Mandal, Gonda dated 27.10.2023 addressing to the Executive Officer, Nagar Palika Parishad whereby he has stated that the petitioner has been paid his entire admissible dues. The aforesaid report has been submitted by the aforesaid authority on the direction of this Court so that the qualified person could make proper calculation in the issue in question.

4. Learned counsel for the petitioner prays for and is granted ten days time to file reply/ objection to the affidavit of compliance.

5. List this case on 28.11.2023 within top ten cases.

6. If on the next date, it is found that the grievance of the petitioner has not been satisfied in terms of order of the Writ Court, the direction for personal appearance of the officer, who is present today before the Court, may be passed. However, on the next date the officer who is present today before the Court, need not to appear again unless his presence is required by any order of this Court."

4. Sri R.N. Mishra has drawn attention of this Court towards the affidavit dated 22.08.2023 filed in support of the objection for discharge of contempt notice and dismissal of the contempt case dated 03.08.2023 showing Annexue No. SA-1 which is an application of the petitioner dated 15.07.2023 received on 17.07.2023 enclosing therewith the complete detail which has been received to the petitioner and which is yet to be paid to him. Sri Mishra has further stated that the entire dues of the petitioner has not been paid in terms of the order of Writ Court. He has submitted that as per the order of Writ Court, the petitioner was entitled for interest @ Rs. 6% whereas he has been given the interest @ Rs. 3% only. He has also stated that the report which has been filed by the Assistant Accounts & Audit Officer, Local Bodies Audit & Accounts Department, Devi Patan Mandal, Gonda is not appropriate report, inasmuch as the complete details have not been provided by the Executive Officer, Nagar Palika Parishad, Gonda to such authority. In Para 4 to 12 of the affidavit filed by the petitioner today, it has been categorically indicated that the petitioner has not been paid the appropriate dues in terms of the order of Writ Court and all the required papers have not been provided to the Assistant Accounts & Audit Officer, therefore, the proper calculation could not be done by the said officer.

5. Be that as it may, if there is any calculation mistake on the part of the Executive Officer concerned or the petitioner has not been paid the appropriate interest or the complete papers have not been provided by the Executive officer, Nagar Palika Parishad to the authority concerned for making proper calculation in terms of order of Writ Court, the appropriate remedy would be to approach the Writ Court, inasmuch the Contempt Court may not enter into the factual dispute, more particularly on the calculation mistakes. However, the petitioner has taken the specific averments in Para 4 to 12 of the aforesaid affidavit, therefore, the reply thereof shall be given by the concerned opposite party to the petitioner by passing afresh order within a period of one month and if the petitioner is aggrieved from that reply, he may take appropriate legal recourse before appropriate court of law

but so far as the present contempt petition is concerned, after perusing the letter dated 27.10.2023 being preferred by Assistant Accounts & Audit Officer (supra), I feel that nothing remains to be adjudicated in the present contempt petition since learned counsel for the petitioner has informed the Court that the petitioner has received about Rs.19 lacs as arrears of pension & other retiral dues and about Rs.9 lacs are still to be paid, therefore, this aspect may be considered by the Executive Officer, Nagar Palika Parishad, Gonda by passing afresh order, as directed above.

6. In view of the above, the present contempt petition is ***dismissed.***

7. Notices, if any, are discharged.

[Rajesh Singh Chauhan,J.]

Order Date :- 28.11.2023

kkv/