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HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 191 of 2017

- Chief Executive Officer, Office Of Jila Panchayat, In Front Of District Court, Bilaspur, Police Station, Civil Lines, Bilaspur, District Bilaspur Chhattisgarh

---- Appellant

Versus

1. Vedprakash Pandey S/o Shri Bhukhan Lal Pandey, Aged About 42 Years R/o Village Deshvaripuram Pancham Colony, Police Station Pendra, Tahsil And Post Pendra, Civil And Revenue District Bilaspur Chhattisgarh
2. The State Of Chhattisgarh, Through Secretary, Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, Police Station Rakhi, New Raipur Chhattisgarh..... Respondent No. 1
3. Chairman, Backward Region Gramin Fund Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, Police Station Rakhi, New Raipur Chhattisgarh..... Respondent No. 2
4. Commissioner, Office Of The Commissioner, Mungeli Naka, Bilaspur Police Station Civil Lines, Bilaspur, District Bilaspur Chhattisgarh..... Respondent No. 3
5. Collector, Office Of The Collectorate, Police Station Civil Lines, Bilaspur, District Bilaspur Chhattisgarh..... Respondent No. 4

---- Respondents

For Appellant	: Shri Vinay Pandey, Advocate
For Respondent- 1	: Respondent in person
For Respondents/State	: Shri PK Bhaduri, Government Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu

Judgment on Board

Per Ajay Kumar Tripathi, Chief Justice

02.11.2018

1. Heard learned counsel for the appellant, the private respondent in person and the Government Advocate for the State.
2. This Writ Appeal has been preferred against the order dated 03.04.2017 passed by the learned Single Judge in WPS-1234 of 2015.
3. The private respondent who was petitioner before the writ court prayed and pleaded that he was appointed as an Assistant Project Officer on contract basis in the Jila Panchayat, Bilaspur. Vide order dated 02.08.2013, his service was dispensed with because of certain allegations brought against him. However, that order came to be set aside by the Commissioner, Bilaspur Division in appeal vide order dated 06.01.2014. The respondents preferred a review petition that stood dismissed on 07.07.2014 and no further challenge was thrown to the order therefore, it attained finality.
4. Despite the above factual position, when the private respondent herein was not allowed to join his post, he was left with no option but to approach the High Court for suitable direction upon the respondents to honour the order of the Commissioner, Bilaspur Division dated 06.01.2014.
5. In the writ application, a plea was taken that the engagement of the private respondent was under a scheme known as BRGF scheme which was a Central Government scheme, but since the Central Government stopped funding of the scheme, the State Government decided to continue the same for a while, but ultimately when the State Government also failed to provide budgetary allocation or support, the said scheme was wound up

atleast with regard to the district in which the private respondent was engaged with effect from 06.05.2015.

6. The learned Single Judge also took note of the fact that in some other districts, this scheme was continuing and instance of district Dhamtari was brought to the notice of the Court.

7. The learned Single Judge taking the entirety of the facts rightly gave a direction that the private respondent was required to be engaged within three weeks and payment of salary be made from 06.01.2014 till the date of joining.

8. Instead of honouring the order and direction of two authorities ie the Commissioner, Bilaspur Division as well as the learned Single Judge, an appeal has been preferred by the Jila Panchayat seeking quashing of the order dated 03.04.2017.

9. This Court fails to understand as to why a State functionary or a limb of the State will not abide by the law. They fought and resisted the order of termination passed by them against the private respondent and when they failed to beget the result at the level of the Commissioner, Bilaspur Division either in appeal or in review, they allowed the matter to rest. They did not carry the legal battle any further and to make it worse, they also chose not to implement the said order. If such leeway is allowed, then there will not be a rule of law and the people's faith are bound to be shaken.

10. Despite finality having been attained by the order of the Commissioner, Bilaspur Division, the appellate authority got yet another opportunity to satisfy the writ court when the private respondent sought enforcement of the order of the Commissioner, Bilaspur Division. Here also they failed to satisfy the judicial conscience of the learned Single Judge that the private respondent had no case. We are amazed that instead of implementing and honouring the order of the learned Single Judge as well as the Commissioner, Bilaspur Division, the Municipal authorities have preferred an appeal, where the only argument made is that the scheme in question has been abolished on 06.05.2015, therefore, there is impossibility to perform the direction.

11. When the order of the Commissioner was passed on 06.01.2014, the scheme was very much in place. It is much later that the scheme stood abolished. If the learned Single Judge thereafter, vide his order dated 03.04.2017 gave a direction for implementation and enforcement, it will relate back to the period when the initial order was passed by the Commissioner. Therefore, on the plea of abolition of the scheme, the benefit of an adjudication and decision cannot be allowed to be robbed by the appellant, therefore, the appeal is dismissed.

12. A cost of Rs.10,000/- is imposed upon the appellant to be paid to the private respondent for not only behaving in the fashion as they have but for also harassing the private respondent and dragging him through various litigations which were unwarranted and uncalled for.

13. If the order of the Commissioner and the learned Single Judge is not implemented within a period of three weeks from today, including the payment of cost to the private respondent, he can file a petition for contempt and this Court may not hesitate to deal with the appellant appropriately.

14. The appeal is dismissed with the above directions.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

padma