

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No. 309 of 2016

Bhagwat Prasad Sarve (B.P.Sarve) S/o Shri C. L. Sarve, Aged About 62 Years Retired Chief Executive Officer, Janpad Panchayat, The Then Incharge Project Officer / Deputy Director, Panchayat Rajnandgaon, District Rajnandgaon, Chhattisgarh, R/o Om Siddhi Data Sadan, Near Mahaveer Apartment, Ganganagar Face - 2, Mangla, Bilaspur, Chhattisgarh

---- Petitioner

Versus

M.K.Raut (Secretary), Dept. Of Panchayat & Rural Development, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh.....(Contemnor)

---- Respondents

For Petitioner	:	Mr. Pawan Shrivastava, Advocate
For State/Respondents	:	Mr. Chandresh Shrivastava, Panel Lawyer

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/10/2016

Heard.

1. This contempt petition has been filed by the petitioner alleging willful disobedience of order dated 24.07.2013 passed in WPS No.2148 of 2013 Bhagwat Prasad Sarve Vs. State of Chhattisgarh).
2. Learned counsel for the petitioner submits that after the order was passed by this Court on 24.07.2013, the respondent convened a DPC on 17.09.2013 and found the petitioner unfit for promotion. He submits that in the minutes of DPC dated 17.09.2013, there is no mention that the consideration has taken place under the directions of this Court. Therefore, it is contended, this does not amount to compliance of Court's order. The second submission of learned counsel for the petitioner is that thereafter when a review DPC was held on 08.04.2015, it was again wrongly recorded that the petitioner is unfit for promotion in view of currency of

penalty though the currency of penalty had already come to an end on 08.01.2014. Therefore, the respondents have committed willful disobedience of the order passed by this Court.

3. Learned counsel for the respondents submits that in compliance of the order passed by this Court, the case of the petitioner was considered on 17.09.2013 and taking into consideration that on that day, the punishment was in currency, the petitioner was not found fit. Review DPC on 08.04.2015 was convened to consider the case of an employee, who was earlier found unfit because of an adverse remarks which was later expunged. The review DPC did not entitle the petitioner for fresh consideration. Therefore, there was no occasion to reconsider the case of the petitioner, however, in the review DPC on 08.04.2015, the considerations earlier made on 17.09.2013 were reproduced.

4. Vide order dated 24.07.2013, this Court having observed that during the pendency of the case of the petitioner for promotion to the next higher post, he suffered penalty and therefore, as and when DPC is first convened, his case of promotion should be considered taking into consideration all the records including the penalty.

5. The DPC, minutes of meeting dated 17.09.2013 placed on record show that the petitioner's case was considered. The penalty imposed on the petitioner was also taken into consideration to hold that during currency punishment, the petitioner is not fit for promotion.

6. In the considered opinion of this Court, what has been done by the respondent is in compliance of the direction of this Court. Merely because in the minutes, the order passed by this Court on 24.07.2013 has not been referred, no presumption can be drawn that it was so done to flout the order of the Court. This Court only directed consideration by taking into consideration the penalty part without there being any direction to promote. That having been done, I do not find that the respondent in any manner committed contempt.

7. The submission advanced, before this Court that after the currency of punishment was over on 08.01.2014, the petitioner ought to be considered afresh for promotion at the time of holding review DPC on 08.04.2015, is outside the purview of compliance of order dated

24.07.2013. Once, the order has been found to have been complied with, any subsequent action of the respondent in the matter of consideration for promotion could be subject matter of a fresh petition and not contempt petition.

8. In view of the above, I am inclined to discharge the Rule and close the contempt petition. The contempt petition is therefore dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Rekha