

D/L. 10.
April 26, 2023.
MNS

C.P.A.N. 136 of 2023
With
W.P.A. No. 11403 of 2022

Yatri Automobiles & Anr.
Vs.
Dibyendu Das & Ors.

Mr. Kamalesh Chandra Saha,
Ms. Payel Mitra

...for the petitioners

Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas

...for the alleged contemnors

Learned counsel appearing for the petitioners argues that a report be called for from the alleged contemnors as to what action has been taken by the transport authorities regarding illegal plying of e-rickshaws. It is further submitted that the order of this Court was not complied with in due time. Although a direction was given to consider the representation of the petitioners preferably within a month from the order of the court, the same was done about nine months thereafter.

Perused the affidavit-in-opposition and affidavit-in-reply filed in court. The stand of the alleged contemnors is that, although late, due to procedural wrangles, the order has ultimately been complied with

by considering the representations and taking appropriate decision thereon.

In so far as further action not being taken by the alleged contemnors, as per the allegation of the petitioner, it is seen from the order dated June 29, 2022 passed in WPA No. 11403 of 2022 that, thereby, the alleged contemnors were directed to decide the representation of the petitioners upon making proper enquiry in respect of the allegations levelled by the petitioners. However, even if the petitioners now argue that enquiry was not properly undertaken, the same would be beyond the scope of the contempt application, to the extent that the opposition discloses that steps have been taken properly by the respondent authorities.

Even if the petitioners have any grievance in that regard or regarding the ultimate conclusion arrived at by the respondent authorities on such representation, the same furnishes a fresh cause of action, which cannot be decided within the limited scope of the present contempt application. However, in the order in contempt, it was specifically clarified that the court had not touched the merits of the interim order of injunction, bearing order No. 27 dated February 24, 2020 passed by the Additional District and Sessions Judge, 13th Court at Alipore in Title Suit No. 27 of 2018 and that the plying of e-rickshaws by the petitioners and all other dealers/operators would abide by the ultimate outcome of the said suit and/or if any order is passed in

modification or vacating the said order of injunction by a superior or a collateral forum.

In view of such specific findings, it would be premature to adjudicate on the subsequent issues now raised by the petitioners in the contempt application.

Although late, the order of this Court has been complied with and, as such, nothing remains in the contempt application.

However, it is made clear that in the event the petitioners are aggrieved by the subsequent action taken by the respondent authorities, it will be open for the petitioners to approach the appropriate forum, including the writ court, with the said grievance. This court has not prematurely gone into the merits of the allegations made by the petitioners on such score.

Accordingly, CPAN 136 of 2023 is disposed of without any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)