

**WPCRC 299 (W) of 2016**  
**in**  
**W.P. No. 4572 (W) of 2016**

**(Shekab Sheikh Vs. Sadhan Kumar  
Chowdhury & Ors.)**

**Mr. Atis Kumar Biswas**

**....For the petitioner**

**Mr. Arjun Ray Mukherjee**

**Ms. Saheli Mukherjee**

**....For the alleged  
contenmor no. 5**

The present contempt application has been preferred alleging violation of an order dated 17<sup>th</sup> March, 2016 passed by this Court in W.P. No. 4572 (W) of 2016.

Mr. Biswas, learned advocate appearing for the petitioner submits that though there was a specific direction upon the respondents to allow the petitioner to resume his duties in the post of Additional Para Teacher at Raninagar Primary School on and from the month of April, 2016 and to disburse the remuneration in his favour on and from April, 2016, the alleged contemnors neither did allow the petitioner to join after communication of the order nor did they disburse his salaries. The alleged contemnors have thus deliberately violated the order of this Court.

He submits that after filing of the contempt application and issuance of rule upon the then teacher-in-charge of the concerned school, the petitioner was allowed to resume his duties on and from 23<sup>rd</sup> September, 2019 and thereafter, he has been paid his remuneration.

Placing reliance upon the affidavit-in-opposition and the supplementary affidavit as filed on behalf of the State Project Director, Mr. Arjun Ray Mukherjee, learned advocate appearing for the said officer submits that the grievance of the petitioner is primarily against the then headmaster and teacher-in-charge of the said school, as would be explicit from the demand notice issued by the petitioner on 15<sup>th</sup> April, 2016.

He further submits that Paschim Banga Sarva Shiksha Mission is provided funds by the Central Government and the State Government through grant-in-aid sharing pattern on prospective basis, as would be explicit from the contents of paragraph 5 of the supplementary affidavit. The fund as allocated is utilised *inter alia* for payment of honorarium of the para teachers/additional para teachers of the concerned schools. The allegation that the petitioner had not been allowed to resume his duties in time involves disputed questions of fact and such dispute cannot be decided in the present contempt application. There had been no deliberate violation of the order of this Court, on the part of the said contemnor and immediately after requisition was sent, the petitioner's remuneration was duly paid.

Mr. Ray Mukherjee, however, tenders unconditional apology for and on behalf of the State Project Director for any unintentional delay towards compliance of the Hon'ble Court's order.

In reply, Mr. Biswas disputes the contention of the alleged contemnor and places reliance upon the averments made in paragraphs 7, 8 and 9 of the affidavit-in-reply.

Heard the learned advocates and considered the materials on record.

The petitioner alleges that he was not allowed to resume his duties even after communication of the order passed by this Court on 17<sup>th</sup> March, 2016. The said issue involves disputed questions of fact. As and when monthly return was sent by the school authorities, fund was allocated and the petitioner was paid his remuneration. From the records it further appears that the fund allocated by the Centre and the State is utilised on '*year to year*' basis and prospectively. The non-utilized amount, if any, is thereafter returned to the competent authority. As and when the petitioner resumed his duties, his remuneration was duly paid and he is receiving his remuneration till date.

In the said conspectus of facts, it does not appear that there has been any deliberate or wilful violation of the order of this Court and accordingly, the present contempt application is dismissed.

Rule, if any, stands discharged.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

**(Tapabrata Chakraborty, J.)**