

HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE MS. JUSTICE J. UMA DEVI

C.C.NO. 394 of 2017

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

This contempt case was filed alleging wilful disobedience to the order dated 10.7.2014 passed by this Court in W.A.M.P.No. 2255 of 2014 in W.A.No. 1006 of 2014. By the said order, while staying the release of freedom fighters pension, this Court directed the Union of India to take a decision with regard to the payment of pension in terms of the findings of the learned Single Judge in the order under appeal. Pursuant thereto, the Union of India, through its Freedom Fighters Division, Ministry of Home Affairs, issued proceedings dated 11.8.2014 once again rejecting the claim of the first respondent in the writ appeal, the petitioner herein.

Sri A. Rajendra Babu, learned counsel for the petitioner, would contend that the findings of the learned Single Judge were not understood in the proper perspective while issuing the proceedings dated 11.8.2014.

Per contra, Sri K.M.Natraj, learned Additional Solicitor General for India, would inform this Court that the findings of the learned Single Judge could not be acted upon in the light of the fact that the learned Single Judge had relied *in extenso* upon observations made by a Division Bench of this Court in W.A.No. 73 of 2005, vide order dated 18.2.2005, losing sight of the fact that the said order was the subject matter of appeal before the Supreme Court in *Union of India (UOI) Vs. K. Indrasena*

*Reddy and another*¹ and the Supreme Court set aside the order of the Division Bench, holding that mere production of an order of detention would not, by itself, lead to a conclusion that a person had to remain underground for more than six months, unless he proves one or the other requisite condition precedents mentioned in the scheme. The learned Additional Solicitor General would further state that as the learned Single Judge did not take into consideration the aforesaid dicta of the Supreme Court and chose to go by the observations in WA No. 73 of 2005 made by the Division Bench, which no longer hold the field, the same could not be taken into account while reconsidering the claim of the petitioner in terms of the order dated 10.7.2014 passed by this Court.

We find merit in the submission of the learned Additional Solicitor General. The findings of the learned Single Judge based on an order which was set aside thereafter by the Supreme Court could not be taken into account in the course of the exercise directed by this Court.

In that view of the matter, in terms of Section 13 of the Contempt of Courts Act, 1971, we find no ground to exercise contempt jurisdiction in the case on hand. Needless to state, any observations made hereinabove are only for the purpose of disposal of this contempt case and shall not have any influence on the adjudication of WA No. 1006 of 2014. However, if the petitioner is aggrieved by the proceedings dated 11.8.2014 issued by the Union of India, through its Freedom Fighters Division, Ministry of Home Affairs, it is for her to seek redressal of her grievance in accordance with law.

¹ AIR 2007 SC 2484

The contempt case is accordingly closed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

Dt. 21.11.2017
KR

SANJAY KUMAR, J

J. UMA DEVI, J

