

101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCP-3205-2015

Date of Decision :25.08.2022

NARESH KUMAR & ORS

...Petitioners

Versus

PREM CHAND SAHIK & ANR

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Ms. Anna Bansal, Advocate for the petitioners.
Mr. Piyush Khanna, Advocate for respondent Nos.1 and 3.

B.S. Walia, J. (Oral)

[1] Prayer in the petition is for initiation of proceedings against the respondents for intentional and willful defiance of order, Annexure P/6 dated 25.09.2014 in CWP No.20090 of 2014.

[2] Details shorn of detail are that while CWP No.20090 of 2014 was disposed of vide order, Annexure P/6 dated 25.09.2014 by directing the respondents to formulate a policy with regard to abolition of contract labour preferably within four months from the date of receipt of certified copy of the order, compliance came to be effected only vide Annexure R/2 dated 16.09.2020.

[3] Learned counsel contends that although decision Annexure R/2 dated 16.09.2020 has been taken, the same was in derogation of the time limit specified in order Annexure P/6, consequentially, due to the extraordinary delay, the petitioners have been put to unnecessary harassment, therefore, respondent No.3 is liable to be punished for contempt of Court, besides, the petitioners compensated by grant of exemplary costs for the inordinate delay in compliance with orders,

Annexure P/6 dated 25.09.2014, as also to grant liberty to the petitioners to challenge decision, Annexure R/2 dated 16.09.2020 by way of appropriate proceedings in accordance with law.

[4] Learned Counsel relies upon the decision in *Ramdut and Ors. versus Vikas Gupta and Ors.*, Law Find Doc ID # 847564, '*Batra Hospital and Medical Research Centre of Ch. Aishi Batra Employees' Union versus Management of Batra Hospital and Medical Research Centre of Ch. Aishi Ram Batra Public Charitable Trust and others*', Law Finder Doc ID # 65503 and *Advani Oerlikon Ltd. vs. Union of India*, Law Finder DOC ID # 217034.

Relevant extract of the decision in *Ramdut's case (Supra)* is reproduced as under :-

“3. Learned counsel for the petitioners submit that the claim of the petitioners was to be considered within a period of four months from the date of receipt of copy of the representation but the order has been passed after a delay of approximately one year. Due to not taking any action by the respondents, the petitioners had to file the present contempt petitions for non-compliance of the order which has burdened them with unnecessary expenses to be incurred by the petitioners.

5. No doubt, the delay has occurred in compliance of the order passed by this Court. In case any delay was there, even on the part of the petitioners because of non-appearance, the respondents could have filed application for extension of time but no such action has been taken. Moreover, the contempt proceedings are between Court and the Authorities to whom the directions were issued. The order has been passed after a long delay and petitioners are at liberty to challenge the same. However, keeping in view the delay which has been caused by the respondents in passing of the order, a sum of Rs.25,000/- as costs is

imposed upon the respondents for non-compliance of the order within the stipulated period. The amount of cost shall be paid to the petitioners by way of draft, which shall be shared equally in both the petitions, within a period of one month from the date of receipt of copy of the order. However, the respondents are also directed to be careful in future.”

Likewise relevant extract of the decision in Batra Hospital and Medical Research Centre’s case (Supra) is reproduced as under :-

“5. In light of the aforesaid discussion and the fact that the order has been complied with the explanation offered by the respondents is accepted. However, I am of the view that ends of justice would served if the respondents be put to terms for the delay in compliance of the order passed by this Court. Accordingly, the respondents are directed to pay a sum of Rs.12,000/- as costs. No further orders are called for in the present petition. The same stands disposed of. Notice is discharged.”

Relevant extract of the decision in Advani Oerlikon Ltd.’s case (Supra) is reproduced as under :-

“4. On the merits of the case, Mr. Maninder Singh has explained that the representation was received only in September, 2003 and immediately a fresh hearing was granted on 21.10.2003. The detailed Speaking Order is dated 23.10.2003 and is Annexure A and is available on the record. The respondent has been remiss in the manner in which these legal proceedings have been handled. Even though the order dated 07.03.2003 disposing of C.W. No.5069/1997 was passed ex parte, it was the bounden duty of the respondents to follow up their case. The cavalier attitude must be censured. Since the representation has been disposed of by order dated 23.10.2003, this petition is

disposed of as satisfied, with costs of Rs.10,000/- payable by the respondent to the petitioner. ”

