

D/L. 4.
February 14, 2025.
MNS.

WPCRC 65 of 2024
in
WPA 19084 of 2023

Upendra Nath Mahato and others
Vs.
Mr. Ashok Biswas

Mr. Kaustav Bagchi,
Mr. Debayan Ghosh,
Ms. Priti Kar

... for the petitioners.

Mr. Sk. Md. Galib,
Ms. Ashmita Chakraborty

...for the alleged contemnor.

1. The pleadings of the parties run into several pages.
2. In answer to the contempt application, an affidavit-in-opposition and an affidavit-in-reply thereto were filed. Thereafter an affidavit of compliance was filed by the alleged contemnor, to which a rejoinder was taken out by the petitioners and a further reply thereto filed by the alleged contemnor.
3. The pith and substance of the arguments of the petitioner is that the petitioners, although paid a meager amount, have not been paid their entire dues. It is pointed out that this Court had directed the petitioners to be paid the balance amount of

remuneration due to them at the rate of Rs. 550/- per day for work done as Immunization Volunteers. The plea of the alleged contemnor to the effect that the petitioners were Alternative Vaccine Delivery persons was turned down by the Writ Court.

4. However, the alleged contemnor now seeks to portray that the petitioners were Alternative Vaccine Delivery persons, contrary to the order of this Court.

5. It is further submitted that voluminous copies of the attendance registers of the petitioners, while acting in the capacity of Immunization Volunteers, have been filed in Court. It is evident therefrom that the petitioners worked for more days than they were paid for. Such attendance registers, it is submitted by the petitioners, are maintained with the concerned Block Health Centers.

6. It is further argued that the alleged contemnor has failed to disclose any basis of calculation of the dues of the petitioners. Further, the alleged contemnor has wreaked vengeance against the petitioner no. 1 since he was at the forefront of the contempt application and the writ petition, by lodging police complaints and having FIRs registered against the said petitioner.

7. Learned counsel for the alleged contemnor places reliance on the annexures to the pleadings filed

in respect of the contempt application by the alleged contemnor.

8. It is submitted that in the affidavit of compliance as well as in the affidavit-in-reply filed by the alleged contemnor and the annexures thereto, the detailed particulars of the payments made to each of the petitioners on the calculation of Rs.550/- per day, taking into account that the entitlement of the said petitioners can at best be twenty-six days a month, has been reflected.

9. It is further submitted that none of the petitioners worked for the entire period of twenty-six days each month; rather they did the work akin to Alternative Vaccine Delivery persons, the nature of work being to take the vaccines from the cold chains to the respective locales as required.

10. In support of his contention, learned counsel for the alleged contemnor places reliance on Annexure- I to the reply to the rejoinder, where Sample Indent Forms for SC Vaccines have been disclosed. It is submitted that such Indent Forms form the premise of the calculation of the work actually done by each of the petitioners.

11. Insofar as the attendance registers are concerned, learned counsel for the alleged contemnor takes the court through several documents annexed to

its pleadings and argues that the said registers are manufactured documents.

12. In fact, some of the said registers were procured by at least one of the petitioners, for work done in respect of a different concern, relating to which letters from the authorised representatives of the said concern have also been annexed.

13. It is further reiterated on behalf of the alleged contemnor that at no point of time was any separate attendance register maintained for the petitioners, who acted in the capacity of Immunization Volunteers/Alternative Vaccine Delivery persons and as such, there is no scope of placing reliance on any such attendance register to ascertain the work done by them.

14. Learned counsel appearing for the petitioners vociferously opposes such contentions and argues that the alleged contemnor is trying to bypass the order of this Court, which has been affirmed in appeal and thereafter in a Special Leave Petition before the Supreme Court.

15. However, learned counsel for the alleged contemnor points out that the Special Leave Petition was preferred only against an ad interim refusal of stay by the appellate Court and the main appeal against the parent order is still pending.

16. Be that as it may, I find from the records that voluminous documents have been relied on by both parties which require assessment of evidence by the Court upon a full-fledged trial.

17. Such disputed questions of fact cannot be adjudicated upon by this Court sitting in contempt jurisdiction.

18. The alleged contemnor has also placed reliance on a judgment reported at (2021) 17 Supreme Court Cases 813 (*Bordeuri Samaj of Sri Sri Maa Kamakhya Vs. Riju Prasad Sarma and others*). However, in the opinion of this Court, the ratio laid down in the said judgment is not germane in the present context. In the said case, a direction for handing over vacant and peaceful possession of an immoveable property was given by the court initially, upon which the petitioners therein had alleged that the due quantum of the petitioners had not been paid by the alleged contemnors.

19. The Supreme Court observed that there was no quantification of any specific amount or liability of the respondents therein to pay such amount in the original order. It was further observed that even assuming that there was such a direction to pay the money, there was no adjudication to decide the extent of liability.

20. In the present case, however, the extent of liability was clearly specified to the effect that the petitioners were to be paid at the rate of Rs.550/- per day for the work done by them. Also, the parent order in the instant case, from which the contempt arises, did not pertain to any immoveable property, but specifically contained a direction to pay money to the petitioners in terms of their dues for work done as Immunization Volunteers.

21. Be that as it may, in view of the above observations, this Court is not convinced beyond doubt that the alleged contemnor is in contempt of the order of this Court, as a plausible reasonable basis of the quantification has been furnished, the question of the veracity of which cannot be gone into by this Court.

22. In such view of the matter, as per the well-settled legal proposition that the extreme measures for contempt cannot be taken if there is an iota of doubt as to the willful and deliberate violation of the order of the Court, the Contempt Court is not in a position to hold that the alleged contemnor has deliberately and willfully violated the order of this Court, particularly in view of some reasonable basis having been shown for the quanta of amounts disbursed subsequent to the parent order in favour of the petitioners.

23. As such, there is no scope of keeping the contempt application pending.

24. Accordingly, CPAN 337 of 2024 is disposed of.

25. WPCRC 65 of 2024 is discharged in terms of the above order, dispensing with personal appearance of the alleged contemnor.

26. It is made clear that irrespective of the observations made above, it will be open to the petitioners to approach the appropriate Civil Court for claiming the alleged amounts, if any, still due to the petitioners from the respondents in the original Writ Petition.

27. If so approached, the concerned Civil Court shall, upon giving opportunity of hearing to both sides and upon considering the evidence furnished by the parties, decide the issues involved in accordance with law without being influenced in any manner on merits by any of the observations made herein and/or by the disposal of the present contempt proceeding.

28. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)