

**HIGH COURT OF TRIPURA
AGARTALA**

**Review Petition No.3 of 2024
arising out of WA No.92 of 2021(D/O)**

- 1. The State of Tripura**, represented by the Chief Secretary in the Department of General Administration (Personnel & Training), Government of Tripura, having his office at New Secretariat, P.O. New Capital Complex, Sub Division- Sadar, District- West Tripura, Agartala PIN-799010.
- 2. The Secretary Department of General Administration (Personnel & Training)**, Government of Tripura, having his office at New Secretariat, P.O. New Capital Complex, Sub Division- Sadar, District- West Tripura, Agartala PIN- 799010.
- 3. The District Magistrate and Collector, South Tripura**, Government of Tripura having his office at DM Office Complex, Belonia, Sub Division- Belonia, District- South Tripura, PIN- 799155.
- 4. The Under Secretary, Department of General Administration (Personnel & Training), Government of Tripura**, having his office at New Secretariat, P.O. New Capital Complex, Sub Division- Sadar, District- West Tripura, Agartala PIN- 799010.

..... Review Appellants

(Respondents in Writ Petition & Writ Appeal)

Versus

Sri Uttam Das Baishnab, son of late Harekrishna Baishnab, resident of South Palace Compound, Agartala, P.O. Agartala Head Post Office, P.S. West Agartala, West Tripura, PIN- 799001.

.....Opposite Party

(Writ Petitioners/Writ Appellant)

For the Petitioner(s)	: Mr. SS Dey, Advocate General. Mr. K. De, Addl. G.A. Ms. A. Chakraborty, Advocate.
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For the Respondent(s)	: Mr. A. Pal, Advocate.
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Sri Uttam Das Baishnab, son of late Harekrishna Baishnab, resident of South Palace Compound, P.O. Agartala HPO, P.S. West Agartala, Sub-Division- Sadar, District- West Tripura.

.....**Petitioner**

Versus

- 1. Sri Jitendra Kumar Sinha**, Chief Secretary, Government of Tripura, Department of General Administration (Personnel & Training), having his office at New Secretariat Complex, P.O. Secretariat, P.S. New Capital Complex, Sub-Division- Sadar, District- West Tripura, PIN- 799010.
- 2. Sri Apurba Roy**, Secretary, Government of Tripura, Department of General Administration (Personnel & Training), having his office at New Secretariat Complex, P.O. Secretariat, P.S. New Capital Complex, Sub-Division- Sadar, District- West Tripura, PIN-799010
- 3. Shri Saju Vaheed A**, District Magistrate and Collector, South Tripura, Government of Tripura, having his office at DM Office Complex, Belonia, P.O. & P.S. Belonia, Sub Division- Belonia, District- South Tripura, PIN-799155.

.....**Respondent-Contemnors**

For the Petitioner(s)	: Mr. A. Pal, Advocate.
For the Respondent(s)	: Mr. SS Dey, Advocate General. Mr. K. De, Addl. G.A. Ms. A. Chakraborty, Advocate.
Date of hearing and delivery of judgment & order	: 19.03.2024.
Whether fit for reporting	: Yes.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE ARINDAM LODH
J U D G M E N T & O R D E R (O R A L)**

[T. Amarnath Goud, J]

Heard Mr. SS Dey, learned Advocate General assisted by Ms. A. Chakraborty representing the State. Also heard Mr. A. Pal, learned

counsel appearing on behalf of petitioner in the instant contempt case (respondent in the present review petition).

[2] The present review petition is filed under Article 226 of the Constitution of India read with Order 47 Rule 1 of Code of Civil Procedure, 1908 and the present contempt case is filed under Section 12 of the Contempt of Courts Act, 1971.

[3] Since the present review petition and the contempt case are arising out of common cause of action, the same are taken together for consideration and disposal of the same in a common order.

[4] The facts which have been brought to our notice, in brief, are that by filing WP(C) 562 of 2020, the writ petitioner namely, Uttam Das Baishnab challenged the extension of his suspension order pending disciplinary proceedings, but the same was dismissed by the learned Single Judge. Thereafter, against the said order of learned Single Judge, writ appeal vide No. WA 92 of 2021 was filed by the writ petitioner. It has been suppressed before this Court by the petitioner that in the intervening period, the appointment of the petitioner on promotion to the post of TCS Gr-II from the feeder post of Panchayat Extension Officer against SC category was cancelled by order dated 31.12.21 and by a subsequent order dated 21.01.2022, the initial appointment of the petitioner in service as Panchayat Extension Officer, Group-C, Non-Gazetted through Tripura Public Service Commission against Scheduled Caste category in the year 2002, was also cancelled. The said matter was never brought to the knowledge of this Court by any party to the

proceedings. Ultimately, this Court vide order dated 05.04.2023 was pleased to strike down the suspension order; although the same did not even exist in law as the original appointment and suspension orders pertaining to the petitioner by that time, were not in existence. Even after knowing his entire fault, the petitioner filed the instant contempt case for non-compliance of the order of this Court dated 05.04.2023 in WA No.92 of 2021.

[5] Mr. SS. Dey, learned Advocate General assisted by Ms. A. Chakraborty, learned counsel appearing for the State contends that the petitioner wilfully suppressed the matter that as per the order dated 21st January, 2022 issued by the Director of Panchayats, Government of Tripura, the appointment of the petitioner was cancelled as it is held that the petitioner does not belong to the Scheduled Caste Community. The writ petitioner had obtained the said appointment on misrepresentation by producing a fake certificate claiming to be a member of Scheduled Caste(SC) community. Ultimately, this Court vide order dated 05.04.2023 has ordered to strike down the suspension order; although the same did not even exist in law as the original appointment of the petitioner in service by that time, had already been cancelled.

