

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3779 of 2023

Applicant :- Hanumant Chand Gond

Opposite Party :- Sri Yashwant Rai, S.D.M., Tehsil Mankapur, Gonda
And Others

Counsel for Applicant :- Manoj Sahu, Sonal Pandey

Hon'ble Rajesh Singh Chauhan, J.

1. Heard Sri Manoj Sahu, learned counsel for the petitioner.

2. Attention has been drawn towards the order of the writ court dated 25.11.2021 passed in Writ Petition No. 27370 (M/B) of 2021, which reads as under :

"Heard Sri Rajesh Kumar Awasthi, learned counsel for the petitioner and the learned Standing Counsel.

This writ petition has been filed praying inter-alia the following reliefs: -

1) To issue a writ, order or direction in the nature of certiorari thereby quashing the impugned rejection letter dated 23.05.2020 issued by the opposite party no. 4 as contained in Annexure no. 1 to the writ petition.

2) To issue a writ, order or direction in the nature of mandamus to commanding and directing the opposite party no. 4 to issue Caste Certificate for Scheduled Caste in favour of the petitioner in pursuance of the online application no. 201830030008142 dated 27.02.2020.

The learned Standing Counsel has submitted that against the order impugned in the present writ petition, the petitioner has a efficacious alternative statutory remedy of filing an appeal under Section 6(1) of the U.P. Janhit Guarantee Adhiniyam, 2011, before the Sub-Divisional Magistrate concerned.

At this stage, the learned counsel for the petitioner states that the writ petition be dismissed as not pressed in order to enable the petitioner to file an appeal. However, he states that as per the Act, the appeal is to be filed within a period of 30 days. He prays that the authority be directed to consider the appeal and decide the same on merits.

The petitioner is accordingly granted liberty to file before the Sub-divisional Magistrate concerned under Section 6 of the U.P. Janhit Guarantee Adhiniyam, 2011 within thirty days from the date of this order.

In case the petitioner files any such appeal, the Sub-divisional Magistrate shall decide the same on merits in accordance with law expeditiously, say within a period of thirty days from the date of receipt of appeal.

With these observations and liberty granted to the petitioner, the writ petition fails and is accordingly dismissed."

3. Sri Sahu has stated that in compliance of the aforesaid order the petitioner has filed appeal on 20.12.2021. He has submitted that in terms of the order of the writ court the appeal should have been decided within one month but the appeal has not been decided within the time, so stipulated by the Court. When

no order has been passed for substantial period the petitioner preferred a representation on 16.9.2023 (Annexure no. 4) before the authority concerned in "*Sampoorn Samadhan Diwas*" making request that the appeal of the petitioner be decided.

4. On the aforesaid application / representation the local lekhpal has submitted its report dated 20.9.2023 (Annexure no. 5) before the authority that the writ petition is pending consideration before this Court, therefore, the appeal cannot be disposed of till the pendency of the writ petition. Sri Sahu has enclosed the questionnaire dated 11.10.2023 of the court where the proceeding is pending to show that the proceedings are still pending. He has further submitted that in the present case the cause of action to file the instant contempt petition is 20.9.2023 when the report has been submitted regarding pendency of the writ petition before this Court whereas this Court vide order dated 25.11.2021 has disposed of the petition finally.

5. On being confronted the learned counsel for the petitioner on section 20 of the Contempt of Court Act, 1971 which categorically provides that no court shall proceed to initiate the proceedings of contempt either on its own motion or otherwise, after expiry of period of one year from the date on which the contempt is alleged to have been committed asking him since the cause of action accrued on 20.1.2022 when after the expiry of 30 days period the appeal has not been decided as to how the present contempt petition may be maintainable and also as to how the cause of action to file contempt petition would be 20.9.2023, the learned counsel for the petitioner could not reply the aforesaid query of the Court. However, he has stated that the order of the writ court has not been complied with till date.

6. Be that as it may, when this Court vide order dated 25.11.2021 dismissed the writ petition giving liberty to file an appeal before the Sub-Divisional Magistrate concerned and said appeal was filed on 20.12.2021, the petitioner should have filed a contempt petition immediately after expiry of the thirty days from the date of filing of appeal which is 20.1.2022 and it remained in operation till 20.1.2023. All the other developments, as stated by the learned counsel for the petitioner, are subsequent developments which cannot create cause of action. Section 20 of the Contempt of Courts Act, 1971 specifically provides that no court shall initiate any proceedings of contempt if the period of limitation has expired. Therefore, in view of the above the present contempt petition is not maintainable. Accordingly, the same is ***dismissed***.

7. However, it is always open for the petitioner to approach the competent authority apprising the fact that despite the final

disposal of the writ petition wrong report has been filed by the local Lekhpal and Revenue Inspector and the Tehsildar has also forwarded the said report before the competent authority.

8. It is also needless to state that the authority concerned should dispose of the pending appeal of the petitioner.

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[Rajesh Singh Chauhan, J.]

Order Date :- 31.10.2023

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