

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CONT No. 1285 of 2018

Jagjeet Singh Badesha S/o Late Kehar Singh Badesha Aged About 68 Years Retired As Project Range Officer From Chhattisgarh State Forest Development Corporation Ltd. Antagarh Forest Project Range Farasgaon, Chhattisgarh, R/o D-433, Taigore Nagar Raipur, P.S. Tikra Para, Raipur, District- Raipur, Chhattisgarh

---- Petitioner

Versus

1. Shri K.C. Yadav (I.F.S.) Managing Director, Chhattisgarh State Forest Development Corporation Ltd, Sector- 24, Block-7-A, Atal Nagar, District : Raipur, Chhattisgarh
2. Dr. Smt. Soma Das (I.F.S.) Regional General Manager, Chhattisgarh State Forest Development Corporation Ltd. Sector- 24, Block-7-A, Atal Nagar, District- Raipur, Chhattisgarh.
3. K.K. Pujari Divisional Manager, Chhattisgarh State Forest Development Corporation Ltd. Antagarh, Forest Project Division Bhanupratappur, District- Uttar Bastar Kanker, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Jitendra Nath Nande, Advocate
For Respondents	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28/02/2019

1. The present contempt petition has been filed alleging willful non-compliance of the order passed by this Court in WPS No. 859/2012 and WPS No. 6501/2014. Both these writ petitions were disposed of on 15.05.2018.
2. Before entering into the factual matrix of the case, it would be relevant to refer to the operative part of the order passed by this Court:

“4. Given the aforesaid factual matrix of the case, taking the aforesaid contentions into consideration, it is directed that the respondent No.1 should ensure that the appeal of the petitioner, if it has till date not been decided and is pending consideration, the same should be decided forthwith within a period of 60 days from today.

5. It is expected that the respondent No.1 shall pass a reasoned and speaking order objectively considering all the contentions raised by the petitioner in his appeal.”

3. The facts of the present case is that the petitioner was substantially working as a Ranger Officer under the Forest Department of the State Government. The petitioner stood retired in the year 2011. It is said that before his retirement, there were certain orders passed by the authorities ordering for recovery of an amount of Rs.1,25,503/- and Rs.2,03,925/-. The said orders of recovery were on account of certain loss, which were sustained by the Department in the course of plantation of the Teak plants.
4. Against the said orders of recovery, the petitioner in the year 2011 itself has preferred two appeals, which were not decided, which led to the filing of the two writ petitions and these two writ petitions finally came up before this Court on 15.05.2018, when this Court had disposed of the writ petitions making the observations as has been stipulated in the previous paragraph.
5. Since, the respondents, it is said, did not take a decision on the pending appeals, the petitioner has filed the present contempt petition against the erring officers.
6. The respondents on receiving notice have entered appearance and have filed their reply and along with their reply, they have enclosed

two orders, one dated 31.10.2018 and the another dated 02.11.2018 (i.e. Annexure R/1 & R/2 respectively). The two orders are the decisions of the respondents on the two pending appeals of the petitioner. The respondents have vide the two orders rejected the appeals of the petitioner affirming the order of recovery.

7. The contention of the petitioner is that he has till date not been served with the copy of the two orders passed by the respondents, though the date mentioned in those orders are of period prior to the filing of the contempt petition.
8. The counsel for the petitioner, at this juncture, submits that even the reply, which has been filed by the respondents is not satisfactory for the reason that the two orders passed and enclosed along with their reply is a totally non-speaking order and therefore the respondents are liable to be proceeded in a contempt jurisdiction for a contempt of Court.
9. According to the petitioner, there was a specific direction by this Court to pass a reasoned and speaking order and the respondents have failed miserably to give reasons and have also not considered the contentions, which the petitioner had raised in the respective appeals, thus there is a clear non-compliance as well as willful violation of the directives given by this Court for initiating contempt.
10. The counsel for the respondents on the other hand referring to the orders dated 31.10.2018 and 02.11.2018 drew the attention of this Court to the paragraph No.5 of the order dated 31.10.2018 and also the later part of the order dated 02.11.2018 and submitted that the

respondents authorities have given reasons for rejecting the appeals of the petitioner.

11. At this juncture all that this Court needs to see is, as to what was the directives given by this Court and whether it has been complied with or not.
12. A plain reading of the operative part of the order dated 15.05.2018 would reveal that the mandamus that was issued by this Court was only in paragraph No.4 that was to consider and decide an appeal. Paragraph No.5 was only a passing observation made by this Court, where this Court had observed that it is expected that the authorities would pass a speaking and reasoned order while deciding the appeals.
13. Now, if we come to the impugned order, if we look at the findings given by the authorities while rejecting the appeals, it would clearly reveal that the order shows that the respondents have taken note of the grounds raised by the appellant in the appeals and have later made certain discussions, as to why they found those grounds not sustainable and moreover the authorities have also taken note of the responsibilities, which were otherwise casted upon the petitioner in the capacity of the Range Officer.
14. In the opinion of this Court, the discussion on the part of the respondents in the later part of the two orders would definitely show that they have shown some application of mind while deciding the appeal. Now, whether the said discussion is complete application of mind or whether each and every grounds, that the petitioner has raised in his appeals, have been discussed or not, was not the

directions, that this Court had granted while disposing of the writ petition.

15. It is settled position of law that even if there is part compliance of the order of the Court, it would not amount to a contempt. The course available to the affected party would be to assail the subsequent order by way of a fresh proceeding.
16. In the opinion of this Court, since the direction was to decide the appeals, excepting the appeals to be decided by a reasoned order, means that the respondents were primarily to decide the appeals and which they have done so.
17. In the given facts, if the petitioner is not satisfied with the findings so arrived at, the recourse available to the petitioner would be to challenge the two orders by way of a fresh proceeding, as this would amount to a fresh cause of action.
18. This Court in the given facts and circumstances of the case, does not find the two orders passed by the respondents to be one, which could be brought within the ambit of contempt of Court, in as much, rightly or wrongly the respondents have in fact decided the appeals and prima facie there appears to be some application of mind while deciding the same.
19. Reserving the right of the petitioner for challenging the two orders, passed by the respondents, while deciding the appeals, the present contempt petition stands disposed of and the respondents stand discharged of the contempt proceedings.

Sd/-
(P. Sam Koshy)
Judge