

IN THE HIGH COURT OF ORISSA AT CUTTACK
CONTC No.4747 of 2021

Shankar Das

....

Petitioner

None

-versus-

Subhanjan Mohanty

....

Opp.Party

Mr. Manoj Kumar Khuntia, Addl. Govt. Advocate

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER

27.06.2022

Order No.

- 05.** **1.** This matter is taken up by virtual/physical mode.
- 2.** Arraigning Sri Subhanjan Mohanty, Presiding Officer, Labour Court, Bhubaneswar in the district of Khurda as contemnor, the Petitioner has filed this petition under the Contempt of Courts Act, 1971, feeling himself aggrieved by violation of order dated 1st December, 2020 passed in W.P.(C) No. 32830 of 2020 (Annexure-12) and order dated 20th July, 2021 passed in I.A. No. 230 of 2021, arising out of CONTC No. 1225 of 2021.
- 3.** The Petitioner, an employee in M/s. Paradeep Phosphates Ltd., had filed an application under Section 33-C (2) of the Industrial Disputes Act, 1947 in Misc. Case No. 76 of 2014 for computation and determination of amount due to him. The Petitioner filed petition being W.P.(C) No. 18603 of 2020 seeking a direction to Labour Court, Bhubaneswar to dispose of Misc. Case No. 76 of 2014 within stipulated period. This Court vide order

dated 13th October, 2020 directed the Labour Court to dispose of said case as expeditiously as possible, preferably, by end of January, 2021.

4. While proceeding with the said matter, the Labour Court vide order dated 18th November, 2020 refused to accept the show cause reply sought to be filed belatedly by Paradeep Phosphates Ltd. in Misc. Case No. 76 of 2014. Being aggrieved said company filed W.P.(C) No. 32830 of 2020. By order dated 1st December, 2020, this Court in the said writ petition directed as follows:-

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7. In view of the specific provision available under Section 33-C(2) of the Industrial Disputes Act, it is open to the petitioner-M/s. Paradeep Phosphates Ltd., Bhubaneswar to produce the relevant documents before the Labour Court, Bhubaneswar which shall be considered by the Labour Court for computation and determination of the money/benefit due to the Opp.Party No. 2 from the date such computation is to be made.”

5. Bringing it to the notice of this Court, the Petitioner filed CONTC No. 1225 of 2021 arraigning Presiding Officer, Labour Court, Bhubaneswar as sole contemnor with the allegation that there was non-compliance of order dated 1st December, 2020 passed in W.P.(C) No. 32830 of 2020. Said contempt came to be disposed of vide order dated 6th April, 2021 with the following observation:-

“XXX

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The order has been passed on the first date, no notice was issued to the Presiding Officer, Labour Court, Bhubaneswar and before passing the order no instructions were called for regarding the pendency of cases or the stage of the Misc. Case No.76 of 2014. Thereafter, the management filed W.P.(C) No.32830 of 2020 for acceptance of W.S. and other reliefs. This Court granted liberty to the petitioner therein to participate in the proceeding by adducing evidence under section-33 C (2) of the I.D. Act.

So, we are not inclined to issue notice in this contempt application but we grant liberty to the petitioner to file an application before the Presiding Officer, Labour Court, Bhubaneswar in Misc. Case No.76 of 2014 for early disposal of the case who shall CONTC No.1225 of 2021 consider the same in accordance with law.

The contempt petition is accordingly disposed of.”

6. Though said order dated 6th April, 2021 was passed by this Court in the presence of the counsel for the Petitioner, I.A. bearing No. 230 of 2021 has been filed praying therein to recall the order dated 6th April, 2021 passed in CONTC No. 1225 of 2021.

After hearing the counsel for the Petitioner, this Court in the said contempt petition vide order dated 20th July, 2021 reconsidered the matter on the ground that on the earlier occasion, this Court lost sight of order passed on 1st December, 2020. In the said order dated 20th July, 2021, this Court observed as follows:-

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5. The grievance of the petitioner is that the aforesaid order Annexure-18 passed by this Court in the aforesaid writ application superseded previous order of the contempt and as

such Misc. Case No.76 of 2014 came to the stage of argument. Management has failed to file the relevant document.”

