

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Judgment Reserved on: 11/01/2021****Judgment Delivered on : 20/01/2021****Writ Appeal No. 462 of 2020***{Arising out of Order dated 28.10.2020 passed in Writ Petition (C) No. 2229 of 2020 by the learned Single Judge}*

Santosh Kumar Pandey S/o Shri Chandrashekhar Pandey, aged about 46 years, Advocate, High Court of Chattisgarh, residence of Kanha Kunj, Chantidih Main Road, Near Ramayan Chowk, PS. Sarkanda, District Bilaspur, Chhattisgarh.

---- Appellant**Versus**

1. Union of India, through Secretary, Government of India, Ministry of Law and Justice, Department of Legal Affairs, Shastri Bhawan, Dr. Rajendra Prasad Marg, New Delhi – 110001
2. State of Chhattisgarh, Through Secretary (Law and Legislation Department) Mahanadi Bhawan, Mantralaya, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh.
3. The High Court of Chhattisgarh, through Registrar General, High Court of Chattisgarh, High Court Campus, Bodri, District Bilaspur, Chhattisgarh.

---- Respondents

For Appellant	: Shri Santosh Kumar Pandey, In Person.
For Respondent No. 1/Uol	: Shri Tushar Dar Diwan, Advocate on behalf of Shri Ramakant Mishra, Assistant Solicitor General.
For Respondent No. 2 / State	: Shri Vikram Sharma, Deputy Government Advocate.
For Respondent No. 3	: Shri Prafull N. Bharat, Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****CAV JUDGMENT****Per P.R. Ramachandra Menon, Chief Justice**

1. Interference declined by the learned Single Judge with regard to the prayer raised by the Appellant/Writ Petitioner to cause his representation Annexure P/1 suggesting some amendment to the High Court of Chhattisgarh Rules, 2007 and the High Court of Chhattisgarh (Contempt of Court Proceedings) Rules, 2007 (*hereinafter referred to as 'the Rules'*) be considered, is put to challenge in this appeal.

2. Heard the Appellant appearing in person, who is a Lawyer of this Court, at length.
3. It is the case of the Appellant/Writ Petitioner that, he having come across some inadequacies in the existing Rules was desirous of causing to make some amendment to the Rules and framing some guidelines; who accordingly submitted Annexure P/1 representation dated 20.01.2020 addressed to the Chief Justice of this Court. Thereafter, a writ petition was filed seeking to direct the 3rd Respondent to consider and decide Annexure P/1 representation according to law within a specified time and inform the Petitioner accordingly.
4. When the matter was pending consideration before the learned Single Judge, IA No. 1 of 2020 was filed producing a copy of the intimation memo dated 20.10.2020 served to the Petitioner from the office of the 3rd Respondent to the effect that, on a perusal of the suggestions made by the Petitioner, it was noted that there was no requirement to have it acted upon further and hence, approval was sought for to file the 'paper under disposal' without further consideration (approved by the Chief Justice on the same date). It is seen that the Appellant/Writ Petitioner argued before the learned Single Judge that the representation preferred by him was liable to be considered by the 'Full Court' instead of causing the same to be turned down by the Registrar General of this Court and sought for a direction to have Annexure P/1 considered and passed a reasoned order. The learned Single Judge, after hearing the Writ Petitioner in person observed that, since the Writ Petitioner was served with a communication as to the outcome of the representation under the Right to Information Act, 2005, the grievance of the Writ Petitioner to cause the representation to be considered stood redressed and if the said intimation was not acceptable, he would be at liberty to pursue appropriate remedial measures for assailing

the same, if permissible in law. It was further observed by the learned Single Judge that the Court was reluctant to entertain the writ petition, in view of the fact that the nature of relief sought for by the Writ Petitioner was not one which could be brought about by way of an amendment of the Rules; which otherwise are the Rules framed invoking the provisions of Article 225 and 227 of the Constitution of India. That apart, according to the learned Single Judge, the nature of the relief sought for is one which would touch upon the power and jurisdiction of a Judge exercising the power under Article 226 and 227 of the Constitution of India, which again was not within the domain of the Respondents in the writ petition, to be monitored by issuance of any guidelines. The learned Single Judge also observed that the contention of the Writ Petitioner that the matter ought to have been placed before the 'Full Court' and that the payer ought not to have been rejected by the Registrar General of the High Court was having absolutely no basis, as the Writ Petitioner could not claim or insist any matter to be considered by the Full Court as a matter of right; which on the other hand stood exclusively within the domain of the Chief Justice. The learned Single Judge further observed that if at all any person was not satisfied with the proceedings drawn in a particular contempt matter, it would always be open for the said person to have questioned the same by taking appropriate remedial measures arising from the said order. It was for the said reasons that interference was declined and the writ petition was dismissed, correctness of which is put to challenge in this appeal.

