

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH

CONTEMPT CASE NO.1077 OF 2014

Between:

B. Siva Naik ... Petitioner

and

Poornachandra Rao, IPS, and others ... Respondents

DATE OF JUDGMENT PRONOUNCEMENT : 15th SEPTEMBER,2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

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| 1. | Whether Reporters of Local newspapers may be allowed to see the judgment? | Yes/No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. | Whether His Lordship wishes to see the fair copy of the judgment? | Yes/No |

THE HON'BLE SHRI JUSTICE SANJAY KUMAR

CONTEMPT CASE NO.1077 OF 2014

ORDER

This Contempt Case was instituted alleging willful disobedience to the order dated 31.12.2010 passed by this Court in W.P.M.P.No.23830 of 2010 in W.P.No.18830 of 2010. By the said order, this Court took note of the complaint of the petitioner that he was not being allotted duties by the Andhra Pradesh State Road Transport Corporation (APSRTC) though no action was taken against him and accordingly directed the Regional Manager, APSRTC, Guntur Region, Guntur District, to consider and pass appropriate orders upon the petitioner's representation dated 22.04.2010 within two weeks from the date of receipt of a copy of the order.

Alleging that the APSRTC failed to pass orders upon his representation dated 22.04.2010 despite the expiry of the time stipulated; the petitioner filed this contempt case.

The Regional Manager, APSRTC, Krishna Region, Guntur, filed affidavit dated 22.08.2015 stating that the representation of the petitioner was considered and he was advised to report for duty at Bapatla Depot, vide proceedings dated 04.11.2011 passed by the Regional Manager, Guntur. He asserted that the petitioner failed to report for duty pursuant to the aforesaid proceedings and having kept silent for a period of three years, he filed the present contempt case alleging non-compliance with the order passed by this Court. He further stated that the petitioner finally reported for duty at the Bapatla Depot of the APSRTC on 31.07.2014 and thereafter, he requested transfer to Narasaraopet

Depot. Considering the said request, he was transferred to Narasaraopet Depot, vide order dated 27.09.2014, and having reported at Narasaraopet Depot on 13.11.2014 he was stated to be presently performing duty there.

As Sri S.M. Subhan, learned counsel for the petitioner, contended that the proceedings dated 14.11.2011 had never been served upon his client, Sri P. Durga Prasad, learned standing counsel for the APSRTC, was asked to verify as to whether the said proceedings were served upon the petitioner and if so, produce the proof thereof.

As regards this aspect, in his affidavit dated 22.08.2015, the Regional Manager, APSRTC, Krishna Region, Guntur, stated that efforts were made to locate the relevant registers relating to the service of the proceedings dated 14.11.2011 upon the petitioner. He however stated that as the retention period of postal registers was three years as per the practice in vogue in the APSRTC, the records were not available as on date. He further stated that the record room of the Regional Manager's office was situated in an old building and the records stored there were damaged due to seepage of rain water and termites. He therefore confessed that no proof or evidence was available to demonstrate service of the proceedings dated 14.11.2011 upon the petitioner at that point of time. As regards the delay of more than nine months in complying with the order dated 31.12.2010 passed by this Court, he stated that the said delay was neither willful nor wanton and that it was caused due to the change in the offices of Regional Manager, Guntur, and Personnel Officer, Guntur Region.

The petitioner filed reply affidavit dated 01.09.2015 rebutting the averments in the aforestated affidavit. Therein, he asserted that after receipt of the copy of the order passed by this Court, he had approached the Regional Manager, APSRTC, Guntur, and requested him to comply with the order. However, there was no response and he therefore filed representation dated 21.03.2011 along with copies of the order and his earlier representation dated 22.04.2010. He stated that thereafter he,

along with a Union Representative, also met the Regional Manager of the APSRTC at Guntur in June, 2011 and again in December, 2013 seeking compliance with the order passed by this Court. Left with no other option, he stated that he was then constrained to file this contempt case. He reiterated that the proceedings dated 14.11.2011 were never served upon him and alleged that the same were only an after-thought.

The interim order passed by this Court in W.P.No.18830 of 2010 was dated 31.12.2010. This contempt case was filed on 04.07.2014. Though the APSRTC is not in a position to satisfactorily demonstrate that the proceedings dated 14.11.2011 issued by the Regional Manager, APSRTC, Guntur, purportedly passed in compliance with the order passed by this Court, were actually served upon the petitioner at that point of time, this Court is also constrained to note that the petitioner did not take satisfactory steps with due diligence for securing compliance with the said order at that point of time. There is no explanation forthcoming from him as to why he waited for nearly four years before filing this contempt case. Going by his own averments, he did not even approach the APSRTC authorities after June, 2011, till December, 2013. When this Court had specifically fixed a time frame for compliance and the APSRTC authorities failed to abide by the same, the cause for instituting these contempt proceedings arose immediately upon expiry of the stipulated time.

Even if a party in a particular case, having the benefit of an order passed therein, chooses to exhibit some amount of patience to garner the benefit thereof, *bonafide* steps taken by him to prove such forbearance must be placed before this Court so as to negate any inference of negligence or carelessness on his part in pursuing the matter. In the present case, no such evidence is available to support the claim of the petitioner that he was vigilant in pursuing the issue with the APSRTC authorities. His silence between June, 2011 and December, 2013 speaks volumes.

In so far as the delay on the part of the APSRTC in complying

with the time stipulation is concerned, the petitioner does not deny the claim put forth as to the change in the offices of Regional Manager, Guntur, and Personnel Officer, Guntur Zone, which, according to the Regional Manager, APSRTC, Krishna, was the contributing factor for the said delay. As there is no evidence of the delay being either willful or wanton, this Court is not inclined to attach much significance to the same.

On the above analysis and being conscious of the fact that contempt proceedings are quasi-criminal in nature, this Court must necessarily give the benefit of doubt to the respondents as there is no clinching evidence of willful and deliberate disobedience warranting exercise of contempt jurisdiction. The contempt case is accordingly dismissed. No order as to costs.

SANJAY KUMAR, J

15th SEPTEMBER, 2015

PGS