

COCP-1748-2022

Date of Decision :10.11.2022

Sandeep

...Petitioner

Versus

Virat, HSC

...Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. S.K. Yadav, Advocate for the petitioner.
Mr. Pawan Kumar Longia, DAG, Haryana.

B.S. Walia, J. (Oral)

[1] Prayer in the petition is for initiating proceedings against the respondent for intentional and willful defiance of order, Annexure P/1 dated 02.06.2022 in CWP No.12957 of 2022 in case titled as Sandeep vs. State of Haryana and others.

[2] A perusal of order, Annexure P/1 reveals that CWP No.12957 of 2022 was disposed of while directing the respondent to consider and decide the legal notice filed by the petitioner within 15 days from the date of receipt of certified copy of the order.

[3] Learned counsel for the petitioner contends that certified copy of order (Annexure P/1) was served on the respondent on 13.06.2022 vide diary No.3129 but no decision was taken on the same therefore COCP No.1537 of 2022 was filed by the petitioner but the same was dismissed as withdrawn vide order dated 04.08.2022 with liberty to file a fresh petition with better particulars and by impleading the correct person as respondent/contemnor, whereafter the instant petition was filed on 22.08.2022.

[4] When the instant petition was taken up for hearing on 24.08.2022, learned DAG had produce copy of order dated 12.08.2022 passed by the respondent rejecting the claim of the petitioner. Copy thereof was handed over to learned counsel for the petitioner, who contended that the order had been passed much beyond the period of 15 days from the date of receipt of certified copy of the order, therefore, the petitioner was liable to be compensated by awarding exemplary costs for being compelled to invoke the jurisdiction of this Court for securing compliance of order, Annexure P/1 dated 02.06.2022.

[5] Reply has been filed by the learned DAG and he while referring to para No.4 of the reply contends that the delay in compliance of order dated 02.06.2022 was never intentional and the same occurred due to shortage of staff during the period February, 2022 to August, 2022 and heavy workload.

[6] Learned DAG further on the basis of paragraph No.7 of the reply contends that the deponent has tendered an un-qualified and unconditional apology and that in the circumstances, the instant petition be disposed of as not calling for any action.

[7] Per contra, learned counsel for the petitioner contends that the petitioner having been compelled to invoke the jurisdiction of this Court, he should be compensated with payment of costs. Learned counsel relies on the decision in COCP No. 3205 of 2015 for award of costs. Relevant extract of the same is reproduced as under :-

“[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 Ramdutt'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 nonappearance, 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.”

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

[9] Admittedly, order, Annexure R-1/1 dated 12.08.2022 was passed beyond the stipulated period of time and that too only after the petitioner had filed COCP No.1537 of 2022. However, the competent

No.1537 of 2022 was dismissed as withdrawn vide order dated 04.08.2022 with liberty to the petitioner to file a fresh petition with better particulars, whereafter the instant petition was filed. The instant petition was filed on 22.08.2022 whereas in the meantime on 12.08.2022, order (Annexure R-1/1) was passed by the respondent rejecting the claim of the petitioner and the same was forwarded to the petitioner vide registered post at his given address i.e.H.No. 663, VPO Paluwas, Tehsil and District Bhiwani, Haryana and is stated to have been delivered on 23.08.2022.

[10] However, taking into account the fact that the order was admittedly passed beyond the stipulated period of time without any application for extension of time having been moved resulting in the petitioner having to invoke the jurisdiction of this Court as also by taking into account the reasons advanced by the respondent for inability to comply with the order within the stipulated period of time, I am of the view that although action is not required against the respondent under the Contempt of Courts Act, 1971, the ends of justice would be met if the respondent is ordered to pay costs of Rs.10,000/- to the petitioner within 04 weeks from date of receipt of certified copy of the order while directing the respondent to ensure timely compliance of Court orders in future.

[11] Contempt petition is disposed of in the above terms.

(B.S. Walia)
Judge

10.11.2022
'Amit/Rajneesh'

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