

23.12.2022

WPST 122 of 2022

Court : 04
Item : DL-08
Matter : WPST
Status : DO
Transcriber: nandy

Somnath Paul
Vs.
The State of West Bengal & Ors.

Mr. Abhimanyu Banerjee, Advocate

.....for the Petitioner

Mr. Tapan Kumar Mukherjee, Addl. Govt. Pleader

.....for the State

By the impugned order, the application for contempt was dismissed simplicitor on the *ipse dixit* of the compliance of an order. Admittedly, there is a delay in securing the compliance of an order passed by the Tribunal which would also be evident from the impugned order.

A plea has been taken that the moment the compliance is made, though belatedly, the contempt application should not be proceeded with which we find it difficult to accept. The three-Judge Bench of the Supreme Court in case of ***Maninderjit Singh Bitta Vs. Union of India*** reported in **(2012) 1 SCC 273** held that the delay in complying the order of the Court or its direction within the prescribed period has to be viewed seriously and may be rendered as contemptuous act in the following: -

26. It is also of some relevancy to note that disobedience of court orders by positive or active contribution or non-obedience by a passive and dormant conduct leads to the same result. Disobedience of orders of the court strikes at the very root of rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. If the Judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs (refer T.N. Godavarman Thirumulpad's case, (2006) 5 SCC 1). The proceedings before the highest court of the land in a public interest litigation, attain even more significance. These are the cases which come up for hearing before the court on a grievance raised by the

public at large or public-spirited persons. The State itself places matters before the Court for determination which would fall, statutorily or otherwise, in the domain of the executive authority.

The three-Judge Bench of the Supreme Court further highlighted the role of the Government and its instrumentalities and held that the Government departments are not an exception and it is expected that the order of the Court is complied with and/or the time limit to be adhered. The Apex Court further held that the rule of law is the foundation of a democratic society and the disobedience of any order of the Court either by positive/active contribution or non-obedience by a passive and dormant conduct should be treated as contemptuous act. It is thus indicated therein that the passive or the dormant approach of the authorities in complying the order of the Court may be treated as violation of the order in the following: -

29. Lethargy, ignorance, official delays and absence of motivation can hardly be offered as any defence in an action for contempt. Inordinate delay in complying with the orders of the courts has also received judicial criticism. It is inappropriate for the parties concerned to keep the execution of the court's orders in abeyance for an inordinate period. Inaction or even dormant behaviour by the officers in highest echelons in the hierarchy of the Government in complying with the directions/orders of this Court certainly amounts to disobedience. Inordinate delay of years in complying with the orders of the court or in complying with the directed stipulations within the prescribed time, has been viewed by this Court seriously and held to be the contempt of court, as it undermines the dignity of the court. Reference in this regard can be made to Maniyeri Madhavan v. Inspector of Police, Cannanore [AIR 1993 SC 356] and Anil Ratan Sarkar and Ors. v. Hirak Ghosh and Ors. [(2002) 4 SCC 21]. Even a lackadaisical attitude, which itself may not be deliberate or wilful, have not been held to be a sufficient ground of defence in a contempt proceeding. Obviously, the purpose is to ensure compliance of the orders of the court at the earliest and within stipulated period.

30. Reverting back to the facts of the present case, it is undisputed that for years together the State of Haryana has failed to comply with the directions of this Court and implement the scheme. It has not only caused prejudice to the public at large but has even undermined the dignity of this Court. The attitude of the State of Haryana and the respective officers has been lackadaisical and of wilful disregard. Despite repeated orders they have failed to take effective steps and whatever steps were taken the same are not in conformity with law. The repeated Orders of this Court have failed to bring any results from the recalcitrant State. The repeated opportunities and extension of time did not help in expeditious progress in the matter. On the contrary, there is apparent disobedience of the Orders of this Court and no compliance with the Orders of this court, by their completely passive and dormant behaviour. This behaviour, besides causing serious problems in the effective implementation of statutory scheme, has even undermined the dignity of this Court and impinged upon the basic rule of law.

What is logically deduced from the above-noted report that mere compliance of an order beyond the prescribed time or the time stipulated in the order does not exonerate the Government or its instrumentalities from the rigor of the Contempt of Courts Act. The passive or dormant compliance is regarded as a disobedience of the order and, therefore, the Court should not treat such matter leniently and exonerate the persons from the purview of the Contempt of Courts Act.

The instant case is an example of departure from the ratio laid down in the above-noted report as the Tribunal simplicitor on the compliance of an order though belatedly, dismissed the contempt application. We thus find that the impugned order is contrary to the law declared by the Supreme Court which has a binding effect in view of Article 141 of the Constitution of India and, therefore, cannot withstand.

The order of the Tribunal is hereby set aside.

The Tribunal is directed to proceed with the contempt application in accordance with law. We except that the Tribunal shall dispose of the contempt proceeding within four months from the date of communication of this order.

With these observations, the writ-petition being **WPST 122 of 2022** is **disposed of**.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)