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12.07.2021
TN

CPAN 347 of 2020
In
WPA 74 of 2020
IA No: CAN 1 of 2020
(Old No: CAN 3450 of 2020)
CAN 2 of 2021

Gurupada Khatua and others
Vs.
Onkar Singh Mina and others

(Via video conference)

Mr. Yamin Ali,
Mr. Nirmalendu Bera
Mr. Gora Chand Samanta

.... for the petitioners/applicants

Mr. Anirban Ray,
Mr. Sk. Md. Galib,
Ms. Subhra Nag,

.... for the State-respondents

It appears upon hearing learned counsel for the parties that contempt, *prima facie*, does not lie in view of the respondents/alleged contemnors having taken sufficient steps in terms of the direction of this court.

The relevant question, as raised in the recalling application made by the alleged contemnors, is whether the order, contempt of

which has been alleged, was valid or void *ab initio*, in view of the relevant scheme, that is, the ‘*Gitanjali*’ housing scheme, having already ceased to exist and funds were no longer allocated for such scheme. Learned counsel appearing for the applicant in the contempt application refers to an unreported judgment, dated March 2, 2015 passed by a learned Single Judge of this court in *W.P.C.R.C 340(W) of 2013* along with *W.P. No.18415(W) of 2011 [Adhir Ranjan Kar vs. Atanu Kumar Mondal and another]* and contends that if the initial order was passed in presence of both the sides, there is no scope of recall of such order since it was the onus of the parties to point out the then current position.

Learned Government Pleader along with learned counsel appearing for the respondent-authorities contend, by placing reliance on the judgment of *Manjit vs. Union of India*, reported at *AIR 2021 SC 944*, that the court ought not to grant a direction without looking into the factual scenario, since granting largesse with public funds, not available in law, can have the effect of depriving other needy people as well.

Learned Government Pleader also places reliance on *Budhia Swain and others vs. Gopinath*

Deb and others, reported at (1999) 4 SCC 396, in support of his contentions.

It is further submitted that, at the time when the order was passed, the learned advocate appearing for the Respondents did not get the time to take proper instructions in the matter. Hence, the prior cessation of the Gitanjali scheme at that juncture could not be pointed out to this court.

In reply, the applicants in the contempt application/the writ petitioners argue that, in view of the sorry plight of the petitioners due to the disastrous 'Aila', which affected several people who got relief from the State, some direction ought to be passed on the respondent-authorities to look into the matter and provide alternative schemes to the petitioners.

The clear stand taken by the learned Government Pleader, as corroborated by the annexures to the recall application, is that the respondents explored the option of accommodating the petitioners in alternative housing schemes, but the procedure of allocation regarding the other existing schemes had already been completed and extending such scheme to the present petitioners would be doing injustice to the various other

victims of *Aila* whose similar prayers had already been rejected previously.

Upon hearing learned counsel for the parties and going through the cited judgments, this court reserves judgment in the matter.

Hearing in respect of both the contempt and recall applications is concluded.

(Sabyasachi Bhattacharyya, J.)