

OD-23

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Contempt)
ORIGINAL SIDE

CC/51/2022

KUNAL SAHA
VS
DIPA SEN (MAITY)

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 2nd August, 2022.

Appearance:
Mr. Dr. Kunal Saha, Appearing In Person

The Court:- The petitioner, appearing in person with the leave of Court, submits that despite a specific direction of this Court dated May 2, 2022, passed in CC/20/2022 to the tune that the State Consumer Disputes Redressal Commission, Kolkata shall dispose of Complaint Case being CC/28/2013 and connected applications as expeditiously as possible and dispose of the same preferably within three months from the date, the alleged contemnors have preferred an appeal before the National Commission, in which an order of stay was passed by the National Commission on May 13, 2022.

It is submitted that since, by virtue of the stay order, the State Commission also refused to take up the matter and postponed it till further orders by the Appellate Forum, the same constitutes gross contempt and deliberate disobedience of the specific direction of this Court.

It is further submitted that despite this Court having categorically held that the petitioner has the right to continue the litigation before the forum on behalf of the aggrieved persons, such point has been re-agitated in the forum below by the alleged contemnors.

In as much as the first allegation is concerned, the direction dated May 2, 2022 passed by this Court was in the nature of an order *in terrorem*. Moreover, the specific language was that the State Forum who disposed of the same “Preferably” within three months from that date.

However, such an order *in terrorem* cannot take away or abridge the right of appeal vested in law in a litigant. The National Forum, well within its jurisdiction in law, passed an order of stay. As to the legality of the stay order on merits, it is indeed open to the petitioner to move the National Commission itself for vacating of the same. However, this Court, in contempt, cannot find fault in the State Commission for having postponed the matter despite the direction of this Court, in the teeth of the stay order passed by the National Commission, by which the State Commission is bound.

In as much as the subsequent filing of applications/pleadings challenging the authority of the petitioner to appear for the aggrieved parties is concerned, despite the observation of the Court that the petitioner has the *locus standi* to prefer such a challenge, the same also pertains to the legal rights of a party to take out an application challenging the authority of a litigant to pursue a proceeding. In the event such application is not maintainable in law and/or *de hors* the law, it is open for the litigants to challenge the same before any appropriate forum. However, such exercise of a legal right, even without going

into the question of maintainability or legality of such right, cannot be sufficient instigation to prompt this Court to resort to the remedy of contempt, which is generally used as a last resort to provide sanction behind orders of this Court.

In the light of the above observations, no contempt lies in the present case. Accordingly, CC/51/2022 is dismissed without costs.

It is, however, made clear that the legality of the objection as to the petitioner's authority, taken by the alleged contemnors in the forum below, has not been gone into by this Court and it will be open to the State Forum and/ or the National Commission to look into the legality and veracity of such objection independently and in accordance with law, without being influenced in any manner by any of the observations made in this order.

(SABYASACHI BHATTACHARYYA, J.)