

23.09.2022
Item No.20
Court No.32
Avijit Mitra

**CPAN 125 of 2021
in
WPA 747 of 2020**

**Santanu Adhikari
- Versus -
Dr. R.C. Bagchi**

Mr. Jayak Gupta,
Mr. Nandadulal Banerjee
...for the Petitioner

Affidavit of service filed by the petitioner be kept on record.

The present contempt application has been preferred alleging violation of the order dated 3rd February, 2020 passed by this Court in W.P. No.747 (W) of 2020.

The grievance of the petitioner in the writ petition was that though he is similarly situated with the petitioners in WP No.25581 (W) of 2016, he has not been extended the benefits as granted to the said writ petitioners. Accordingly, the petitioner submitted a representation claiming similar benefits. As the said representation was not considered, the petitioner was constrained to file the writ application.

Mr. Gupta, learned advocate appearing for the petitioner submits that after the contempt application was served upon the alleged contemnor, the petitioner has been communicated a purported order dated 10th

November, 2020 passed by the Secretary of the West Bengal Board of Primary Education *vide* memo dated 15th July, 2022. There had been a deliberate delay on the part of the contemnor to take the decision as directed by this Court. Let the notice and the decision, as produced, by Mr. Gupta be kept on record.

The writ petition was disposed of by an order dated 3rd February, 2020 and the decision has been taken on 10th November, 2020 after granting an opportunity of hearing to the petitioner but there is a dispute as regards communication of the order. The period of delay stands intervened by a period lost due to the pandemic.

The Court in exercise of contempt jurisdiction cannot test the correctness of the order passed or give additional direction. Once an order has been passed by a party to a proceeding on the basis of the direction issued by the Court, there arises a fresh cause of action to seek redressal in an appropriate forum.

In view thereof and since there had been no deliberate delay on the part of the contemnor to comply with the order, this Court is not inclined to proceed with the contempt application any further and the same is accordingly disposed of.

However, it will be open to the petitioner to assail the correctness of the order passed by the alleged contemnor before the appropriate forum.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Tapabrata Chakraborty, J.)