[5] Per contra, learned counsel for respondent No. 3 contends that CWP No.20090 of 2014 was disposed of vide order, Annexure P/6 dated 25.09.2014 in limine and respondent No.3 was not aware of the said order till receipt of notice in the instant petition on 12.03.2019, for 22.03.2019 and on coming to know about the matter, the Central Advisory Contract Labour Board (CACLB) constituted a Committee to go into the question of abolition of Contract Labour System in the establishment of M/s National Fertilizer Limited (NFL), Bathinda, Punjab, said committee was notified on 22.07.2019 and submitted its report on 20.01.2020 (Annexure R/1) which was accepted by the Central Advisory Contract Labour Board in the meeting held on 10.07.2020 as is evident from Annexure R/2 dated 16.09.2020, therefore, in the circumstances, orders of this Court (i.e. Annexure P/6) having been complied with, no action under the Contempt of Courts Act, 1971 is called for against respondent No.3. Apart from the above, no other point has been argued.

[6] I have considered the submissions of learned counsel.

[7] Admittedly, CWP No.20090 of 2014 was disposed of vide order, Annexure P/6 dated 25.09.2014. However, the same was in limine and learned counsel for the petitioners has not been able to show from the record, service of copy of aforesaid orders on respondent No.3. On the contrary, as per record, respondent No.3 became aware of the matter only on receipt of notice in the instant petition on 12.03.2019, for 22.03.2019 whereafter the Central Advisory Contract Labour Board (CACLB)

constituted a Committee to go into the question of the abolition of Contract Labour System in the establishment of M/s National Fertilizer Limited (NFL), Sibian Road, Bathinda, Punjab which was notified on 22.07.2019 and said Committee submitted its report vide letter dated 20.01.2020 which was accepted by the Central Advisory Contract Labour Board in its virtual meeting held on 10.07.2020. Thus, the period prior to knowledge by respondent No.3 of orders on 12.03.2019 Annexure P/6, cannot be held against respondent No. 3. However, the same does not absolve the competent authority from taking a decision in the matter as per directions or to seek extension of time keeping in view the lapse of a number of years since issuance of directions. Despite the competent authority becoming aware of the orders Annexure P/6 dated 25.09.2014 in March 2019, no steps were taken to comply with said order within the stipulated period of time i.e. four months or soon thereafter nor was any application moved before this Court for seeking extension of time for complying with the directions as contained in Annexure P/6.

[8] Undoubtedly, in case of any difficulty in compliance with the directions within the stipulated period of time, an application can be moved by a party which is under obligation for seeking extension of time for complying with the orders by setting out the reasons for inability to comply with the directive within the stipulated period of time and not sit on the matter and decide the same as per time schedule convenient to the authority. Thus although, the grievance was agitated by the petitioners way back in the year 2014 leading to issuance of directions vide Annexure P/6 dated 25.09.2014, it is only vide order, Annexure R/2 dated Annexure R/2 dated 16.09.2020 that the directions have been complied with. Delay in compliance with the directions after

knowledge of the time bound directions undermines the majesty of law especially when no application is moved for extension of time setting out the difficulty. It is not open to the authority which is under obligation in terms of a directive of a Court to take a decision in terms of the directive to take decision as per its convenience. There is not even a whisper of an explanation in the reply with regard to the urgency shown by the authorities to comply with the directive on becoming aware of the same on receipt of notice of the instant petition on 12.03.2019, for 22.03.2019. Since, directions in order, Annexure P/6 have been complied with and policy decision in respect to the issue in question taken after following the procedure no action for proceeding against respondent No.3 under the Contempt of Courts Act, 1971 is called for. However, as there was delay in compliance with orders, Annexure P/6 and no steps were taken to comply with said orders even four months beyond the date of knowledge and receipt of intimation of the instant petition, or to seek extension of time, ends of justice would be met by awarding costs of Rs.22,000/-.

[9] Accordingly, in the light of the position noted above, the instant petition is disposed of as not calling for any action against respondent No. 3 under the Contempt of Courts Act, 1971. However, on account of the delay in passing orders without taking steps to seek extension of time, costs of Rs. 22,000/- are awarded in favour of the petitioners with the same being payable by the office of the Central Labour Commissioner and Secretary, Central Advisory and Contract Labour Board, Office of Shram Shakti Bhawan, Government of India with liberty to recover the costs from the officer / authority responsible for delay and not implementing orders Annexure P/6 dated 25.02.2014

receipt of notice in the instant Contempt Petition for securing compliance with said orders. Costs as above be remitted to the petitioners proportionately by way of Demand Draft within two months of receipt of certified copy of order and compliance report be filed in the Registry within 4 weeks thereafter failing which Registry is directed to list the instant petition for securing compliance.

(B.S. Walia)
Judge

25.08.2022

'Amit'	Whether speaking/ reasoned	:	Yes/No
	Whether reportable	:	Yes/No