

01.04.2022
Court No. 19
Item No.09
CP

CPAN 1053 of 2021
in
WPA 9884 of 2021

Pratima Dutta
Vs.
Babulal Mahato & anr.

Mr. Sandip Kumar Bhattacharyya

....for the applicant/petitioner.

Mr. Lalit Mohan Mahata
Mr. P.B. Mahata

...for the alleged contemnors.

The documents filed by the alleged contemnors
are taken on record.

The contempt application has been filed
challenging willful disobedience on the part of the
prescribed authority and the Sub-Divisional Officer,
Jhargram Sadar, by not disposing of the application
filed under Section 11(1)(d) of the West Bengal
Panchayat Act, 1973 (hereinafter referred to as 'the
said Act'). Violation of the order dated August 5,
2021 passed in WPA 9884 of 2021, has been alleged.

The learned advocate appearing on behalf of
the alleged contemnors, has handed up a bunch of
documents, from which it appears that by an order
dated December 20, 2021, the application filed by

the petitioner under Section 11(1)(d) of the said Act, had been disposed of by the prescribed authority.

It is submitted by the learned Advocate for the petitioner that, as the order dated August 5, 2021 was not complied with, another writ petition was filed being WPA No. 20279 of 2021. The disposal of the application by the prescribed authority was with regard to the subsequent writ petition and not pursuant to the order passed in WPA 9884 of 2021.

It is submitted that contempt has been committed in view of such inaction of the authority in proceeding with the application under Section 11(1)(d) of the said Act as directed by this court, on August 5, 2021.

It appears that by two orders dated December 20, 2021 and March 21, 2022, the application under Section 11(1)(d) of the said Act were disposed of by the prescribed authority and the Sub-Divisional Officer, Jhargram Sadar. Documents have also been produced to show that the petitioner refused to participate in the proceedings.

Although, Mr. Bhattacharyya, learned advocate appearing on behalf of the petitioner, has raised questions with regard to the validity of the orders and the alleged misleading statements made in the order, this court is of the opinion that the

correctness of the order cannot be decided in the contempt proceeding.

In order to hold a person guilty of contempt, the court has to come to a finding that an intentional violation of the order has been made by the authority and such violation has to be proved beyond reasonable doubt. The level of proof in deciding contempts has to be at par with those applicable under the criminal law. Contempt is a quasi-criminal proceeding. This court does not find that contempt has been committed. The authorities have disposed of the application filed by the petitioner under Section 11(1)(d) of the said Act. The delay has been caused by the petitioner's absence in the proceeding, as well. The authority has also purged the contempt, if any, by disposing of the application under Section 11(1)(d) of the said Act as per the directions of this court in the two writ petitions. With regard to standard of proof in deciding contempt, contempt being a quasi-criminal proceeding, the standard of proof required to be shown is the same as in a criminal proceeding and the breach complained of would have to be established beyond reasonable doubt.

In order to punish a contemnor, it has to be established that the disobedience, is wilful. This

requires an assessment of the mind of the alleged contemnor, that is, whether the contemnor knowingly intentionally, consciously, calculatedly and deliberately with full knowledge of consequences committed a breach of the order of this Court. There has to be a calculated action with evil motive. These ingredients are absent in this case.

The petitioner is at liberty to proceed against the merits of the order in accordance with law.

The contempt application is disposed of.

The contempt proceedings are dropped.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)