

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUROrder reserved on 19-06-2020Order delivered on 03-07-2020CONT No. 388 of 2020

1. Satish Chandra Verma S/o Shri V.S. Verma Aged About 47 Years R/o A-6/11 Shriram Park Colony, Tifra Industrial Park, Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. Prabhakar Singh Chandel, The Chairman, State Bar Council Of Chhattisgarh, H.O. High Court Premises, Bilaspur, Chhattisgarh.
2. Prakash Chand Hota, Editor In Chief, News 18 Chhattisgarh, Channel Of News 18 Group, House No 2A, Jan Vihar Colony, Telibandha, Raipur, Chhattisgarh.
3. Shirish Mishra, Editor In Chief, Channel IBC 24, Postal Address-S.B. Multimedia Pvt. Ltd, First Floor, Lodhipara Chowk, Raipur, Chhattisgarh 492001.
4. Mohan Tiwari, Editor In Chief, Channel Bansal News, Crystal Arcade, Lodhi Para, Raipur- 492001, Chhattisgarh.

---- Respondents

And

CONTR No. 1 of 2020

1. Kundan Singh Thakur, S/o Shri Hari Singh Thakur, Aged About 46 Years R/o House No. 3, Near Khallari Mata Mandir, Police Station City, Kushalpur Chouck, District - Raipur Chhattisgarh.

---- Petitioner

Versus

1. Satish Chandra Verma Presently Advocate General, A.G Office, High Court Premises, Bilaspur Chhattisgarh.
2. Vivek Ranjan Tiwari, Presently Additional Advocate General, A.G. Office, High Court Premises, Bilaspur Chhattisgarh.
3. Mateen Siddique, Presently Deputy Advocate General, A.G. Office, High Court Premises, Bilaspur Chhattisgarh.
4. Ravi Bhagat, Presently Deputy Government Advocate, A.G. Office, High Court Premises, Bilaspur Chhattisgarh.
5. Smt. Chameli Chandrakar, District Rehabilitation Officer, District - Bilaspur Chhattisgarh.
6. Vivek Dhand, S/o Shri S.P. Dhand, Through - Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh.
7. M.K. Raut, S/o Shri V.T. Raut, Through - Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh.
8. Sunil Kujur, S/o Shri P. Kujur, Through - Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh.

---- Respondents

For Petitioner in
CONT No.388 of 2020

Dr. N.K. Shukla, Sr. Advocate with
Shri Arjit Tiwari, Advocate

For Petitioner in
CONTR No.1 of 2020

Shri Devershi Thakur, Advocate

Hon'ble Shri Prashant Kumar Mishra, J &
Hon'ble Shri Parth Prateem Sahu, J.

C A V Order

CONTR NO. 1 OF 2020 :

1. This petition under Section 15 read with Section 2 (c) of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India for initiating proceedings for committing

criminal contempt against the respondents, is an off shoot of decision rendered by this Court in ***Kundan Singh Thakur v Union of India & Others*** [WP PIL No.53 of 2018 decided on 30-1-2020] [for short 'PIL']. The said PIL was preferred by the present petitioner seeking direction to the Central Bureau of Investigation (CBI) to register an FIR (First Information Report) and investigate the matter; as also for a direction to the Department of Personnel and Training (DoPT), Government of India, for initiating departmental proceedings against the respondents No.15 to 26 therein. The PIL was disposed of with direction to the CBI to register the FIR; seize the relevant original records from the concerned department, organization and offices throughout the State within 15 days from the date of registration of FIR; and complete fair and independent investigation at the earliest.

2. Since after the decision, the matter is pending before the Supreme Court in Special Leave to Appeal (C) No.3553 of 2020 (***Vivek Dhand & Anr. v Union of India & Ors.***) in which an interim order has been passed on 13-2-2020 to the effect that 'there shall be stay of further investigation in FIR No.RC2222020A0001 P.S. SPE/CBI/AC-IV/Bhopal dated 5-2-2020 until further orders.

