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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment Dated: 3rd August, 2016***

+ **W.P.(C) 2577/2016**

JAWED AHMED

..... Petitioner

Through : Mr. Rupesh Kumar, Advocate
versus

UNION OF INDIA AND ORS.

..... Respondents

Through : Mr. G.S. Chaturvedi, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S. MEHTA

G.S.SISTANI, J (ORAL)

CM No. 10954/2016(Exemption)

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

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3. OA filed by the petitioner was disposed of by the Central Administrative Tribunal by an order dated 28.10.2015. As the respondents had failed to comply with the directions contained therein, the petitioner was forced to file a Contempt Petition No.595/2014. In the contempt proceedings, the respondents had brought to the notice of the Tribunal that a sum of Rs.1,53,137/- had been paid to the petitioner and thus, the order of the Tribunal stood complied with. The Tribunal was satisfied with the submissions made by the respondents and thus, the contempt proceedings were closed. The operative portion of the order reads as under:

“4. In our view, the respondents have complied with the order passed by this Tribunal substantially and there is no wilful disobedience of the aforementioned order. If the applicant has any grievance regarding the rate of conversion between dollar and rupee, he may work out his right in appropriate proceedings, if so advised.

5. Accordingly, the CP is closed. Notice issued to the respondent stands discharged. No costs.”

4. Aggrieved by the order of the Tribunal by which the contempt petition was dismissed, has led to the filing of the present petition.
5. Mr. Chaturvedi, learned counsel for the respondents has raised a preliminary objection with regard to the maintainability of this writ petition. Mr. Chaturvedi submits that an appeal against the dismissal of the contempt petition would not lie to this Court. He has relied upon in the case of *D.N. Taneja v. Bhajan Lal*, reported at (1988) 3 SCC 26. Paras 10 to 13 read as under:

“10. There can be no doubt that whenever a court, tribunal or authority is vested with a jurisdiction to decide a matter, such jurisdiction can be exercised in deciding the matter in favour or against a person. For *example*, a civil court is conferred with the jurisdiction to decide a suit; the civil court will have undoubtedly the jurisdiction to decree the suit or dismiss the same. But when a court is conferred with the power or jurisdiction to act in a particular manner, the exercise of jurisdiction or the power will involve the acting in that particular manner and in no other. Article 215 confers jurisdiction or power on the High Court to punish for contempt. The High Court can exercise its jurisdiction only by punishing for contempt. It is true that in considering a question whether the alleged contemnor is guilty of contempt or not, the court hears the parties and considers the materials

produced before it and, if necessary, examines witnesses and, thereafter, passes an order either acquitting or punishing him for contempt. When the High Court acquits the contemnor, the High Court does not exercise its jurisdiction for contempt, for such exercise will mean that the High Court should act in a particular manner, that is to say, by imposing punishment for contempt. So long as no punishment is imposed by the High Court, the High Court cannot be said to be exercising its jurisdiction or power to punish for contempt under Article 215 of the Constitution.

11. It does not, however, mean that when the High Court erroneously acquits a contemnor guilty of criminal contempt, the petitioner who is interested in maintaining the dignity of the court will be without any remedy. Even though no appeal is maintainable under Section 19(1) of the Act, the petitioner in such a case can move this Court under Article 136 of the Constitution. Therefore, the contention, as advanced on behalf of the appellant, that there would be no remedy against the erroneous or perverse decision of the High Court in not exercising its jurisdiction to punish for contempt, is not correct. But, in such a case there would be no right of appeal under Section 19(1), as there is no exercise of jurisdiction or power by the High Court to punish for contempt. The view which we take finds support from a decision of this Court in *Baradakanta Mishra v. Justice Gatikrushna Mishra*.

12. Right of appeal is a creature of the statute and the question whether there is a right of appeal or not will have to be considered on an interpretation of the provision of the statute and not on the ground of propriety or any other consideration. In this connection, it may be noticed that there was no right of appeal under the Contempt of Courts Act, 1952. It is for the first time that under Section 19(1) of the Act, a right of appeal has been provided for. A contempt is a matter between the court and the alleged contemnor.

Any person who moves the machinery of the court for contempt only brings to the notice of the court certain facts constituting contempt of court. After furnishing such information he may still assist the court, but it must always be borne in mind that in a contempt proceeding there are only two parties, namely, the court and the contemnor. It may be one of the reasons which weighed with the legislature in not conferring any right of appeal on the petitioner for contempt. The aggrieved party under Section 19(1) can only be the contemnor who has been punished for contempt of court.

13. For the reasons aforesaid, there is substance in the preliminary objection raised as to the maintainability of the appeal. In our view the appeal is incompetent and is, accordingly, dismissed. There will, however, be no order as to costs.”

6. At this stage, learned counsel for the petitioner wishes to withdraw the present petition to enable him to file a substantive petition.
7. The writ petition is accordingly dismissed as withdrawn.

G.S.SISTANI, J

I.S. MEHTA, J

AUGUST 03, 2016

b/pst