

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3011 of 2022

Applicant :- Surangma Shukla

Opposite Party :- Shri Deepak Kumar, Prin. Secy. (Basic Education), Civil Secrtt., Govt. Of U.P., Lko. And Others

Counsel for Applicant :- Amit Kr. Singh Bhadauriya

Counsel for Opposite Party :- Ranvijay Singh

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 order dated 30.10.2023 which reads as under :

"1. Heard Sri Amit Singh Bhadauriya, learned counsel for the petitioner, Sri Ran Vijay Singh, learned counsel for the opposite party no. 3 and Sri Sunil Bajpayee, learned Addl. C.S.C. for the opposite party no. 1.

2. This Court has passed order dated 11.9.2023 which reads as under :

"1. On account of call of boycott by the Advocates Association the learned counsel for the petitioner is not present, however, Ms. Surangma Shukla, the applicant is present in person, Sri Ran Vijay Singh, is present for opposite party no. 3 and Sri Sunil Bajpayee, learned Addl. C.S.C. for the opposite party no. 4.

2. This Court has passed judgment and order dated 11.8.2023 which reads as under :

"1. Heard Sri Amit Kumar Singh Bhadauria, learned counsel for the applicant and Sri Ran Vijay Singh, learned counsel for opposite party no.3.

2. Sri Ran Vijay Singh has stated that he would be filing an application for grant of time to make compliance of the order of the writ court and copy thereof has been provided to the learned counsel for the applicant.

3. Let the aforesaid application alongwith the affidavit be filed within one week.

4. Issue notice to opposite party no.4 returnable at an early date, for which, necessary steps be taken within a week.

5. Office to proceed accordingly.

6. List on 11.09.2023.

7. On or before 11.09.2023, opposite parties no.3 & 4 shall file affidavit of compliance making compliance of the order of the writ court in its letter and spirit, failing which both the opposite parties i.e. opposite parties no.3 & 4 shall appear in person."

3. In compliance of the order dated 11.8.2023, Sri Pratap Singh Baghel, Secretary, U.P. Basic Education Board, Allahabad and Sri Anil Bhushan Chaturvedi, Secretary, Examination Regulatory Authority, U.P., Alenganj, Allahabad are present in person.

4. Sri Sunil Bajpayee, learned Addl. C.S.C. has filed short counter affidavit of opposite party no. 4, the same is taken on record.

5. Sri Ran Vijay Singh has informed that after the judgment and order of the writ court for which the present contempt petition has been filed, one more judgment and order has been passed whereby the direction has been issued to re-visit the issue again. Some special appeal has been filed challenging the subsequent judgment and order which is pending consideration. He has submitted that on account of huge water-logging he is not able to enter into his office and could not file the affidavit, therefore, some reasonable time may be given to file affidavit indicating therein the practical difficulty and legal impediment on account of which the judgment and order of the writ court could not be complied with till date.

6. Sri Ran Vijay Singh, learned counsel prays for and is granted ten days time to file affidavit of compliance / short counter affidavit and copy thereof be provided to learned counsel for the petitioner on or before 21.9.2023, so that learned counsel for the petitioner could address the Court on such affidavit on the next date.

7. List this case on 25.9.2023.

8. The officers who are present in person today shall again appear in person on the next date."

3. Sri Ran Vijay Singh has informed that the bunch of appeals, of which the final outcome shall affect the order of the writ court, is listed before the nominated Bench on 20.11.2023. He has also informed that the said nominated Bench has directed that the said appeals shall be listed within top ten cases. Sri Singh and Sri Bajpayee has stated that the said authorities are respondent in such appeals.

4. Sri Bhadauriya has stated that in the case of the present petitioner the issue has been decided finally at the level of Apex Court and no appeal has been filed against the order being passed by the writ court in the present case. He has also informed that the State authorities have not filed any appeal. Sri Bhadauriya has further stated that in last couple of dates the present contempt case has been got adjourned only for the reason that the appeal is pending. In none of the dates any counsel for the appellant has come before the Court to show his / their seriousness to pursue / contest the appeal. The appeal may be heard and disposed of only when the learned counsel for the appellant / appellants shall address the Court on the next date, therefore, the State counsel are making request on behalf of appellants whereas they are respondent in such appeal.

5. Since Sri Ran Vijay Singh has stated that he is very much sure that the appeals may be decided on the next date and such authorities shall take all serious efforts to get the appeals decided, therefore, as a last opportunity the case is adjourned for today.

6. List on 22.11.2023.

7. In compliance of the earlier order being passed the officers namely, Sri Pratap Singh Baghel, Secretary, U.P. Basic Education Board, Allahabad and Sri Anil Bhushan Chaturvedi, Secretary, Examination Regulatory Authority, U.P. Alenganj, Allahabad, are present in person.

8. On the next date both the officers shall again appear in person.

9. It is made clear that if Sri Ran Vijay Singh or Sri Sunil Bajpayee do not produce any copy of interim order / final order being passed by the appellate court or do not file the affidavit of compliance making compliance of the order of writ court in its letter and spirit, the charges may be framed against the officers."

