

C.O.C.P. No. 2571 of 2015

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.O.C.P. No. 2571 of 2015

DATE OF DECISION:14.09.2017

Arun Kumar

.....Petitioner

Versus

Jaspal Singh and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. ID Singla, Advocate
for the petitioner.

Ms. Akshita Chauhan, AAG, Punjab.

Mr. Ashish Gupta, Advocate
for respondent No.3.

Mr. Anupam Singla, Advocate
for respondent No.4.

DAYA CHAUDHARY, J.

The present contempt petition has been filed for initiation of contempt proceedings for non-compliance of order dated 29.5.2014.

Petitioner-Arun Kumar filed C.W.P. No. 10902 of 2014 for issuance of a writ in the nature of certiorari for quashing of complaint dated 3.10.2013 as well as chargesheet dated 31.3.2014 and also for issuing direction to the respondents not to proceed against the petitioner in disciplinary proceedings on the basis of improved version of first complaint. Said petition came up for hearing before learned Single Bench on 29.5.2014 and following order was passed:-

“Notice of motion for 6.10.2014.

List along with CWP No. 26269 of 2013.

Till then, final enquiry report be not submitted.”

A perusal of aforesaid order shows that interim order of not submitting the final enquiry report till 6.10.2014 was passed. As per case of the petitioner after issuing notice to the respondents, time was sought by counsel for respondent No.4 to file reply and thereafter inquiry report was placed on record by counsel for the respondent-State. Thereafter the petitioner filed the present contempt petition for non-compliance of order dated 29.5.2014 stating that inspite of interim order, enquiry report was submitted, which amounts to initiation of contempt proceedings against the respondents.

Notice of motion in the contempt petition was issued on 5.10.2015 on the basis of contentions raised by learned counsel for the petitioner that the respondents were directed not to submit the final enquiry report but despite the said order, they willfully and intentionally submitted the enquiry report. Separate replies on behalf of respondents No.1 to 4 have been filed and the same are on record.

Learned counsel for the petitioner submits that order dated 29.5.2014 was never vacated by the writ Court, inspite of that enquiry report was submitted and in this way, the respondents have violated the orders passed by this Court and they are liable to be punished as per provisions of Contempt of Courts Act. Learned counsel has also relied upon the judgment of Allahabad High Court in the case of **Shiksha Prasar Samiti, Allahabad and another Vs. Registrar, Societies, Chits and Firms, U.P.**

Lucknow and others 1998 (32) ALR 121, in support of his contentions.

Learned counsel for the respondents submit that while issuing notice of motion in the writ petition on 29.5.2014, interim order was passed not to submit the enquiry report till the next date of hearing. Thereafter there was no interim order in favour of the petitioner as the same was not extended by this Court and even no request was made by counsel for the petitioner for the same. The enquiry report dated 25.11.2014 was placed on record in C.W.P. No. 10902 of 2014 on 6.10.2015. Learned counsel also submit that inquiry was completed in the month of November, 2014 but the petitioner knowingly withheld this fact from the Court and filed contempt petition on 28.9.2015. Learned counsel has relied upon the judgments of Hon'ble the Apex Court in the case of **Arjan Singh Vs. Punit Ahluwalia and others** 2008 (3) RCR (Civil) 294, of this Court in **Court on its own motion Vs. Malook Singh** 2013 (2) PLR 96 and of Allahabad High Court in the case of **Karam Chand Thapar Brothers (CS) Ltd. Vs. Nandini Roofing System Pvt. Ltd.** 2011 (7) RCR (Criminal) 1906, in support of his contentions.

Heard the arguments advanced by learned counsel for the parties and have also gone through the documents available on record.

Admittedly, while issuing notice of motion on 29.5.2014, it was directed that final enquiry report be not submitted till the next date of hearing. Thereafter the case came up for hearing on 6.10.2014 and the said interim order was not continued. It has been argued by learned counsel for the petitioner that in case said interim order was not vacated it was presumed to be continued.

