

13.03.2024
Item No.08
Court No.6.
AB

M.A.T. 505 of 2024
With
I.A. No. CAN/1/2024

Baidyabati Municipality & Anr.
Vs
Sankar Roy

Mr. Phatick Chandra Das,
Ms. Tithi Paul ...for the Appellants.

Mr. Sakya Maity ...for the Respondent/
Writ Petitioner.

This appeal is directed against an order dated February 22, 2024, passed by a learned Judge of this Court in a contempt application, which has been filed by Sankar Roy, the writ petitioner. The contempt proceeding, after issuance of Rule, has been numbered as WPCRC 15 of 2024.

On the writ petition of Sankar Roy, being WPA 13048 of 2019, the learned Single Judge had directed the Chairman of Baidyabati Municipality, by an order dated June 22, 2022, to consider the prayer of the writ petitioner for providing compassionate appointment, within a period of eight weeks from the date of communication of a copy of the order.

Alleging that such order was not complied with by the Chairman of the Municipality, Sankar Roy filed the contempt application. Initially, nobody appeared for the alleged contemnor. Accordingly, a Rule was

issued. Only thereupon, the alleged contemnor appeared before the learned Single Judge and filed an affidavit of compliance. From such affidavit, it appeared that the order dated June 22, 2022, was sought to be complied with only in February, 2024. The learned Judge passed the following order on February 22, 2024:

“When the Court has fixed a specific time limit, it is the duty of the authority to comply the same within the stipulated time period. In the event the order cannot be complied within the stipulated time for any reason, then prayer ought to have been made before this Court for extension of time for complying the Court’s direction. The same has not been made. The authority cannot choose to act or not to act as per its/their own whims or desire. The action of the contemnor appears to be in violation of the direction passed by the Court.

The contemnor is, accordingly, directed to show cause as to why proceeding in accordance with the Contempt of Courts Act will not be initiated against him.

Let show cause be prepared and served upon the learned advocate representing the petitioner by February 29, 2024.

List on March 14, 2024.

The contemnor is directed to remain personally present in Court on the adjourned date.”

Being aggrieved, the Municipality and its Chairman have come up by way of this appeal.

We have heard learned Counsel for the parties.

Firstly, we are of the view that this appeal may not be maintainable. An appeal under Section 19 of the Contempt of Courts Act, 1971, lies only from an order passed by the Court in exercise of power to

punish for contempt of Court. No punishment has been inflicted as yet on the appellants. Secondly, the order impugned cannot also be construed as a judgment within the meaning of Clause 15 of the Letters Patent. Therefore, in our view, this appeal is not maintainable.

In any event, even if the appeal was maintainable, we see no reason to interfere with the order under appeal. The learned Judge is perfectly justified in observing that when a Court has fixed a time limit for complying with an order passed by a Court, it is the duty of the concerned Authority to stick to such time schedule. The Authority cannot choose as to when it shall comply with the order.

There is absolutely no merit in this appeal, which is dismissed along with the connected application.

Since we have not called for affidavits, the allegations contained in the stay application are deemed not to be admitted by the respondents.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Supratim Bhattacharya, J.)

