

D/L. 35 & 36.
February 27, 2023.
MNS.

WPCRC 156 of 2022
in
CPAN 668 of 2022
in
WPA No. 6211 of 2022

Molla Rashida Begum
Vs.
Jakir Hossain Mondal

Mr. R. I. Sardar,
Mr. Keshab Chandra Das

...for the petitioner
in contempt application.

Mr. Uddipan Banerjee

...for the alleged contemnor.

Md. Jalaluddin

...for the writ petitioners.

Today when the matter is called on for hearing, learned counsel for the applicant/petitioner hands over a communication purportedly made to M/s. K. Roy & Associates, a firm, the name of which was given by the Howrah Zilla Parishad by way of written instruction for the purpose of ascertaining the age of the building-in-question.

However, despite the communication having been sent, no steps have been taken by

the said M/s. K. Roy & Associates for the purpose of holding such inspection to ascertain the age of the structures-in-dispute.

It is evident from the order in contempt dated April 27, 2022 passed in WPA No. 6211 of 2022, that the purport of the same was that the Pradhan, that is, the respondent no. 2 in the writ petition (the present alleged contemnor) was to undertake an appropriate enquiry by appointing specialists/experts for ascertaining the age of the constructions-in-question and thereafter to rehear the parties on the report of such experts regarding the age of the constructions and subsequently to consider the fate of the said structures vis-à-vis the Panchayat law afresh.

However, till date, due to the Pradhan having expressed his inability to find out an appropriate engineer/firm for the purpose of holding such inspection, the age of the building could not be ascertained.

As the Howrah Zilla Parishad also fails on such score, the only recourse left is that the applicant in the contempt application, who was a respondent in the writ petition, who has submitted that he is prepared to appoint an Engineer for the purpose of holding such

inspection, is permitted to ascertain the age of the construction through his nominated engineer.

Hence, although it would be beyond the scope of the contempt jurisdiction to enter into or modify the parent order dated April 27, 2022 passed in WPA No. 6211 of 2022, for the ends of justice, in order to ensure that the said order is implemented, the petitioner is permitted to appoint an authorised Engineer in his private capacity and, upon obtaining a report from the said Engineer, to submit the same before the respondent no. 2 in the writ petition, that is, the Pradhan of the area.

Upon such report being furnished, the Pradhan shall rehear the parties on the report of the expert regarding the age of the construction and subsequently consider the fate of the structures vis-à-vis the Panchayat law afresh, pursuant to the direction dated April 27, 2022.

However, since in the present case, I do not find any ingredient of deliberate flouting of the order of this court on the part of the alleged contemnor, there is no use in keeping the contempt proceeding pending.

Accordingly, WPCRC 156 of 2022 is disposed of with the above observations.

There will be no 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.)