3. It is averred in the petition and has been argued by Shri Devershi Thakur, learned counsel appearing for the petitioner that at about 10.00 am on 31-1-2020 several contemnors stormed into the High Court premises along with the Law Officers, who informed and requested the petitioner's counsel that he should remain present as they are mentioning the matter. It is stated that the Law Officers along with some bureaucrats mentioned the matter informing the Court that the State is also filing the review petition. On the said date, the concerned Bench was not available yet the contemnors wasted 30-45 minutes of precious Court hours. Review petition for the State was eventually filed on 5-2-2020.
4. It is further stated that on 31-1-2020 several contemnors appeared in person telling the Court as to who they are and further mentioning that they are involved in the case. The petitioner further alleges that when the mentioning was denied by the Court the contemnors became angry and left for the office of the Advocate General. It is also stated that contemnor No.2 Vivek Ranjan Tiwari, Additional Advocate General was intentionally included in the intimidation army though he was never allotted duty in the said Court and that contemnor No.3 Mateen Siddique, Deputy Advocate General

was also included with the same motive. It is also averred and argued that the contemors gave a picture that they can have the liberty to come straight to the Court without filing any application or petition and ask the judiciary that as to “*how can you pass an order against the Bureaucrats.*”

5. It is further averred and argued that when the present contempt petition was in the process of being filed, the contemnor No.2 Vivek Ranjan Tiwari called the counsel for the petitioner and persuaded him not to file the contempt petition for the sake of personal relationship between the lawyers. According to the petitioner, the review petition preferred by the State was in the name of Chief Secretary under the signature of the contemnor No.4 Ravi Bhagat, Deputy Government Advocate. It was mentioned in the Review Petition that the PIL Petitioner Kundan Singh Thakur had played fraud and obtained the order. According to the petitioner, the review petition was filed without approval from the State Government and, in fact, the office of the Chief Secretary was not even aware that the review petition has been filed though in the array of parties the applicant's title was shown as “*State of Chhattisgarh, through Chief Secretary*”. It is also argued that the review petition was filed

without the opinion of the Law Department and hence the same is in violation of the Law Department Manual.

6. Shri Devershi Thakur, learned counsel appearing for the petitioner, specifically argued that the Advocate General and other Law Officers appearing before the Court at the time of mentioning and on subsequent dates lowered the dignity of the Court by filing review petition without any decision by the Government, by mentioning the matter without filing it and intimidating the Court at the time of mentioning. They have also committed criminal contempt and have tried to hinder the administration of justice by preferring review petition violating the Law Department Manual and by showing disrespect and persuading the counsel for the petitioner not to file the contempt petition.
7. We have heard learned counsel for the petitioner at length on admission.
8. On 31-1-2020 several bureaucrats, who were respondents in the PIL, appeared before a Bench of Justice Prashant Kumar Mishra (one of us) and Justice Gautam Chouradiya, as the Bench which had passed the order in PIL was not available on that date. At no point of time, in course of mentioning, the

Bench ever felt threatened and intimidated. Since the order passed in the PIL was widely published because of involvement of senior bureaucrats the Bench had to hear the bureaucrats who appeared in person even for the purpose of mentioning. It happens at times that facts are narrated in detail even at the time of mentioning and no objection can be taken by either side as to why the Court heard the person, mentioning the matter, for so long. The Bench never felt, even for a second, that the Court's dignity was lowered merely because the mentioning was made by few bureaucrats, who appeared in person or by several senior law officers of the office of the Advocate General.

9. It is the duty of the Court to hear each and every person who is adversely affected by an order of the Court. Even if the matter was not before the Board and it was at the stage of being filed, nothing stops the Court to hear a party at the time of mentioning for the simple reason that no party to a proceeding should ever feel that they were not heard properly by the Court. Courts always pass orders and render judgments on the basis of facts available and law applicable in a particular case regardless of emotional outbursts of a party or lawyer. Mentioning by the persons who were respondents

in PIL seeking assistance of Law Officers is neither impermissible nor objectionable. Though the bureaucrats were joined as respondents in PIL by name the fact remains that the act was committed by them while discharging public duty in different capacity in the concerned departments of the State Government and the State was defending them in the PIL.

10. If the Law Officers, arrayed as respondents in this petition, have called on the petitioner's counsel dissuading him not to file the present criminal contempt it is a matter amongst the members and lawyers at the bar and the Court should not be dragged in such matters.
11. It has been argued against the learned Advocate General about his conduct of allowing the private respondents in the PIL to use the office of the Advocate General for discussion or for filing the review petition without seeking prior approval of the State Government and in violation of the Law Department Manual. However, we are not impressed with the arguments for the reason that when the review petition preferred by the State was argued before the appropriate Bench it was specifically asked as to whether the Advocate General is satisfied that the State Government really intends to file

review petition and the learned Advocate General informed the Court that the State has taken a decision at the appropriate level. The Court was satisfied because the statement was made by the Advocate General, which is binding on the State Government. Even if the concerned department of the State Government has not taken any decision to file review petition, when the Advocate General was himself of the opinion that a review petition is required to be filed and it is later on filed under the signature of an officer of the concerned Department of the State Government, the same has to be accepted to have been filed by the State Government. It is a different matter if the State Government later on disowns filing of the review petition, which is not the case here. It is also pertinent to mention that review petitions were later on dismissed.

