

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3311 of 2023

Applicant :- Smt. Laxmi Tomar

Opposite Party :- H.S Dhaliwal, General Manager Food Corporation Of India, Regional Officer, Lko.

Counsel for Applicant :- Pawan Kumar Tiwari

Counsel for Opposite Party :- Shikhar Anand

Hon'ble Rajesh Singh Chauhan,J.

1. Heard learned counsel for the petitioner and Sri Shikhar Anand, learned counsel for opposite party.

2. This Court has passed the order dated 02.11.2023 which reads as under:

"1. Heard Sri Samar Bahadur Yadav, Advocate holding brief of Sri Shikhar Anand, learned counsel for the opposite party, who has filed application for deferment of the contempt proceedings along with affidavit, the same is taken on record.

2. The reason so indicated in the aforesaid application is that against the order of the Writ Court one special appeal bearing Special Appeal Defective No.286 of 2023 is pending consideration.

3. It has been fairly admitted at the Bar that neither the delay has been condoned nor any interim order has been granted by the Appellate Court, therefore, the reason so indicated in the application for deferment of the contempt proceedings may not be acceptable.

4. It is trite law that mere pendency of the special appeal, more particularly the defective special appeal, may not protect the authority concerned if the order of the Writ Court has not been complied with in its letter and spirit.

5. List this case on 06.12.2023.

6. On or before 06.12.2023, the affidavit of compliance shall be filed by the authority concerned i.e. Sri H.S. Dhaliwal, General Manager, Food Corporation of India, Regional Office T.C./3V, Vibhuti Khand, Gomti Nagar, Lucknow making compliance of order of the Writ Court in its letter and spirit, failing which, the authority concerned shall appear in person on the next date."

3. In compliance of the aforesaid order, Sri Shikhar Anand has filed the affidavit of compliance, the same is taken on record.

4. Sri Shikhar Anand has shown Annexure No. CA-1 to the affidavit of compliance which is an order dated 05.12.2023 passed by the Competent Authority directing that all the dues shall be paid in terms of the order of Writ Court subject to final outcome of the Special Appeal Defective No. 286 of 2023.

5. Sri Shikhar Anand, learned counsel for the opposite party has informed the Court that today the aforesaid Special Appeal was

listed which has been dismissed by the appellate Court, therefore, the recital to the effect that the compliance of the order of Writ Court will be subject to final outcome of the special appeal may not be read in this order. However, Sri Anand has stated that he has informed the department about the dismissal of the special appeal and department is of the opinion that the order of the Writ Court and appellate Court may be challenged before the Apex Court.

6. Be that as it may, to assail any order before the Apex Court is right of the person on that no explanation can be given but the special appeal has been rejected and in compliance of the order of Writ Court, the order has been passed by the competent authority, therefore, there is no purpose to keep this contempt petition pending any longer.

7. Accordingly, the instant contempt petition is ***dismissed***.

8. Notice, if any, stand discharged.

9. However, it is made clear that if the dues in terms of the order of Writ Court and also in terms of the order dated 05.12.2023 are not credited in the account of the petitioner with expedition, preferably within a period of four weeks from today, the petitioner would be at liberty to file an application for seeking revival of the present contempt petition and if such application is filed and the present contempt petition is revived, any coercive order under the Contempt of Courts Act may be passed on that application.

[Rajesh Singh Chauhan,J.]

Order Date :- 6.12.2023

kkv/