

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

Contempt Case No.1575 of 2014

Between:

P Narsa Reddy & others

...Petitioners

And:

A.C. Gangaiah & another

... Respondents

DATE OF JUDGMENT PRONOUNCED: 17.07.2015

SUBMITTED FOR APPROVAL:-

HON'BLE SRI JUSTICE R. KANTHA RAO

1. Whether Reporters of Local newspapers may Yes/No
be allowed to see the Judgments?
2. Whether the Copies of Judgment may Yes/No
be marked to Law Reporters/Journals
3. Whether Their Lordship wish to see the Yes/No
fair copy of the Judgment?

HON'BLE SRI JUSTICE R. KANTHA RAO

Contempt Case No.1575 of 2014

ORDER:

The petitioners are the Labour Contractors, engaged by the 1st respondent-A.P. Southern Power Distribution Company Ltd., (for short 'the respondent company') incorporated by the State of Andhra Pradesh. The respondent company has established several sub-stations for drawing power from the 33 KV High Tension Line and convert the same into 11 KV for transmission into the distribution lines that feed the consumer transformers in the Districts of Kadapa, Chittoor, Nellore and Prakasam. According to the terms of the

agreement reached between the respondent Company and the petitioners, the Contractor shall engage the Technical and Non-technical staff possessing the qualifications prescribed and also take all responsibility to fulfil the statutory obligations contemplated under the Labour Laws. It is submitted by the petitioners that they have engaged qualified workmen in the vacancies caused due to absorption of some of the workmen into the 1st respondent's service and sent proposals to the 3rd respondent, who signed the contract agreement, along with their testimonials through their representations. The 3rd respondent, in turn forwarded the list of the candidates proposed by the petitioners for approval of the 2nd respondent, duly endorsing the eligibility of the candidates proposed by the petitioners for being appointed as Shift Operators. It is further submitted that the 2nd respondent has not been approving the above said appointments despite the penal conditions against the petitioners in the agreements. On the other hand, in order to pressurize the petitioners to engage the candidates sponsored by the politicians, respondents 2 to 4 are directing the petitioners to engage some candidates sponsored by them as Shift Operators in the sub-stations awarded to the petitioners, respectively. According to the petitioners, the agreements entered into between the petitioners and the respondents are subsisting and valid till 31.03.2015. The conditions in the said agreements are penal and onerous and the respondents cannot unilaterally alter the concluded agreements to the detriment of the petitioners. Therefore, they stated that they have been mulcted with the responsibility to indemnify the 1st respondent for their commissions and omissions and welfare of the workmen as contemplated under the Labour Laws and cannot be burdened with the workmen imposed by the respondents. As long as the agreements are in operation, the respondents are bound by the terms of the agreements. Therefore, they filed the writ petition seeking writ of *Mandamus* declaring the action of respondents 2 to 11 in not

approving the candidates recruited by the petitioners as Shift Operators of 33/11 KV Sub-stations of Srinivasapuram, Kondur, Venkatesettipalli, Narsapuram, Kamalakuru, Lower Sagileru, T.Chowdharivaripalle, B.Koduru, Amaghampalli, D.Agraharam, as arbitrary and illegal.

2. On the date when the writ petition came up for hearing before this court, it is agreed by both the learned counsel that the issue raised in the writ petition is squarely covered by the order dated 26.06.2014 passed by the learned single Judge of this Court in WP No.17473 of 2014. Recording the said submission, this court passed the following order:

“In view of the above, this writ petition is disposed of. Respondents 2 and 3 are directed to approve candidates recruited by the petitioners as per list sent by them on 28.02.2014 & 05.03.2014 for maintenance of 33/11 KV sub-stations of Srinivasapuram, Kondur, Venkatesettipalli, Narsapuram, Kamalakuru, Lower Sagileru, T.Chowdharivaripalle, B.Koduru, Amaghampalli, D.Agraharam, as per the terms and conditions.”

3. Thereafter, the present contempt case is filed by the petitioners stating that the respondents wilfully, intentionally and deliberately disobeyed the order of this court and they are liable for punishment as per Section 12 of the Contempt of Court Act, 1971.

4. In the affidavit filed in support of the contempt case, it is stated that a copy of the said order was submitted by the petitioners to the respondents through their Advocate's letter dated 25.08.2014 while enclosing the copy of the order dated 21.08.2014 in WP No.23696 of 2014 and requesting the respondents to approve the candidates recruited by the petitioners as per the list sent by them on 28.02.2014 and 05.03.2014 in compliance of the order passed by this Court. It is further stated that the respondents were also informed that if they failed to comply with the order of this court, the petitioners would be constrained to initiate contempt proceedings against them. Nextly, it is

submitted that the respondents have not approved the list of candidates furnished by the petitioners, though the earlier Divisional Engineer approved the same and permitted them to engage those candidates. The respondents have neither approved the list nor passed any order. On the other hand, the respondents are creating hurdles for continuation of the candidates recruited by the petitioners and have been threatening them to cancel the agreements entered into with some of the petitioners and they would not continue the contract further.

5. Thus, according to the petitioners, the action of the respondents in not approving the list of candidates submitted by the petitioners amounts to wilful and deliberate disobedience of the order dated 21.08.2014 in WP No.23696 of 2014 passed by this court and the respondents are liable for punishment under Section 12 of the Contempt of Courts Act, 1971.

6. Notice under Form-I was issued to respondents 1 and 2 and on receiving the same, they attended the court. They filed counter-affidavit contending that petitioners 1 and 2 have no *locus standi* and right to file the contempt case, since as on the date of filing of the contempt case, there is no agreement existing for the sub-stations of Srinivasapuram and Kamalakur between petitioners 1 and 2 with the respondents. It is further contended that petitioners 1 and 2 have no *locus standi* to file either the writ petition or the above contempt case, as they are not having any subsisting contract/agreement with the respondents as on the date of filing of WP No.23696 of 2014 and therefore, they are not entitled to invoke the contempt jurisdiction. It is further submitted by the respondents that the petitioners had agreements for manning and maintenance of Srinivasapuram and Kamalakuru 33/11 KV sub-stations having within the jurisdiction of Mydukur Division of Kadapa District, for the period having validity from 05.03.2014 to 31.03.2014 only. Subsequently, the manning and

maintenance pertaining to these two sub-stations were duly handed over to one Smt. P. Prasanna, for the period from 01.06.2014 to 30.09.2014 and subsequently, it was extended up to 31.03.2015 and she is continuing her works as agreed through the agreement entered by her with the respondents. They further admitted about the petitioners issuing legal notice dated 21.08.2014 and also the letters dated 28.02.2014 and 05.03.2014 addressed by them to the Divisional Electrical Engineer, Mydukur, but they stated that the said Divisional Electrical Engineer has not forwarded the same to the 1st respondent for further verification due to which the 1st respondent did not take proper action in time over the grievance of the petitioners. According to the respondents, they came to know about the passing of the order passed by this court only after receipt of the legal notice dated 25.08.2014, as the earlier Divisional Electrical Engineer, Mydukur Division did not brought the same to the notice of the 1st respondent. They further stated that there is no voluntary delay in implementing the orders dated 21.08.2014 in WP No.23696 of 2014 passed by this court, but the non-implementation is due to the irresponsible approach of the petitioners and also as the petitioners failed to comply with the terms and conditions agreed by them through the agreements. Thus, they sought to dismiss the contempt case on the ground that there is no wilful disobedience or voluntary negligence in implementing the order passed by this court.

7. I have heard Sri P. Gangaiah Naidu, learned senior counsel representing Sri Chandraiah Sunkara, learned counsel for the petitioners and Smt. J. Koteswari devi, learned standing counsel for the respondents. The respondents are also heard in person. Respondents 1 and 2, who are present in the court, reiterated their version as stated in the counter, but they have not stated that they are willing to implement the order passed by this court even now.

8. The order passed by this court clearly indicates that both the learned counsel agreed that the issue raised in the writ petition is squarely covered by the order dated 26.06.2014 passed by the learned single Judge of this Court in WP No.17473 of 2014. Therefore, at the hearing of the writ petition, the respondents did not raise any contentions that the petitioners had no valid agreements with the respondents. Further, it is contended by the respondents in their counter that they issued contract to one Smt. P. Prasanna in respect of 33/11 KV sub-stations of Srinivasapuram and Kamalakuru, for a period from 01.06.2014 to 30.09.2014. As per the letter relied upon by the respondents, the said contract was awarded on 22.09.2014. Admittedly, the writ petition was filed on 21.08.2014 for implementing the terms of the earlier agreements between the petitioners and the respondents and the said relief was granted by this court on 21.08.2014 upon hearing both the learned counsel agreeing that the issue was squarely covered by the order dated 26.06.2014 passed by the learned single Judge of this court in WP No.17473 of 2014.

9. The question of awarding contract for the period from 01.06.2014 to 30.09.2014 to one Smt. P. Prasanna, does not arise by issuing proceedings dated 22.09.2014. Therefore, the plea taken by the respondents in their counter that the contract was awarded to one Smt.P.Prasanna on 22.09.2014 for the above mentioned period appears to be *ex-facie* false. Thus, the respondents, in the considered opinion of this court, took a false plea for the purpose of their defence in the contempt case.

10. In this context, it would be relevant to refer to a decision rendered by the Hon'ble Supreme Court in '***State of Bihar & others vs.***

Rajendera Singh & another^[1], wherein it is held as follows:

“While dealing with an application for contempt, the court is really concerned with the question whether the earlier decision, which has received its finality, had been complied

with or not. It would not be permissible for a court to examine the correctness of the earlier decision which had not been assailed and to take the view different than what was taken in the earlier decision. The court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party who is alleged to have committed default in complying with the directions in the judgment or order. If there was no ambiguity or indefiniteness in the order, it is for the concerned party to approach the higher court, if according to him, the same is not legally tenable.”

11. In the instant case, though the respondents contended in their counter that there were no valid agreements between the petitioners and the 1st respondent on the crucial date, they have not challenged the order passed by this court by filing any appeal. This court has clearly mentioned in its order that the order is passed by consent of both the learned counsel, who admitted that the issue involved in the case is squarely covered by the order passed by the learned single Judge of this court in WP No.17473 of 2014 dated 26.06.2014. The order therefore has become final. It is a consent order and the respondents have full knowledge about the passing of the order by this court, on receipt of the legal notice issued by the petitioners through their counsel on 25.08.2014, but they have not chosen to comply with the order. Even after filing of the contempt case also, they never expressed their willingness to implement the order passed by this court. Further, the respondents have not expressed any regrets for not implementing the order but have been trying to justify their action for non-implementation of the orders on false grounds, which they have pleaded in their counter. Therefore, this court is of the considered view that there is wilful and deliberate disobedience on the part of the respondents in not implementing the order of this court and they are liable for punishment under the provisions of the Contempt of Courts Act, 1971.

12. Having regard to the conduct exhibited by the respondents

in deliberately and wilfully not complying with the orders passed by this court and sticking on to their stand for non-implementation of the order, by justifying the same as false grounds, this court is of the view that no lenient view can be taken in respect of the punishment.

13. In the result, the contempt case is allowed and the respondents are sentenced to undergo simple imprisonment for a term of three (3) months and to pay fine of Rs.1,000/- (one thousand only) each for non implementation of the orders of this court dated 21.08.2014 in WP No.23696 of 2014. Miscellaneous applications, if any, in this contempt case, shall stand closed. No order as to costs.

14. The Registrar (Judicial) shall take necessary steps for execution of this Judgment under Rules 31 and 33 of the Contempt of Court Rules, 1980.

15. Learned standing counsel for the respondents submits that the respondents intend to file an appeal. Therefore, the order passed in the contempt case is suspended for a period of fifteen (15) days so as to enable the respondents to prefer an appeal.

R. KANTHA RAO, J

Date: 17.07.2015
BSS

HON'BLE SRI JUSTICE R. KANTHA RAO

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Date: 17.07.2015

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