

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3440 of 2023

Applicant :- Bharat Jan Gaurav Manch, Thru. Its Chairman / Chief
Trustee Indresh Kumar Shukla

Opposite Party :- Arun Kumar, The Distt. Basic Edu. Officer Lko. And
Another

Counsel for Applicant :- Akash Dikshit

Counsel for Opposite Party :- Pradeep Tiwari

Hon'ble Rajesh Singh Chauhan,J.

1. Heard.

2. This Court has passed order dated 16.11.2023 which reads as under :

"1. Heard Sri Akash Dixit, learned counsel for the petitioner and Sri Pradeep Tiwari, learned counsel for the B.S.A., Lucknow.

2. This Court has passed order dated 10.10.2023 which reads as under :

"1. Heard learned counsel for the petitioner.

2. Attention has been drawn towards order of this Court passed in Public Interest Litigation (PIL) Civil No.15633 of 2021 (Bharat Jan Gaurav Manch through its Chairman vs. State of U.P. & others) whereby the aforesaid Public Litigation Petition was disposed of finally on the instructions so received by the learned Standing Counsel to the effect that the building of the School in question is vacant and it can be demolished. When no appropriate exercise has been carried out pursuant to the order of this Court passed in the aforesaid Public Interest Litigation dated 18.08.2021, the petitioner filed the contempt petition bearing Contempt Application (Civil) No.2004 of 2021 (Bharat Jan Gaurav Manch through its Chairman vs. Vijay Pratap Singh, District Basic Education Officer, Lucknow) which was decided finally on 02.03.2023 considering the submission opposite party that the order has been complied with and the Primary School in question has been shifted to some other place.

3. Learned counsel for the petitioner has further drawn attention of this Court towards para-14 of the contempt petition wherein he has categorically indicated that the same building is again being utilized by the Primary School with effect from 03.07.2023 and the classes have been started in such building again.

4. The matter requires consideration.

5. Let notices be issued to opposite party Nos.1 & 2 returnable at an early date, for which, necessary steps be taken within a week.

6. Office to proceed accordingly.

7. List this case on 16.11.2023 within to ten cases.

8. By that date, the opposite party Nos.1 & 2 shall explain as to why the compliance of order dated 18.08.2021 passed by this Court in Public Interest Litigation (PIL) Civil No.15633 of 2021 has not been done in its letter and spirit."

3. Sri Pradeep Tiwari, learned counsel for the B.S.A. has stated on the basis of instructions that the safety and security of the children is paramount

consideration and that may not be compromised. He has stated that he may be given some reasonable time to file affidavit of compliance making compliance of the order of the writ court in its letter and spirit.

4. Let the affidavit of compliance be filed within three weeks.

5. List on 13.12.2023.

6. On or before 13.12.2023 the B.S.A., Lucknow namely Sri Arun Kumar shall file affidavit of compliance making compliance of the order of the writ court in its letter and spirit failing which he shall appear in person on the next date.

7. When the case is next listed name of Sri Pradeep Tiwari shall be shown as counsel for the opposite party."

3. Sri Pradeep Tiwari, learned counsel for the opposite party has filed affidavit of compliance by submitting that the order of writ court has been complied with in its letter and spirit and recital to this effect has been given in para 11 of the affidavit of compliance.

4. This is a serious issue but considering the submission of learned counsel for the opposite party that the order of the writ court has been complied with in its letter and spirit, the contempt petition is **dismissed**.

5. Notices discharged.

6. However, it is always open for the petitioner to file any application for revival of the contempt petition, if the order of the writ court is again flouted and if such application is filed and contempt petition is revived any coercive order may be passed against the opposite party.

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[Rajesh Singh Chauhan, J.]

Order Date :- 13.12.2023

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