5. The Appellant submits with reference to the pleadings in the appeal that it was obligatory for the 'Full Court' to have considered the points raised by him in the representation. The Appellant seeks to place reliance on the judgment dated 26.07.2018 passed by the Apex Court in Civil Appeal No. 7240/2018, arising out of SLP(C) No. 16841/2018 to contend that, time and again, it has been emphasized by the Apex Court as to the need to pass

reasoned order by the Court in every case which must contain the narration of the bare facts of the case of the parties to the *lis*, the issues arising in the case, the submissions urged by the parties, the legal principles applicable to the issues involved and the reasons in support of the findings on all the issues arising in the case and urged by the counsel for the parties in support of its conclusion.

6. It is submitted that the Appellant is entitled to enjoy all the benefits of 'Fundamental Rights' extended to the citizens of India under Part III of the Constitution. In Annexure P/1 representation, the writ petitioner has pointed out the necessity to formulate some guidelines/bring about modifications in the Rules as given under point No. 1 to 7, English translation of which, as given by the Appellant/Writ Petitioner in Annexure P/1 itself, is to the following effect:

“While considering the contempt cases, Hon’ble Judge should take care of the following important points:

1. The order of direction that has been deferred has been fully and fair, according to law/jurisdiction.
2. In the issued order/instructions, the maximum time limits for its adherence has been mentioned clearly.
3. The order/direction of the issuing order is made in the appropriate time limit on the authority adhering to the compliance.
4. The authority for which the direction was issued has been observed within his capacity.
5. The concerned authority did not intentionally adhere to the order/directive.
6. On being proved guilty, the basis of judicial discretionary reasoning has been given to provide proper fines or punishment or both.
7. Upon submission of a baseless contempt petition, a fine has been imposed in the misuse of the judicial process against the petitioner.”

7. During the course of hearing, this Court specifically questioned the locus standi of the Appellant/Writ Petitioner to press for issuance of a Writ of

Mandamus to cause his representation to be considered (notwithstanding the fact that, it already stood considered and rejected as intimated to him, by virtue of the approval given by the Chief Justice vide Annexure P/3). The Appellant was asked to point out which of his 'fundamental rights' had been violated or was sought to be enforced. This Court also required the Appellant to point out the provision under which the Appellant was entitled to prefer a representation in the nature of Annexure P/1 for causing his views/suggestions to be considered, to bring about necessary modifications/amendments to the Rules by way of guidelines or otherwise. The Appellant conceded that there was no specific provision in this regard; but according to him, once a representation is filed, it has to be finalized, passing appropriate orders, giving proper reasons.

8. Going by the pleadings, prayers and submissions, it is to be noted that no right, much less any fundamental right of the Appellant/Writ Petitioner, has been infringed in any manner. Merely for the reason that he has found something attractive or appropriate to be incorporated as part of the relevant Rules or to be reckoned as the guidelines, he cannot expect any authority to cause it to be considered through a Writ of Mandamus. A 'Writ of Mandamus' can be issued only if there is any failure of duty or delay on the part of the authority concerned in dealing with the issue or there is any statutory or constitutional obligation in this regard. Despite the repeated query raised by this Court to point out any relevant provision in this regard, the Appellant, despite being a Lawyer and not a layman, failed miserably to point out any such provision and virtually conceded that there is no provision. As it stands so, in the absence of any right to get the representation or views of the Appellant/Writ Petitioner to be considered and acted upon, no Writ of Mandamus can be issued, more so when none of the rights of the Appellant has been affected in any manner.

9. The writ petition filed by the Appellant/Writ Petitioner is in respect of his individual right, it not being a 'public interest litigation' and no such public interest stands substantiated as well. The idea and understanding of the Appellant that any citizen is entitled to file any representation before any authority and once that is done, it shall be considered and reasoned orders shall be passed, is thoroughly wrong and misconceived. It is for the 3rd Respondent, who is the rule making authority, to consider whether the matter presented by the Writ Petitioner as per Annexure P/1 should be acted upon or not and since it has been found that it does not require consideration, the position has been let known to the Writ Petitioner vide Annexure P/3. Absolutely no violation of any right, much less any fundamental right is brought out either in the writ petition or in the appeal. We cannot but observe that this is nothing but an abuse of process of the Court. It is a fit case where cost is to be ordered while declining interference, more so, since the Appellant being a Lawyer is supposed to have done more research before projecting the alleged cause.
10. In the above facts and circumstances, we do not find any tenable ground to interdict the verdict passed by the learned Single Judge dismissing the writ petition. There is no merit in the appeal. It stands dismissed accordingly. We reluctantly refrain from awarding any cost, expecting that the Appellant who is a Lawyer, would act more prudently in the days to come.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE