

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No. 147 of 2016

1. Rijwanussbur Khan, S/o. Late Shri Haji Laique Ahmed Khan, Aged About 48 Years, Lab Assistant Subhania Anjuman Islamia Urdu Girls Higher Secondary School Bilaspur, R/o. Idgah Road, Masanganj Bilaspur, Civil & Revenue District Bilaspur, Chhattisgarh
2. J. Bahadur, S/o. Shri A.B. Gurung, Aged About 53 Years, Lab Assistant Bharat Mata Hindi Medium Higher Secondary School Bilaspur, R/o. Tikrapara Mannu Chowk, Bilaspur, Civil & Revenue District Bilaspur, Chhattisgarh.
3. B.K. Sarkar, S/o. D.L. Sarkar, Aged About 53 Years, Lab Assistant Bengali Higher Secondary School Bilaspur, R/o. Gurunanak Chowk Sarkar Villa Torwa, Bilaspur, Civil & Revenue District Bilaspur, Chhattisgarh

----Applicants

Versus

Subrat Sahu, Secretary School Education Department, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh

.....(Contemnor)

---- Respondent

For Applicants	: Mr. Rajendra Kumar Patel, Advocate
For Respondent	: Mr. P.K.Bhaduri, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

20/04/2016

1. The instant petition is filed under Section 12 of the Contempt of Court Act, 1971. It is contended that by the order dated 12.03.2013 passed in Writ Petition No.2288 of 1998 and Writ Petition No.4793 of 2010, this Court has set aside the order dated 28.03.1998 which was of reduction of pay and recovery of excess amount made against the petitioners and further it was held that the petitioners were entitled to pay scale what was given before the order dated 28.03.1998.
2. Learned counsel for the petitioners submits that the said order was challenged in the Writ Appeal No.57 of 2014 and Writ Appeal No.520 of 2013, which was decided on 08.10.2014 wherein the writ

appeal was dismissed and as such the order dated 12.03.2013 was been made absolute. Consequently, the contempt has been committed by the respondent.

3. Perusal of the order would show that the petitioners are banking upon the order dated 12.03.2013 passed in Writ Petition No.2288 of 1988 and Writ Petition No.4793 of 2010 wherein the original order was passed. On a specific query being made to the petitioners' counsel that whether the order is within limitation, he is unable to satisfy the Court and he is not equipped with even Bare Act of Contempt of Court book too, it is unfortunate. On factual aspects, it appears that he is also not able to answer the query of the Court. Therefore, despite the improper assistance, the respective orders were perused.
4. Admittedly, the order dated 12.03.2013 is under challenge wherein the order of reduction of pay and order of recovery of excess amount was set aside on the ground that the petitioners were not given the opportunity of hearing. Subsequently, the said order was assailed by the State in the writ appeal and the writ appellate Court though maintained the order of dismissal without going on merit of it and dismissed the writ appeal taking into fact that petitioners were not given any hearing before such orders were passed and further observed that it would be without prejudice to the right of the appellants i.e. State. Meaning thereby the right of hearing was open to the State before any orders were passed; meaning thereby any further orders could have been passed after giving the opportunity of hearing to the petitioners. As appears, the petitioners were given notice of hearing according by Annexure C-3, which is under challenge.

5. Prima facie as reveals, the contempt petition has been filed on 21.03.2016 which is beyond the period of 1 year according to limitation prescribed under Section 20 of the Contempt of Court Act, 1971. Further reading of the order of appellate Court would show that it was within the discretion of State to hear the petitioners and pass any further order.
6. In a result, after examination of facts, it is observed that the instant petition is barred by time and on facts & merit no contempt is made out. The notice served to the petitioners by State is well within their jurisdiction as opportunity of hearing is being given before any orders are passed. Therefore on facts too no case of contempt is made out. The petition being devoid of any merit is dismissed at motion stage itself.

Sd/-
(Goutam Bhaduri)
Judge