

IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION
APPELLATE SIDE
(Through Video Conference)

WPCRC 11 of 2009
in
WPA 3080 of 2006

Sanjoy Bakshi
Vs.
D. Das & Anr.

Mr. Prasenjit Mukherjee
... For the applicant/petitioner

The contempt petition was filed alleging violation of an order dated 8th February, 2006 passed in WP 3080 (W) of 2006 against D. Das, the Headmaster, Labpur Jadavlal High School and Biman Kumar Chowdhury, the Secretary of the Managing Committee of the said School. The order dated 8th February, 2006 directed the respondents no.1 and 2 in the writ petition, being the alleged contemnors, to allow the petitioner to appear at the interview for the post of Librarian in the said School along with other eligible candidates scheduled to be held on 10th February, 2006 if the petitioner was otherwise found to be eligible. The petitioner alleges that despite such order, the contemnors did not allow the petitioner to appear in the interview.

The contempt application was filed on or about 8th May, 2006. It appears from the record that a Rule was issued against the alleged contemnors on 7th January,

2009. The alleged contemnors, namely, Dinabandhu Das and Bimal Kumar Chowdhury appeared before this Court in response to the Rule issued against them. From the order dated 24th February, 2009, it appears that subsequently, one Ms. Bhaswati Mitra as the alleged contemnor was present in Court on 20th February, 2009. The last order which appears to have been passed in the instant contempt application is dated 24th February, 2009 wherein directions for filing affidavits were given. The affidavit-in-opposition was required to be filed by 31st March, 2009 and reply, if any thereto, by 17th April, 2009. The applicant/petitioner was granted liberty to mention upon notice.

Advocate for the applicant/petitioner submits that there has been a violation of the order passed by this Court and, as such, the contemnors should be appropriately dealt with.

The said advocate who had, in fact, filed the contempt application is unable to produce any notice served on the alleged contemnors for mentioning the matter in terms of the order dated 24th February, 2009. Today, the contempt petition has become infructuous with the passage of time. The applicant/petitioner who was permitted to appear in the interview scheduled on 10th February, 2006 if otherwise found eligible is, at the present, aged about 44 years considering the declaration of age in the affidavit to the contempt petition to be

correct. The petitioner's eligibility to appear in the interview is no more subsisting at his present age even if he was assuming without admitting to be eligible in 2006. The alleged contemnor no.1, by this time, may have retired from his service. The contemnor no.2 may no more be the Secretary of the Managing Committee of the School. In a serious matter wherein petitioner's livelihood was dependent, the applicant/petitioner has taken no effort to have the matter heard in last 12 years. It only at the instance of the Court, the matter has appeared in the list, the petitioner is seeking an adjournment for serving a notice upon the alleged contemnors. The applicant/petitioner is also unable to say whether the alleged contemnors are alive or not. Even if violation of the order in question is established, no practical purpose will be served as there is no enforceable remedy available to the Court to enforce the order. Neither the petitioner can be called for an interview nor can the alleged contemnors be directed to hold an interview to enable the petitioner to appear thereat. Moreover the order in question clearly says "if, otherwise eligible". The enforcement of such an order in itself is doubtful. Further adjourning the matter on the prayer of the applicant/petitioner for serving a notice upon the alleged contemnors will also serve no practical purpose. This is also a clear case where by the delay and conduct the petitioner has expressed his unwillingness to proceed with the case.

The contempt petition is, thus, disposed of without any further order.

The Rule, if any, stands discharged.

(Arindam Mukherjee, J.)