

HIGH COURT OF CHHATTISGARH, BILASPUR**Contempt Case (Civil) No. 178 of 2016**

Ramkala Agrawal S/o Ramchandra Agrawal, aged about 69 years,
R/o Yog Vigyan Bhawan, Road No. 4, Kantabhaji, District Balangir
(Odisha)

---- **Petitioner**

Versus

1. Anil Kumar Dubey, Chief Engineer Hasdeo Bango Project, Water Resources Department, Bilaspur, District Bilaspur, Chhattisgarh
2. B. D. Barailiya, the Superintending Engineer, Narmada Valley Development Circle No.12, Narmada Nagar, District Khandwa (Madhya Pradesh)(Contemnors)

---- **Respondent**

For Petitioner	:	Shri Ashish Surana, Advocate
For Respondent no.1	:	Shri Prafull N. Bharat, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

22/02/2017

The present contempt case has been filed seeking for initiating contempt proceedings against the respondents for the alleged willful non-compliance of the order dated 16.04.2015 passed by this Court in WP No. 1783/2003.

2. At the outset it would be relevant to consider the directions given by this Court vide order dated 16.04.2015 in WP No. 1783/2003:

“9. For the aforesaid reasons, this Court is of the opinion that the impugned order to the extent of declaring the period as dies non is bad in law and is set aside. However, respondent is at liberty to verify the submission of the petitioner that he had remained present for working for the period 173 days but was not allowed or allotted any work and thereafter the respondent may pass an appropriate order in accordance with law as to how the said period has to be treated.

10. Needless to mention while conducting the verification the respondent may also call upon the petitioner to justify his stand for the period of absence which would be considered by respondents objectively and in case any claim is to be settled in favour of the petitioner, the same shall be done as expeditiously as possible.”

3. Pursuant to the order passed by this Court on 16.04.2015 the respondents are said to have not acted upon which led to the filing of this contempt petition.

4. Notices were issued to the respondents and they filed a reply along with an order passed by the Authority concerned dated 02.05.2016 intimating that the order passed by this Court for reconsidering the case of the petitioner has since been done and the representation of the petitioner has been rejected holding that the earlier order passed does not warrant inference. Pending the petition, the Authority concerned has reconsidered the earlier order dated 02.05.2016 as the same was not happily worded and cancelling the said order dated 02.05.2016 has passed a fresh order on 24.09.2016 which has been enclosed along with an application for taking documents on record.

5. Counsel for the petitioner at this juncture submits that the order dated 16.04.2015 passed by this Court in WP No. 1783/2003 has not been complied with in its letter and spirit. The orders passed by the Authorities dated 02.05.2016 or for that matter dated 24.09.2016 are bad in law for the reason that both the orders have been passed without application of mind and also without considering the directions given by this Court in WP No. 1783/2003. It is contended by the counsel for the petitioner that the petitioner has not been given any opportunity of personal hearing and the impugned order has been passed at his back. He submits

that the Authority concerned has not given any specific reason for rejecting the representation or explanation as to how the period of absence is to be treated. Contention of the counsel for the petitioner is that the Authority who has passed the order dated 24.09.2016 was denuded of the power of review of an order passed by his predecessors and for this reason, the order dated 24.09.2016 cannot be accepted and prayed for initiating contempt proceeding against the respondents.

6. Counsel for the respondent submits that a plain perusal of the two orders dated 02.05.2016 and the subsequent revised order dated 24.09.2016 would clearly show that substantial compliance has been done. He submits that the direction of this Court was to consider the case of the petitioner afresh in respect of the period during which the petitioner is said to have not been permitted to work by the respondents and to decide the claim of the petitioners in respect of the said period. Counsel for the respondent taking the Court through para-2 of the order dated 24.09.2016 which also finds place in the order dated 02.05.2016 submits that the said para clearly reflects that the petitioner was called for submitting his explanation which he has done on 11.05.2015. Even on 13.05.2015 the petitioner had submitted the details whatever he had before the Authority concerned and only thereafter the Authorities had taken a decision rejecting the representation holding that the prayer of the petitioner for treating the period to be in service cannot be accepted.

7. Therefore, no contempt as such has been committed by the respondent Authorities though some delay has occurred in passing of the impugned order. Hence, the order dated 16.04.2015 stands

fully complied with and the contempt petition thus deserves to be rejected.

8. Having considered the contentions put forth by the counsel appearing on either side and on perusal of the record what has to be looked into is that whether there has been any willful or deliberate non compliance of the order passed by this Court on 16.04.2015 in WP No. 1783/2003 or not?

9. At this juncture it would be relevant to refer the direction given by this Court in the writ petition no.1783/03. In para-9 it has been specifically directed that “the respondent may pass an appropriate order”. Likewise in para-10 the observation of this Court was “in case any claim is to be settled”. These two observations made by this Court very emphatically establish the fact that there was no specific direction given to the respondents as to how the concerned Authority has to decide the claim petition. It was left open to the Authority concerned to take an appropriate decision and in case the petitioner is found entitled for any benefit, the same should be settled as expeditiously as possible. This by itself means that in the event the respondents reach to the conclusion that the petitioner has not been able to establish his claim, they would be at liberty to reject his claim and pass an appropriate order. As per the respondents vide their order dated 24.09.2016 which is revised order of the earlier order dated 02.05.2016, they have reached to the conclusion that the petitioner is not entitled for any benefit and therefore an appropriate order has been passed.

10. If at all the petitioner is aggrieved with the order dated 24.09.2016, he shall have to challenge the same by a separate

proceeding. Thus, in the opinion of this Court, it would definitely fall within the ambit of compliance as is required under the law. It is also a legal settle position that even part compliance of an order has to be treated as compliance.

11. Thus, this Court is of the opinion that no contempt is made out against the respondents. Accordingly, the present contempt case stands rejected and the respondents are discharged from the contempt proceedings.

**Sd/-
(P. Sam Koshy)
JUDGE**