

46 **20.08.
2024**

Ct. No. 04

Ab

WPCRC 73 of 2024

**Kalyan Chandra Das
Vs.**

Arunima Dey and another.

**Mr. Rudranil De,
Mr. Ziaul Haque**

... for the applicant.

**Mr. Tapan Kumar Mukherjee, Ld. AGP,
Mr. Pinaki Dhole,
Mr. Somnath Naskar.**

... for the alleged contemnors.

The contempt application was taken out alleging willful and deliberate violation of the order dated 2nd January 2023 by which the alleged contemnors were directed to consider the grievance of the petitioner/applicant strictly in the light of the observations made by the Division Bench in the order dated 17th August 2021 passed in WP.ST 89 of 2022.

The aforesaid direction was passed while disposing of the writ petition having found that the authorities have acted in flagrant violation of the order of the Co-ordinate Bench passed in the earlier writ petition (WP.ST 89 of 2020) on 17th August 2021. By the said order, the Co-ordinate Division Bench directed the respondent authorities to proceed with the matter on the basis of 2008 Circular from the stage after the interview and to complete the entire exercise within a period of eight weeks from the date of the communication of the said order.

Since the authorities construed the said direction in a different manner perceiving that a de novo exercise is contemplated, a further approach was made, which ultimately lead to the initiation of WP.ST 131 of 2022 and the said decision of the authority was set aside

being contrary to the mandate of the earlier Co-ordinate Bench.

After the service of the copy of the contempt application, we invited the alleged contemnors to disclose their stand in the form of affidavit. The affidavit so filed reveals the compliance of the order and, therefore, there is no question of any willful and deliberate violation.

The Counsel for the petitioner/applicant sought liberty to file a supplementary affidavit, which was granted and disclosed the order passed by the authorities after the contempt application was served, which, according to the Counsel for the applicant, is the replica of the earlier order, which was quashed and set aside by this Court.

We have given our anxious consideration to the issues and found that a decision has been taken by the authorities, though belatedly. Such decision constitute a fresh cause of action and it would not be advisable to go into the nitty-gritty of the same in exercise of the powers enshrined under Article 215 of the Constitution of India read with provisions of the Contempt of Courts Act, 1971.

We, thus, do intend to proceed with the instant contempt application, but keep it open to the petitioner/applicant to challenge the subsequent order passed by the authorities before the appropriate forum in accordance with law.

Since the petitioner/applicant has approached the contempt application having perceived as forum to decide the correctness of the order passed in compliance of its earlier order, which appears to us to be a wrong forum and, therefore, it is open to the petitioner/applicant to approach the appropriate forum as provided in the law.

The contempt application is dismissed,
The Rule is discharged.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)