

GAHC010163962019



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

Case No. : I.A.(Civil)/2393/2019

SHREEMANTA SHANKAR MISSION OF GUWAHATI
REPRESENTED BY ITS GENERAL SECY., FIRST FLOOR MAHABHARATA
KARYALAYA, COLLEGE HOSTEL ROAD, PANBAZAR, GUWAHATI 781001

VERSUS

THE DEPUTY COMMISSIONER OF KAMRUP M
GUWAHATI 781001

Advocate for the Petitioner : MS. S CHAKRAVARTY

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 19.06.2024

Heard Ms. S. Chakravarty, learned counsel for the applicant, who submits that the delay of 257 days in filing the application for restoration of Cont.Cas(C) No. 375/2017, vide I.A.(Civil) 2392/2019, should be allowed.

2. The applicant's counsel submits that the Cont.Cas(C) No. 375/2017 had been initiated by the applicant, in view of the respondent No. 2 not having complied with the order dated 07.06.2017 passed by this Court in WP(C) 2426/2017.

3. The order dated 07.06.2017 passed in WP(C) 2426/2017 states as follows:-

“This writ petition is, therefore, disposed of by granting liberty to the petitioner to approach the respondent No.2 seeking redressal of its grievance. If the representation dated 19.04.2017 (Annexure-IV) has not yet been disposed of, then the respondent No.2 will take steps for disposal of the same within two weeks from the date of receipt of a certified copy of this order to be furnished by the petitioner.

Writ Petition is disposed of.”

4. Cont.Cas(C) No. 375/2017 was disposed of, vide order dated 01.08.2018, due to the submission made by the counsel appearing for the respondent/contemnor, who stated that the direction passed in WP(C) 2426/2017 had been complied with. The applicant did not appear before this Court at the time the contempt petition was closed.

5. The order dated 01.08.2018 passed in Cont.Cas(C) No. 375/2018 states as follows:-

“Heard Ms. S. Khound, learned counsel appearing for the respondent/ contemnor who submits that the direction passed in WP(C) No.2426/2017 dated 7.6.2017 was complied but the learned counsel for the petitioner is absent.

Accordingly, keeping in view of the submission of the learned counsel for the contemnor, this contempt petition is closed.”

6. As the contempt petition stood closed on the submission made by the

counsel for the respondent and in the absence of the applicant, the applicant filed I.A.(Civil) 2392/2019, praying that the order dated 01.08.2018 passed in Cont.Cas(C) No. 375/2017 should be recalled and the contempt case should be restored. However, as there was a delay of 257 days in filing the restoration application, i.e., I.A.(Civil) 2392/2019, the present application has been filed in condoning the delay of 257 days.

7. To a pointed query made to the counsel for the applicant as to whether the Deputy Commissioner, Kamrup (M) had disposed of the applicant's representation dated 19.04.2017, in terms of the order dated 07.06.2017 passed in WP(C) 2426/2017, the counsel for the applicant submits that the said representation has been disposed of. However, the applicant was not heard by the Deputy Commissioner, Kamrup (M), as the petitioner was absent from the office of the Deputy Commissioner, at the time of disposal of the applicant's representation due to ill health.

8. The applicant's representation was disposed of, vide order dated 06.09.2017 by the Deputy Commissioner, Kamrup (M) and the same is also a part of the affidavit filed by the Deputy Commissioner on 08.03.2018 in Cont.Cas(C) No. 375/2017. The only grievance of the applicant is that the applicant was not heard at the time of disposal of the applicant's representation.

9. On considering the above facts, this Court finds that the direction passed by this Court to consider the applicant's representation, vide order dated 07.06.2017 passed in WP(C) 2426/2017 has been complied with. As such, there is no requirement of restoring the contempt petition, as the direction passed by this Court has been complied with.

10. If the applicant was aggrieved with the order of the Deputy Commissioner dated 06.09.2017, the same being a fresh cause of action, the petitioner had the liberty to challenge the same by way of a fresh proceeding. However, the same has not been done by the applicant and the manner in which the applicant is trying to revive a dead horse, i.e., the contempt case, cannot be allowed. This Court finds no ground to condone the delay.

11. Accordingly, this I.A. stands dismissed.

JUDGE

Comparing Assistant