3. In compliance of the aforesaid order the officers namely, Sri Pratap Singh Baghel, Secretary, U.P. Basic Education Board, Allahabad and Sri Anil Bhushan Chaturvedi, Secretary, Examination Regulatory Authority, U.P., Alenganj,

Allahabad are present in person.

4. On being asked from the learned counsel for the opposite party as to whether any interim order or final order has been passed in the appellate court and if no such order has been passed whether the opposite parties are filing affidavit of compliance in terms of the earlier orders of this Court, learned counsel for the opposite parties have stated that neither any interim order or final order has been passed by the appellate court nor the authorities are filing affidavit of compliance. However, Sri Ran Vijay Singh, learned counsel for the opposite party no. 3 has shown the copy of the order dated 20.11.2023 passed by the appellate court wherein it has been indicated that the hearing of the appeal shall proceed on day to day basis since 4.12.2023.

5. Be that as it may, the contempt court has given several opportunities to the opposite parties either to get interim order / final order from the appellate court or to file affidavit of compliance but neither any copy of interim order or final order being passed by the appellate court nor affidavit of compliance has been filed. Not only the above vide last order dated 30.10.2023 it has been categorically indicated that if no interim order or final order is produced and affidavit of compliance is not filed, the charge may be framed against the officer. The aforesaid direction has not been obeyed, therefore, in a given circumstances the contempt court has got no other option except to frame charge against the officers as under :

"Sri Pratap Singh Baghel, Secretary, U.P. Basic Education Board, Allahabad and Sri Anil Bhushan Chaturvedi, Secretary, Examination Regulatory Authority, U.P., Alenganj, Allahabad have deliberately and willfully flouted the direction being issued in judgment and order dated 20.12.2021 passed by this Court in Service Single No. 8056 of 2020 and other connected writ petitions, therefore, any appropriate order may be passed against them under the Contempt of Courts Act."

6. Both the aforesaid officers may file their explanations in respect of aforesaid charge within a period of two weeks.

7. In the meantime they may also file affidavit of compliance making compliance of the order of this Court. Further, it is clarified that before considering the aspect of charge so framed, the affidavit of compliance, if so filed, may be considered first.

8. On the next date both the officers shall again appear in person.

9. List on 19.12.2023."

3. In compliance of the aforesaid order Standing Counsel has filed 'Application for discharge of the contempt notice against opposite party no. 4' i.e. Sri Anil Bhushan Chaturvedi, Secretary, Examination Regulatory Authority, Uttar Pradesh, Allahabad and Sri Ran Vijay Singh has filed affidavit of compliance of opposite party no. 3 i.e. Sri Pratap Singh Baghel, Secretary, Uttar Pradesh Basic Education Board, Allahabad, same is taken on record.

4. At the very outset, Sri Ran Vijay Singh has drawn attention of this Court towards the copy of the order dated 15.12.2023 showing the running page 7 of the aforesaid affidavit of compliance which clearly indicates that the petitioner, Surangma Shukla, has been given one additional mark in terms of the order of the writ court, accordingly her mark would be '90' in stead of '89' and she has been declared qualified. The

same thing has been indicated in the affidavit of opposite party no. 4 also.

5. Sri Amit Singh Bhadauriya has stated that the identical contempt petitions were listed before this Court at Allahabad wherein the same fact has been apprised by the parties and the bunch of contempt petitions have been decided by the Court at Allahabad in **Contempt Application (Civil) No. 233 of 2022 (Upendra Kumar Dayal vs. Sri Anil Bhushan Chaturvedi, Secretary, Examination Regulatory Authority)** vide order dated 28.11.2023 with the expectation that entire exercise will be completed at the end of opposite party o. 2 (Secretary, Basic Education Department, U.P.) within a period of two months from today. Sri Bhadauriya has stated that on the basis of aforesaid affidavits, so filed by the authorities, the remaining exercise is to be carried out at the end of the opposite party no. 2 i.e. to prepare the merit list on the basis of revised marks and to conclude the process.

6. Having heard learned counsel for the parties and having perused the material available on record, I am also having same opinion that when one mark has been awarded to the candidates in terms of the order of the writ court, the entire exercise should be concluded at the end of opposite party no. 2 with expedition.

7. Since this Court at Allahabad vide order dated 28.11.2023 has shown its expectation to the effect that the entire exercise will be concluded at the end of opposite party no. 2 within two months from today then the same expectation is being expressed by this Court also.

8. In view of aforesaid facts nothing remains to be adjudicated in the present contempt proceedings.

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

10. Notices are discharged.

11. However, it is always open for the petitioner to file an application for revival of the contempt petition, if the exercise is not concluded within time frame and if such application is filed and it is found that the exercise has not been concluded in the time frame the contempt petition may be revived and any order under the Contempt of Courts Act may be passed.

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[Rajesh Singh Chauhan, J.]

Order Date :- 19.12.2023/Om