

23rd August,
2024
(AK)
05

CPAN 385 of 2023
In
WPA 23638 of 2022

Aktar Alam
Vs.
Mr. Ravi Agarwal

Mr. Balaram Pandit
Mr. Krishna Deo Das

...for the petitioner.

Mr. Ashim Kr. Ganguly
Mr. Bellal Shaikh
Mr. Protim Chakraborty

...for the alleged contemnor.

1. Learned counsel for the alleged contemnor, at the outset, seeks to file a rejoinder to the affidavit-of-compliance.
2. However, the germane issue as pointed out in the affidavit-of-compliance filed by the alleged contemnor is that the first appeal which was preferred before the Appellate Authority under the Right to Information Act by the writ petitioner/contempt applicant had already been disposed of on June 27, 2022, much prior even to the filing of the writ petition on November 1, 2022.
3. This court, it is pointed out by learned counsel for the alleged contemnor, had passed the order-in-

question on January 10, 2023, contempt of which has now been alleged.

4. However, at the time of passing of the order, it was not pointed out to this court that the appeal which was directed to be disposed of had already been disposed of long back.
5. Thus, it is argued that there was no contempt on the part of the alleged contemnor at all. Rather, the petitioner was guilty of suppression of material facts before the court.
6. Learned counsel for the petitioner seeks to argue, although proceeding on the premise that the appeal had already been disposed of on the relevant date, that the said fact was mentioned in the writ petition itself, on the basis of which the order under contempt was passed.
7. It is further submitted that the petitioner is suffering a bereavement in the family today and as such further time is required to file a rejoinder by the petitioner.
8. However, upon a perusal of the affidavit-of-compliance and hearing learned counsel for the parties, this court is of the opinion that no further rejoinder can improve the matter for the petitioner.
9. The existence of the order dated June 27, 2022, by which the Appellate Authority had already disposed

of the appeal of the petitioner much prior to the order of this court, is not disputed by the petitioner.

10. That is the crux of the matter and the only germane fact in the present context.
11. Although it is unfortunate that the learned Advocate for the State, who was very much present and argued on the said date, also did not point out to the court the fact that the appeal, which was being directed to be disposed of, had already been disposed of long back, at the same time, the writ petitioner himself was patently guilty of suppression of material fact by not arguing at the time of hearing that the appeal had already been disposed of, thereby obtaining an order from this court regarding early disposal of the said appeal.
12. The specious argument of the petitioner that the fact was disclosed in the writ petition all the more casts an aspersion on the learned advocate who appeared for the petitioner on the said date, since if the fact of disposal of the appeal was mentioned in the writ petition, it was the bounden duty of learned counsel for the petitioner to point it out to the court at the time of passing of the order.
13. Instead of doing so, learned counsel not only misled the court into passing a direction for early disposal

of the appeal, the petitioner was bold enough to subsequently take out a contempt application, alleging that the order of this court has not been complied with.

14. On the specific query of the court in that regard, learned counsel for the petitioner merely submits that the information sought by the petitioner has not yet been given to the petitioner.
15. The said argument is neither here nor there, since the grievance as redressed by the court in the order under contempt was merely that the appeal had not yet been disposed of.
16. In the event the petitioner had disclosed that the appeal had been decided, refusing to grant the information to the petitioner, appropriate order could be passed by this court taking into account such fact, probably relegating the matter to the Second Appellate Authority, as rightly contended on the relevant date by the State.
17. Be that as it may, this court squarely deprecates the practice of pleading something in an obscure paragraph of the writ petition and subsequently seeking to defend the suppression of material facts even after choosing not to disclose such facts as mentioned in the writ petition at the time of arguments.

18. Needless to say, in view of the prior disposal of the appeal by the Appellate Authority, the order under contempt itself was infructuous *ab initio* and as such, the alleged contemnor cannot be hauled up for willful or deliberate violation of the order of this court.
19. Rather, for suppression of material facts at the time of moving the writ petition and subsequently persisting with the said practice by taking out a contempt application, the petitioner has shown his *mala fides*, for which the petitioner himself ought to be penalized by costs.
20. However, in view of the attempt of the petitioner to lead the court down the garden path, by misleading the court on the issue of contempt, the petitioner shall pay costs of Rs.20,000/- to the alleged contemnor for the harassment unnecessarily suffered by the alleged contemnor.
21. Accordingly, CPAN 385 of 2023 is dismissed with costs of Rs.20,000/- to be paid by the petitioner to the alleged contemnor within a fortnight from date.
22. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)