

26.09.2022

WPLRT 96 of 2022

Court : 04
Item : 70
Matter : **WPLRT**
Status : DISMISSED
Transcriber: NANDY

Sukdev Kundu & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Debasish Roy, Advocate
Mr. Md. Idrish, Advocate

.....for the Petitioner

Despite service there is no representation on behalf of the State. Let the affidavit of service filed in Court today be kept with the record.

Mr. Supratim Dhar, learned Advocate of the State penal is present in Court and is requested to appear in the matter for the State respondent.

The present writ-petition is filed seeking a direction upon the Tribunal to dispose of the tribunal proceeding including the applications filed therein. A copy of the writ-petition has been served upon Mr. Dhar, in Court today.

The Legal Remembrancer is directed to regularize the appointment Mr. Dhar, learned Advocate in this case.

The instant writ-petition is filed assailing an order dated 18.04.2022 passed in a contempt proceeding wherein the Tribunal after recording that compliance has been made and unconditional apology has been tendered, dropped the same.

According to the learned Advocate for the petitioner the compliance has not been made in tune with the earlier order and, therefore, the Tribunal ought to have proceeded on the basis of an order interfering with the said order.

It is to be remembered that while exercising the jurisdiction relating to contempt, the Court/Tribunal cannot sit over the original judgment/order in exercise of power of

review. The scope and power of the contempt jurisdiction is limited and cannot be exercised as an appellate Court. Whether the order has been duly complied with or there has been a conscious, deliberate and wilful violation of the said order is within the ambit and scope of contempt jurisdiction.

We are not propounding the law to the extent that the Court cannot pass any other order in order to ensure the compliance thereof or put the position as it is stood on the date of passing the order. The moment the decision has been taken and there is sufficient explanation for delay, such decision is a fresh cause of action and leaves a clue to the aggrieved person, if there be any, and the same cannot be challenged in a contempt jurisdiction unless there is a patent male fide or malice attributed to the conduct of the concerned authority. The Tribunal has accepted the delay and did not find there is any contumacious act on the part of the alleged contemnor.

Therefore, we do not find any infirmity and/or illegality in the impugned order. However, it is open to the writ-petitioner to approach the appropriate forum, if so advised, and the disposal of the contempt applications shall in any may impact the disposal in accordance with law.

The writ-petition being **WPLRT 96 of 2022** accordingly **dismissed**.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