Hon'ble the Apex Court in the case of **Ashok Kumar and**

others Vs. State of Haryana and another 2007 (3) SCC 470 has held that the respondents therein were under bona fide belief that interim order shall remain continue till it was vacated. In that case, it was held that when interim order was till the next date of hearing, it could not be presumed that it will continue till the final disposal of the case. The High Court interpreted the order that unless an order of stay passed once even for a limited period, was not vacated by an express order or otherwise; the same would continue to operate. Hon'ble the Apex Court has held that the judgment of High Court cannot be sustained and the same was set aside and appeal filed by the appellant was allowed. The relevant portion of said judgment is reproduced as under:-

“There is no warrant for the proposition, as was stated by the High Court that unless an order of stay passed once even for the limited period is vacated by an express order or otherwise; the same would continue to operate. We, therefore, are of the opinion that the judgment of the High Court cannot sustain, which is set aside accordingly.”

Similar view was taken by Hon'ble the Apex Court in **Arjan Singh's case (supra)**, wherein, it was held as under:-

“We agree with the High Court on this issue. If the order of injunction was operative upto a particular date, technically the order of injunction shall not remain operative thereafter.”

It is apparent from aforesaid judgments that in case the interim order is passed for a limited period and thereafter it is not extended then it cannot be presumed that it will continue till disposal of the case. Same view was taken by Bombay High Court in the case of **Govinda Bhagoji**

Kamable and others Vs. Sadu Bapu Kamable and others 2005 (1) MLJ

651, wherein, in para 12 of the aforesaid judgment, it has been observed as under:-

In view of this controversy, the question is whether the possession should be restored to the Appellants. Before I consider this question, it is necessary to consider the main controversy whether the stay granted by this Court was operative only till the returnable date i.e. 9th December 2002, or it was to continue till disposal of the Civil Application or till further orders. The first part of the order records that the notice is issued to the Respondents and 9th December 2002 is fixed as the returnable date of the notice. From the plain reading of the order, it is very clear that the order of ad-interim stay was not limited to any particular date. The first part of the order directs issuance of the notice to Respondents and it is ordered to be made returnable on a particular date. It is further stated that in the meanwhile ad-interim exparte relief is granted. It is crystal clear from the order that the intention of this Court was to issue notice and to grant stay in the meanwhile. The phrase "in the meanwhile" is used in the order granting stay. The dictionary meaning of the word meanwhile is "till happening of a particular even" or "until something expected happens". When the stay was to be operative in the meanwhile, it was to operate upto happening of a particular event. The said event was hearing of the application after service of notice to the Respondents. Whenever this Court intends to grant ad-interim

relief limited to a particular date, it is always mentioned in the order very specifically that the ad-interim relief will be operative till a particular date. When this Court issued notice and granted ad-interim relief in the meanwhile, it was obviously intended that the ad-interim relief will operate till the application was heard by this Court after service of notice. When this Court makes notice returnable on a particular date, it cannot be argued that the date mentioned in the notice is the date on which the application will be positively heard. The returnable date mentioned in the order is the returnable date fixed for the notice. It is a date fixed for appearance of the parties. It is not necessary that on the returnable date fixed by this Court, the case appears on the Board. When this Court issued notice to the Respondents and granted ad-interim relief "in the meanwhile", is obvious that the ad-interim relief was to operate till the Court heard the parties on the basis of the notice issued or till order of stay was specifically vacated by this Court. Whenever, the Court intends that the ad-interim relief will operate till the returnable date, it is specifically mentioned in the order that ad-interim relief will operate upto a specific date or till the returnable date of notice. When ad-interim relief is granted "in the meanwhile" after issuance of notice to the Contesting Party the said relief continues to operate until the event of hearing of the Application. The order cannot be read to mean that the interim relief is operative only till the returnable date of the notice."

In the present case also, the interim order passed in favour of the petitioner at the time of issuance of notice of motion was never extended and it was not continued.

Accordingly, in view of facts and law position as discussed above, there is no merit in the contentions raised by learned counsel for the petitioner and no ground is made out to initiate contempt proceedings against the respondents. The petition being devoid of any merit is hereby dismissed.

September 14, 2017
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes