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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Contempt)
ORIGINAL SIDE
(Via Video Conference)

C.C. No. 135 of 2008

KALPANA MAITY & ORS.
Versus
DILIP KUMAR GHATAK & ANR.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
Date : 19^h February, 2021.

Appearance :
Mr. Kamalesh Bhattacharya, Adv.
Mr. S. P. Pahari, Adv.
Mr. A. Pradhan. Adv.
Mr. T. K. Mahapatra, Av.
...for the petitioners

Mr. Arkaprava Sen, Adv.

Mr. Sirsanya Bandopadhyay, Adv.
...for the respondents.

The Court : Violation of the order dated April 10, 2008, whereby W.P.O. No. 864 of 2004 was disposed of, is alleged in this contempt application. Operative portion of the said order reads as follows:

“Having heard the submissions of the learned Counsel for the writ petitioners and the learned Counsel for the State and considering the merits of the writ petition, the concerned District Inspector of Schools (SE) Purba Midinipur, the third respondent herein directed to approve the writ petitioners within a period of four weeks from the date of communication of this order.

It is submitted by the learned Advocate for the petitioners that necessary papers regarding the respective services of the writ petitioners have already been sent to the concerned District Inspector of Schools for approval of their appointments.

Needless to mention that on the basis of the approval of the services of the petitioners, the writ petitioners shall be entitled to all financial benefits on the basis of such "approval" in terms of and by virtue of this order.

Till such approvals take place, the petitioners will continue to serve the school as they have been doing for all these years.

The above order is to be treated to be mandatory by the concerned respondents."

From time to time orders have been passed on this application. The State preferred an appeal against the said order dated April, 10, 2008. I am told that initially there was an interim order of stay in the appeal. However, the appeal stood dismissed for default in the year 2013. No steps have been taken for restoration of the appeal. The order dated April 10, 2008 has become final and binding on the parties. The order has to be implemented.

Mr. Bandopadhyay, learned Advocate for the State submits that there are no records available with the State pertaining to the appointments of the petitioners in the concerned school. The alleged contemnor can only grant approval of appointments. The school is the appointing authority. The school authorities are not a party in the contempt petition.

I find from the records that there is a report of the District Level Inspection Team (DLIT) which records the presence of the petitioners as staff of the school in

question and also the respective dates of appointments of the petitioners. The DLIT is an organ of the State and its report has to be accepted by the State. Nobody has argued that the report is a forged document.

Even if the State cannot lay its hand on documents pertaining to the appointments of the petitioners, that is not the concern of the petitioners. The petitioners cannot be deprived of the benefit of an order of this Court, which has attained finality, just because relevant records cannot be traced out by the administration. Learned counsel for the alleged contemnor submits that the alleged contemnor had no intention of disobeying the order of this Court. The order could not be given effect to because of non-availability of relevant records. However, notwithstanding that, the order will be implemented if the Court so directs.

Accordingly, I direct the alleged contemnor to grant approval to the appointments of the petitioners from the respective dates mentioned in the DLIT report dated April 26, 2008 which is annexure P-2 to the writ petition, within two weeks from the date of receipt by him of a copy of this order from the petitioners. Needless to say, that in terms of the order dated April 10, 2008, all consequential benefits shall be made available to the petitioners.

C.C. No. 135 of 2008 is accordingly disposed of.

(ARIJIT BANERJEE, J.)