12. In our considered view the Advocate General has never acted in excess of the brief assigned to him by the State Government nor did he ever acted in any manner lowering the dignity or scandalizing the Court. Similar is the case with the other Law Officers who were present in the Court at the time of mentioning or at the time of subsequent hearing of the review petitions. The petitioner is trying to make a mountain out of a molehill. The vivid discussion of the events

happened on 31-1-2020 is only for the purpose of filing of the present contempt petition, but nothing of that sort had happened inside the Court room.

13. For the reasons stated herein above, in our considered view no case for taking cognizance of the matter is made out. Accordingly, the present petition (CONTR No.1 of 2020) is dismissed at the admission stage itself.

CONT No.388 of 2020 :

14. This contempt petition has been preferred for initiating contempt proceedings against the respondents for violating this Court's order passed on 22-5-2020 in WPC No.1084 of 2020 (*Satish Chandra Verma v State Bar Council of Chattisgarh & Another*).
15. Dr. N.K. Shukla, learned senior counsel appearing with Shri Arjit Tiwari, learned counsel for the petitioner, argued that the petitioner has preferred WPC No.1084 of 2020 challenging the complaint filed by Kundan Singh Thakur purported to be under Section 35 of the Advocates Act, 1961 simultaneously challenging the constitutional validity of Rule 12 (a) of the Rules of State Bar Council Chattisgarh. Advance copy of the petition was served on the Secretary of the State Bar Council

(for short 'the SBC'). An interim order was passed by this Court in WPC No.1084 of 2020 on 22-5-2020 at 2.40 pm staying all further proceedings pursuant to the complaint preferred by Kundan Singh Thakur before the SBC. Shri Arjit Tiwari, Advocate, informed the Secretary, SBC at 3.00 pm, however, the Secretary served the notice on the petitioner at 4.30 pm. Thus, the notice was served despite this Court having already stayed the further proceedings at 2.40 pm.

16. Dr. Shukla, learned senior counsel further argued that the respondent No.1, being the Chairman of SBC, has violated this Court's interim order by causing issuance of notice and the other respondents, who are the Editors-in-Chief of News 18 Chhattisgarh, Raipur; IBC 24, Raipur; and Bansal News, Raipur, have also violated the order by publishing the news about notice issued by the SBC, as if the petitioner has been issued notice in a case involving scam of Rs.1000 crores.
17. We have heard Dr. N.K. Shukla, learned senior counsel appearing with Shri Arjit Tiwari, learned counsel for the petitioner at length and perused the papers annexed with the petition.

18. Notice issued by the SBC to the writ petitioner vide Annexure – C/2 would not mention the time of its issuance. The time 4.15 pm is mentioned as the time of service of notice, but not the issuance of notice from the office of the SBC. There is no material that the respondent No.1 directed issuance of notice after the interim order was passed by this Court. Moreover, affidavit of Shri Arjit Tiwari, Advocate has not been filed in support of the plea that copy of the interim order passed by this Court was served on the Secretary of SBC before the Chairman, SBC passed an order on the file for issuance of notice. It is also to be seen that the notice Annexure – C/2 has been issued by the Secretary, SBC and not by the contemnor No.1 (Chairman, SBC). Amit Kumar Verma, Secretary, SBC has not been arrayed as contemnor in this contempt petition.
19. In so far as allegations against the Editors-in-Chief of different Electronic Media Channels are concerned, they have published the news about the fact that the SBC has issued notice to the writ petitioner. This fact is neither factually incorrect nor is in violation of this Court's order. If the issuance of notice by the SBC has been wrongly projected in a defamatory way the same would not amount to contempt for

the simple reason that there is difference between defamation and civil contempt. The respondents No.2 to 4 have not published any such news item, which would violate the interim order passed by this Court.

20. For the foregoing, the contempt petition lacks substance for taking cognizance, therefore, it is (CONT No.388 of 2020) dismissed at the admission stage itself.

21. In the result, both the petitions (CONTR No.1 of 2020 and CONT No.388 of 2020) are dismissed at the admission stage itself.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Parth Prateem Sahu)
Judge

Gowri