

22.03.2024
Item No. 6
Crt.No.22
b.r.

CPAN 164 of 2024
In
WPA 20543 of 2019

Ruhul Ali Khan

-vs-

Subhashis Mitro, The District Inspector of
Schools (S.E.), Maniktala, Purba Medinipur.

Mr. Shaunak Ghosh
Mr. Anindya Sundar Das
Mr. Ratul Deb Banerjee
Ms. Kuheli Gayen
Mr. Priya Nayak
.... For the applicant/petitioner.

Mr. Shamim Ul Bari
.... For the alleged contemnor.

Affidavit of service filed in Court today, is taken
on record.

This is a contempt proceeding arising from an
order dated **September 12, 2023** passed by this
Court.

Under the said order, the alleged contemnor was
directed to consider the case of the petitioner and to
pass a reasoned order in accordance with law.

Mr. Shamim ul Bari, learned counsel appearing
for the alleged contemnor, today, seeks leave to file a
compliance report in the form of affidavit disclosing
the reasoned order dated **March 14, 2024, annexure
R-4 at page-9** to the compliance affidavit.

The compliance report filed in Court today, is taken on record. Copy has already been served upon the learned advocate for the petitioner.

Mr. Shaunak Ghosh, learned counsel appearing for the petitioner submits that the order passed by the alleged contemnor dated March 14, 2024 is not at all a reasoned order, hence contempt.

Learned counsel for the alleged contemnor denied the submissions of Mr. Ghosh and referring to the said reasoned order dated March 14, 2024 passed by the alleged contemnor submits that sufficient reason has been mentioned in compliance of the direction of this Court dated **September 12, 2023**, hence no contempt.

After considering the rival contentions of the parties and upon perusal of the reasoned order dated **March 14, 2024**, this Court first thinks it fit to quote the relevant portion of the said order herein below:-

“e. That after careful consideration of the enquiry report submitted by the ADI/S.SE. Contai Sub-Division, Purba Medinipur vide memo no.124-C, dt-06.03.2024, it is found that the petitioner passed Class-VIII in the year 1988 from Darua Gandhi Smriti Jr. High School which got recognition in the year 2007 with immediate effect vide recognition memo S/Recog/2007/593, Dt- 13.04.2007 as

un-aided school. Now, it may be concluded that when the petitioner passed Class VIII examination, the school was an unrecognised one. Therefore VIII passed certificate issued by an unrecognised institution, at the material point of time, can't be considered as a valid document for educational qualification and date of birth.

In view of the above, the Madrasah Authority should take appropriate action accordingly.

All concerned are being informed accordingly."

On a close scrutiny of the said order dated March 14, 2024, it appears to this Court that reasons are mentioned therein clearly.

The correctness or incorrectness of such reasons can not be gone into in a contempt proceeding. The Court in exercise of its power under contempt shall only look into whether there has been any wilful and deliberate violation and non-compliance of the direction of the Court. A Court in exercise of its power under contempt jurisdiction cannot sit in judicial scrutiny of the correctness, incorrectness or accuracy of the order passed by the authority.

This Court while delivering a judgement on **July 25, 2023, In the matter of : Saranan Saha –versus-**

Mr. Sridhar Pramanik, The District Inspector of School (S.E.), Purba Burdhaman rendered in WPCRC 216 of 2016 in WPA 33136 of 2013 had observed as under:-

“ 25. To punish a contemnor as provided under the said Act, the disobedience alleged against such contemnor must be established to be wilful beyond all reasonable doubt. The expression wilful as mentioned in Sub-Section (b) to Section 2 of the Act introduces a mental element and hence, the mental process and mind of the alleged contemnor must be considered at the threshold. The expression means knowingly intentional, conscious, calculated and deliberate with full knowledge of consequences thrown there from. The expression excludes casual, accidental, bona fide or unintentional Act or genuine inability. The expression would not include any involuntary or negligent act. A wilful Act on the part of the alleged contemnor should be differentiated from an act done carelessly, heedlessly, inadvertently and the same would not include any act on the part of the alleged contemnor done negligently or involuntarily.

26. In the light of the above discussion, this Court had assessed the order dated May 27, 2014 passed by the alleged contemnor and this Court was of the firm view that, there was no wilful disobedience on the part of the alleged

contemnor. He might have, at the highest, acted carelessly and negligently and passed the reasoned order. It is equally true, as discussed above, that on the face of it the order passed by the alleged contemnor did not specify as to whether the petitioner had produced the relevant circular, document and judgement in support of his case. Scrutiny of the correctness, veracity or accuracy of the said order passed by the alleged contemnor is not within the domain of the contempt jurisdiction of this Court.

27. In view of the foregoing discussions and reasons and on the overall assessment of the conduct of the alleged contemnor, this Court in its considered view found that, there was no contempt committed by the alleged contemnor. No contempt proceeding can be initiated against the alleged contemnor.”

In view of the foregoing reasons and discussions, this Court is of the view that there is no contempt on the part of the alleged contemnor in the instant case.

However, it is made clear that this Court has not gone into the assessment of the correctness and the merit of the said order dated **March 14, 2024** passed by the alleged contemnor and the petitioner shall be at liberty to challenge the same in accordance with law in an appropriate proceeding, if the petitioner is so advised.

Resultantly, this contempt proceeding **CPAN 164 of 2024** stands **dropped** and **closed**.

This application **CPAN 164 of 2024**, accordingly, stands **dismissed**, without any order as to costs.

(Aniruddha Roy, J.)