[6] Learned Advocate General further contends that even after knowing all his fault, the petitioner has filed this contempt case for compliance of the order dated 05.04.2023 in WA No.92 of 2021, which is very unfair in the eye of law. He, therefore, urges this Court to recall, rescind and review the judgment and order passed by this Court on

05.04.2023 in WA No.92 of 2021 arising out of WP(C) No.562 of 2020. He also urges this Court to dismiss the present contempt case.

[7] Mr. A. Pal, learned counsel for the writ petitioner opposes the submission made by learned Advocate General contending that the orders of the State Government 31.12.2021 & 21.01.2022 as referred herein, is not inconformity with law. It is contended by Mr. Pal, learned counsel that the said order passed by the State Government cancelling the appointment of the petitioner on the ground of fake SC certificate was also challenged by the writ petitioner by filing another writ petition and an order was passed in his favour in the year 2022. He, therefore, urges this Court to reject the review petition filed by the State.

[8] This Court has enquired that learned Advocate General argued on the point that the information regarding cancellation of the appointment order of the writ petitioner was suppressed by him during the pendency of the writ appeal. As a result, the writ appeal was disposed of on 05.04.2023 revoking the suspension order, which was not in existence at that time. On the argument made by learned Advocate General, no answer has been made from Mr. A. Pal, learned counsel for the writ petitioner, contempt-petitioner herein. The only contention of the learned counsel for the writ petitioner that the order passed by the State Government cancelling the appointment of the petitioner on the ground of fake SC certificate, was also challenged by filing a writ petition and an order was passed in his favour in WP(C) 26 of 2022, is not the issue before this Court to consider and no such averment is made or arguments

are advanced in wa and in contempt affidavit. The only points which are taken into consideration in the instant case are:

- (i) Whether the order in writ appeal requires to review;
- (ii) Whether the petitioner has disclosed about cancellation of his appointment during the pendency of the writ appeal or in contempt case.

[9] It is seen from record that on 14.05.2020, the writ petitioner was suspended in contemplation of a disciplinary proceeding. On 11.08.2020, 90 days has been completed from the date of the suspension order was issued. A Review Committee was constituted for reviewing the suspension order in respect of the writ petitioner and the said Review Committee met on 14th August, 2020 to review the suspension of the petitioner and recommended extension of the suspension period for 180 days. And subsequently, on 20.08.2020, the suspension period of the writ petitioner was extended for a period of 180 days. As per Rule 10(6) of CCS (CCA) Rules, 1965, the suspension order must be reviewed before expiry of 90 days otherwise it must be deemed to have been lapsed after expiry of such period. Keeping in view the said provision, this Court vide order dated 05.04.2023 in WA No.92 of 2021 revoked the suspension order. The order passed by this Court on 05.04.2023 is reproduced below:

".....6. In view of submissions of learned counsel for the respective parties, this Court is of the considered view that the memorandum placed by the learned Government counsel cannot have an overriding effect on the statute as it is apparent from the Rule 10(6) of the CCS (CCA) Rules, 1965, that the suspension order must be reviewed before expiry of 90 days otherwise it must be deemed to have been lapsed after expiry of such period.

Moverover, the memorandum which the Government counsel is relying has no bearing on this and the action of the officers taking shelter under the said memorandum is arbitrary.

7. Accordingly, the writ appeal is allowed. The impugned judgment and order dated 29.01.2021 passed by the learned Single Judge in WP(C) No.562 of 2020 is set aside. Consequently, the order of suspension dated 14.05.2020 and the extension order of suspension dated 20.08.2020 are revoked. The appellant-petitioner be reinstated in service forthwith. The respondent-department is at liberty to take any further action in accordance with law.

8. With the above observation and direction, the writ appeal is allowed and disposed of.

Pending application(s), if any, also stands disposed of."

The fact was suppressed that the suspension order was not in existence as on 05.04.2023 as the appointment of the writ petitioner had already been cancelled on 21.01.2022 and he was out of service at the time of delivery of the above mentioned order and said fact is not disclosed in affidavit filed in support of contempt case.

[10] Having heard the submissions made at the Bar and on perusal of record, this Court is of the view that the conduct of the petitioner in suppressing the fact that his appointment had already been cancelled during the pendency of the writ appeal and thereby, he has also filed this contempt case for compliance of order in writ appeal is absolutely an unjust manner and is playing fraud upon the Court. It is seen from record that Mr. A. Pal, learned counsel has been representing the writ petitioner who is also the contempt-petitioner in the present contempt case from 2020 onwards to till date. The fact that the appointment of the writ petitioner was cancelled has neither been brought to the notice of this Court by the writ petitioner nor through the engaged advocate. This Court draws an adverse inference.

[11] Hence, the said action of the writ petitioner (contempt-petitioner herein) is viewed seriously and a cost of Rs. 50,000/- (Rupees Fifty Thousand only) is imposed upon the petitioner and he is to pay the same to the High Court Bar Association within a period of 15(fifteen) days from today.

[12] In view of the facts and circumstances narrated above, the present review petition filed by the State is allowed; consequently, the order passed by this Court on 05.04.2023 in WA No.92 of 2021 is recalled and the same is dismissed. The present contempt case stands dismissed and closed.

As a sequel, miscellaneous application(s) pending, if any, shall also stand closed.

Communicate the order forthwith. A copy of this order be also supplied to the President, High Court Bar Association.

A. Lodh, J

T. AMARNATH GOUD, J

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**SABYASACHI
GHOSH**

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