

GAHC010036272019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Cont.Cas(C)/107/2019

UDAY KUMAR DAS
S/O LATE RAMSAJIBAN DAS
R/O NO. 1 MADGHORIA, PATHARQUARI
GUWAHATI, DIST. KAMRUP, ASSAM.

VERSUS

JIBAN HAZARIKA
BAKIJAI OFFICER OF CO-OPERATIVE SOCIETIES AND CERTIFICATE
OFFICER, OFFICE OF THE BAKIJAI OFFICER OF CO-OPERATIVE
SOCIETIES, BHANGAGARH, GUWAHATI -05.

Advocate for the Petitioner : MR. R DE

Advocate for the Respondent : MR. R K D CHOUDHURY

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

04.03.2024

Heard Shri R. De, learned counsel for the petitioner. Also heard Shri RKD Choudhury, learned counsel for the sole respondent.

2. The instant petition has been filed alleging willful and deliberate

disobedience of the order dated 30.01.2019 passed by this Court in WP(C)/593/2019.

3. It is submitted by Shri De, learned counsel for the petitioner that the subject matter of the */is* was a challenge to a Bakijai proceeding in which this Court vide the aforesaid order dated 30.01.2019 has also passed an interim direction not to take any coercive action against the petitioner including the execution of warrant of arrest pursuant to the Bakijai Case No. B-287/2018. It is the case of the petitioner that the aforesaid order was furnished to the respondent which was received on 01.02.2019 even whereafter, fresh warrant of arrest was issued. Accordingly, the instant petition was filed.

4. Shri De, learned counsel for the petitioner submits that the action was taken in spite of being fully aware of the order of this Court and therefore, a case of contempt is made out. The learned counsel however fairly submits that the said Officer is presently retired and further, after filing of this case, no such action has been taken. On a specific query by this Court, Shri De, learned counsel has informed that the Bakijai case is also at the same stage as the writ petition is pending.

5. Shri Deb Choudhury, learned counsel for the sole respondent by referring to the affidavit-in-opposition has however submitted that though as a matter of fact a fresh warrant of arrest was issued against the petitioner, the same was issued without there being any information about the interim order passed by this Court and it was a *bona fide* exercise of powers. It was further submitted that after being aware of the order of this Court, the warrant of arrest has been recalled and no further action of similar nature has been taken thereafter.

6. The powers of contempt which is conferred on this Court are to be

exercised sparingly and only on being satisfied that there is willful and deliberate disobedience of this Court. In the instant case, though apparently the order dated 30.01.2019 appears to be violated by issuance of a fresh warrant of arrest, the explanation given by the respondent of not being aware of the Courts' order and the subsequent conduct of withdrawing the warrant of arrest *prima facie* demonstrates that there may not be any willful and deliberate intention to disobey the order of this Court. This Court has also noted that thereafter there is no instance of any violation of the order of this Court.

7. In view of the above, this Court is of the opinion that present case for contempt is not required to be proceeded any further and the contempt petition is accordingly closed.

JUDGE

Comparing Assistant