

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2913 of 2023

Applicant :- Rajesh Prakash Joshi

Opposite Party :- Mr. Nitin Bansal, Director, Local Bodies, Lko. And
Another

Counsel for Applicant :- Mridula Saxena, Sarvesh Kumar Saxena

Counsel for Opposite Party :- Lalta Prasad Misra

Hon'ble Rajesh Singh Chauhan, J.

1. Heard.

2. This Court has passed order dated 22.11.2023, which reads as under :

"1. Heard.

2. This Court has passed the order dated 12.10.2023 which reads as under:

"1. Heard learned counsel for the petitioner and learned Standing Counsel.

2. Learned counsel for the petitioner has stated that the petitioner is a patient of liver cirrhosis. By means of order of Writ Court, the petitioner is to be paid the post-retiral benefits and other consequential benefits but those benefits have not been paid to the petitioner till date.

3. Learned Standing Counsel has drawn attention of this Court towards the applications for deferment whereby the deferment has been prayed on behalf of both the opposite parties on the ground that the State Government has decided to file the Special Appeal.

4. Learned counsel for the petitioner has filed two objections to that applications for deferments, filed on behalf of both the opposite parties, the same are taken on record.

5. Be that as it may, this is a trite law that mere pendency of the Special Appeal may not protect the authority concerned from the contempt proceedings if the order of the Writ Court has not been complied with in its letter and spirit.

6. In the present case, admittedly, no Special Appeal has been filed and the authority concerned is seeking time on the ground that the State Authority has decided to file Special Appeal. The aforesaid excuse may not be accepted in the contempt proceedings.

7. Considering the submission of learned counsel for the petitioner and also having regard to the affidavit, so filed by the parties, list this case on 22.11.2023.

8. On or before 22.11.2023, the authority concerned i.e. opposite party no. 2, namely, Amrit Abhijat, Principal Secretary, Nagar Vikas Anubhag-4, Civil Secretariat, Lucknow, shall file the affidavit of compliance, making compliance of the order of Writ Court in its letter and spirit, failing which he shall appear in person on the next date."

3. Dr. L.P. Mishra, Advocate has filed Vakalatnama on behalf of opposite party no. 2, the same is taken on record. The opposite party no. 2, namely, Amrit Abhijat, Principal Secretary, Nagar Vikas Anubhag-4, Civil Secretariat, Lucknow is present in person.

4. The officer, who is present in person, has sought some reasonable time to file the affidavit of compliance/counter affidavit.

5. Learned counsel for the petitioner has submitted that despite the fact that the issue in question has attained the finality upto the level of Apex Court and in the present case no special appeal has been filed, even order of Writ Court has not been complied with. He has further submitted that the petitioner is suffering from liver-cirrhosis and if the order of the Writ Court is not complied with, the petitioner may suffer irreparable loss which may not be compensated in terms of the money.

6. Considering the request of Dr. L.P. Mishra, two weeks' time is given to file the affidavit of compliance/counter affidavit.

7. List on 13th of December, 2023.

8. On or before 13th of December, 2023, the authority, who is present in person, shall file the affidavit of compliance/counter affidavit, making compliance of the order of Writ Court in its letter and spirit, failing which he shall appear in person again.

9. It is made clear that if the order of the Writ Court is not complied with without having any plausible reason, the charge may be framed against the officer.

10. When the case is listed next, name of Dr. L.P. Mishra be printed in the cause list as learned counsel for opposite party no. 2."

3. Sri Sunil Bajpai, learned Addl. C.S.C. has filed applications for discharge of contempt notices on behalf of opposite parties no. 1 and 2, same are taken on record.

4. Sri Bajpai has submitted that the order has been complied with in its letter and spirit as recital to this effect has been given in para 8 and 9 of the affidavit of opposite parties no. 1 and 2 both.

5. In the wake of aforesaid development nothing remains to be adjudicated by this Court in this writ petition.

6. Accordingly, the contempt petition is **dismissed**.

7. Notices discharged.

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[Rajesh Singh Chauhan, J.]

Order Date :- 13.12.2023

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