In the said order, this Court took note of the contention of the Petitioner and held that the learned Presiding Officer, Labour Court, Bhubaneswar committed no violation of order of this Court by hearing the Management of Paradeep Phosphates Ltd., Bhubaneswar on the question of maintainability of Misc. Case No. 76 of 2014 and ascribed the reason that the judicial authorities are required to hear and dispose of every application filed by the parties to the proceeding. Holding thus, this Court passed the following order while disposing of said I.A. No. 230 of 2021:-

“xxx xxx xxx

11. Thus, there is no apparent willful disobedience of this Court’s order. No case is made out for issuance of any contempt against the learned Presiding Officer, Labour Court, Bhubaneswar though a detail analysis of the contention raised by the petitioner has not been reflected in the order dated 06.04.2021 of this Court.

12. So, we are not inclined to issue notice of contempt to the contemnor. Keeping in view the anxiety of the petitioner for early disposal of the proceedings pending before the learned Presiding Officer, Labour Court, we direct the Registrar General of the Court to intimate the aforesaid court to dispose of the Misc. Case No.76 of 2014 as per the observing direction of this Court in earlier proceeding, as expeditiously as possible, preferably within a period of forty-five days from the date of communication of this order. The Registrar General shall bestow his personal attention for communication of this order to the learned Presiding Officer, Labour Court, Bhubaneswar.”

Reading of aforesaid order dated 20th July, 2021, it transpires that this Court had declined to issue notice on contempt but keeping in view the anxiety of the Petitioner directed the Presiding Officer, Labour Court, Bhubaneswar for expeditious disposal of Misc. Case No. 76 of 2014.

7. The copy of order sheet vide Annexure-14 reveals that in compliance to order dated 20th July, 2021 as directed by this Court in I.A. No. 230 of 2021, arising out of CONTC No. 1225 of 2021, the Presiding Officer, Labour Court, Bhubaneswar took up the matter on 29th July, 2021 and after hearing the parties at length observed as follows:-

A perusal of the order dtd.8.2.2021 reveals that this Court has rejected the petition dtd.25.1.2021 filed by the applicant for pronouncement of the final order of this case by recalling the order dtd.21.1.2021 pursuant to the orders passed by the Hon'ble High Court of Orissa in WP(C) No. 18603 of 2020 and 32830 of 2020 on the ground that the cross-examination of AW No.1 was not started due to pendency of several misc. petitions moved by the parties and the case was posted to 15.02.2021 for hearing of petitions dtd.20.07.2015 and 05.08.2015. Meanwhile the petitions dtd.20.07.2015 and 05.08.2015 were disposed of vide order dtd.04.03.2021 and 25.3.2021. Likewise this Court vide its order dtd.15.12.2020 has already rejected the petition moved by the applicant with a prayer to pronounce the final order of the present case on the ground of completion of argument of this case since 28.8.2020 by holding that the hearing of the case has not yet been completed as well as at no point of time the argument is heard from either side. It may be started

here that this Court has already dealt the grievance of the petitioner forming part of the present petition vide its earlier orders dtd.06.01.2021 & 8.2.2021. Hence, on careful examination of the petition in question keeping in view the findings given in the order dtd.06.01.2021 there remains nothing further to be adjudicated of the present petition and there is nothing on record to show that the above orders were set aside by any higher forum. Besides, till date the cross-examination of AW No.1 is yet to start as per order dtd.15.10.2015 of this Court. Considering the given facts and circumstances and in view of the order passed by the Hon'ble High Court in IA No. 230 of 2021 arising out of CONTC No. 1225 of 2021, the petition of the applicant does not require any further consideration and accordingly, the same stands rejected.

Put up on 30.07.2021 for cross-examination of AW No.1 as per order dtd.15.10.2015 of this Court. Parties are directed to attend on the date fixed and to cooperate for early disposal of the case as per mandate of Hon'ble High Court. Intimate the parties accordingly."

8. Orders passed by the Presiding Officer on 29th July, 2021 (Annexure-14 to the contempt petition) manifest that the Presiding Officer, Labour Court had taken expeditious step to dispose of Misc. Case No. 76 of 2014.

9. However, absence of counsel for the Petitioner on 22nd February, 2022, 8th April, 2022, 19th May, 2022 and 21st June, 2022, before this Court in connection with the aforementioned contempt petition makes it clear that the Petitioner does not want to press this petition and no more interested to pursue the matter. It seems he has realized that there is no deliberate or willful disobedience in carrying out directions of this Court by the Labour Court, Bhubaneswar.

Today also when the matter is called for hearing, none appears for the Petitioner.

10. In such view of the matter, this Court finds no willful disobedience warranting issue of notice in the contempt against Sri Subhanjan Mohanty, Presiding Officer, Labour Court, Bhubaneswar.

11. Hence, the contempt petition is dismissed.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge



Aks
June 27, 2022
Cuttack