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C.P.A.N. 111 of 2022
In
W.P.A. 20837 of 2021

Mahfuza Khatun & Ors

-Versus-

State of West Bengal & Ors

Mr. Kanai Lal Mondal

Mr. Rajat Kumar Dhar ...For the Applicants/Petitioner

Mr. Sirsanya Bandopadhyay

Mr. Arka Kumar Nag

...For the Alleged Contemnor/respondent no. 6

In compliance with the order dated 18th February, 2022 the respondent no. 6, the Block Development Officer, Magrahat-I, South 24-Parganas has filed the affidavit-in-opposition. The applicants file affidavit-in-reply. Let the affidavits be kept on record.

The applicants have filed the instant application for contempt of Court on the allegations that the respondent no. 6, the Block Development Officer, Magrahat-I, South 24-Parganas has willfully violated the order dated December 30, 2021 passed by this Court in W.P.A 20837 of 2021. Hence, they pray for issue of contempt rule upon Fatema Kausar, Block Development Officer, Magrahat-I and penalizing her for flouting the Court's order willfully.

Upon hearing learned counsels appearing for the parties this Court vide Order dated 30.12.2021 passed in W.P.A No. 20837 of 2021 made the following direction:

***“The respondent no. 6 is directed to dispose of the requisitions by a reasoned order within 15 days from the date. If the respondent no. 6 finds that by efflux of time, the validity of the requisition has come to an end, the respondent no. 6 is directed to give opportunity to the petitioners to make requisition afresh.*”**

Learned Lawyer appearing for the petitioners is at liberty to communicate this order to the concerned authority. The respondent no. 6 is also at liberty to give opportunity to the respondent no. 8 of being heard in this regard.”

The respondent no. 6 in her affidavit-in-opposition states that the learned advocate for the petitioners served a server copy of the order dated 30.12.2021 upon her vide letter dated 4th January, 2022 which she received on the same day. Thereafter, the certified copy of the order was served upon her on 11th January, 2022. But, soon after receiving the copy of the order, the respondent no. 6 was deployed at Kashinagar Point in connection with the Holy Gangasagar Mela, 2022 to perform her assigned duties on and from 8th January, 2022 till the completion of Gangasagar Mela, 2022. From 3rd January, 2022 the entire area of Hariharpur Gram Panchayat was declared a Micro Containment Area in connection with the rising COVID-19 cases in the area vide Memo dated 3rd January, 2022 issued by the District Magistrate, South 24 Parganas. Despite the aforesaid impediments, the respondent no. 6 was dedicated and committed to comply with the direction as enshrined in the Order dated 30.12.2021. On 14th January, 2022 this respondent received a letter dated 13th January, 2022 from twelve members of Hariharpur Gram Panchayat who were the original signatories of the requisition for the motion of no-confidence dated 13.01.2022 against the Pradhan. By the letter dated 13.01.2022 they withdrew their requisition dated 30.11.2021. However, to verify whether they withdrew the requisition or not, the respondent no. 6 served a notice dated 24.01.2022 upon the aforesaid twelve members of the Gram Panchayat asking them to appear before her on 3rd February, 2022 at 12:00 Noon with EPIC Card/ Aadhar Card for hearing to be held as to their withdrawal of requisition for

no-confidence motion. But, none of them turned up before her.

Learned Lawyer appearing for the respondent no. 6 submits that as the said twelve members of the Gram Panchayat withdrew the requisition of no-confidence, the requisition now does not subsist and accordingly the respondent no. 6 was or is not in a position to take necessary steps for compliance with the Court's Order.

Perusal of a letter dated 14th January, 2022 signed by the aforesaid twelve persons shows that those members withdrew the requisition for no-confidence motion for the interest of the villagers and for the development of the Gram Panchayat. In the letter they stated that they also did not intend to proceed with the writ petition being W.P.A No. 20837 of 2021.

A cursory look at the requisition of no-confidence annexed to the writ application and the letter withdrawing the requisition annexed to the affidavit-in-opposition shows that the signatories of the requisition and the signatories of the letter of withdrawal of the requisition are the identical persons.

Learned Counsel appearing for the applicant submits that the letter withdrawing the requisition is a manufactured document.

It appears that the copy of the affidavit-in-opposition was served upon the applicants in the first week of March. But, no step has been taken by the petitioners for launching any prosecution pertaining to the allegations of manufacturing the aforesaid letter.

In the decision in the case of ***U.N. Bora, Ex. Chief Executive Officer and Others-Vs-Assam Roller Flour Mills Association and Another*** reported in **(2022) 1 SCC 101** the Hon'ble Apex Court has held that while dealing with the contempt petition Court is not expected to conduct a roving inquiry and go beyond the very judgment which was allegedly violated. This principle has to be applied with more vigour when disputed questions of facts are involved and they were raised earlier but consciously not dealt with by creating a specific forum to decide original proceedings.

This Court cannot disbelieve the affidavit affirmed by a high government Official like the respondent no. 6 herein.

As the facts in the pleadings and the documents on record demonstrate, the applicants have withdrawn the requisition of no-confidence motion. Their letter dated 14.01.2022 reveals that for the interest of the villagers and for the development of Gram Panchayat they do not proceed with the no-confidence motion as well as the writ petition.

While there is no requisition in support of no-confidence and the applicants do not intend to proceed with no-confidence motion, I feel that the respondent no. 6 now does not owe any obligation to carry out the Court's direction as above. The acts performed on the part of the respondent no. 6 do not indicate that the respondent no. 6 violated the Court's Order.

In view of the above, I think that the contempt application is liable to be dismissed.

Accordingly, the contempt application is dismissed.

No order as to costs.

Urgent certified copy of the order, if applied for, be given to the parties upon compliance with all requisite formalities.

(*Rabindranath Samanta, J.*)