

16.08.2024
Item No.14
PG/ks
Ct. No.36

**CPAN 623 of 2024
in
W.P.A. 8595 of 2023**

Sri Debaprasad Halder

Versus

**Sri Manoj Pant, IAS, Additional
Chief Secretary, Finance Department,
Government of West Bengal & Ors.**

Mr. Balai Lal Sahoo
Mr. Prabir Chatterjee
Mr. Sudip Biswas
Mr. S.S. Mondal
Ms. Adrija Chatterjee.....for the petitioner

Mr. Susanta Pal
Ms. Debdooti Duttafor the alleged contemnor
no. 1

Mr. Raja Saha
Mr. Sanjay Mukherjeefor the alleged contemnor
no. 2

1. The affidavits in opposition filed by the alleged contemnor no. 2 and the reply thereof as well as the reply to the affidavit of compliance filed by the alleged contemnor no. 2 be kept on record.
2. Learned counsel for the petitioner, by placing reliance on the various annexures to the contempt application, points out that by an order dated November 8, 2023, the second appellate authority had observed that the SPIO was to provide the information as sought for in the petitioner's RTI petition dated October 11, 2022 to the petitioner within two weeks from the date of receipt

of the order. However, it is pointed out that the appeal was kept pending, which is borne out by the next sentence to the effect that the matter shall be heard further and the date and time of the next hearing would be communicated in due course.

3. Learned counsel for the petitioner takes the Court through the subsequent orders passed by the second appellate authority. In several subsequent orders, the second appellate authority had observed that the SPIO had not complied with the direction of the second appellate authority, for which purpose further dates were fixed. Thus, it is pointed out that not only was the information not furnished to the petitioner by the SPIO, which is apparent from the observations of the second appellate authority itself, it is also clear from the order dated November 8, 2023 of the second appellate authority that the second appeal was not disposed of pursuant to the direction of this Court but kept pending, giving rise to the present contempt application.
4. Learned counsel appearing for the SPIO, by placing reliance on the annexures to the affidavit in opposition filed by the alleged contemnor no.1, submits that the information sought for by the petitioner was fully furnished. Learned counsel, in support of such contention, places reliance on Annexure "P/1" at page 12 of the said affidavit-in-opposition, which is a

communication purportedly to the Section Officer of the West Bengal Information Commission dated December 18, 2023, communicating the answers to the queries of the petitioner.

5. Thus, it is submitted that not only was the second appeal substantially disposed of but pursuant to the direction of the second appellate authority, on December 18, 2023, the entire information sought by the petitioner was furnished.
6. Upon hearing learned counsel and going through the materials on record, it transpires that in the order dated October 11, 2023 passed by this Court in WPA 8595 of 2023, the second appellate authority, i.e., the respondent no.3 in the said writ petition, was directed to dispose of the second appeal pending at the behest of the petitioner as expeditiously as possible, positively within November 30, 2023.
7. It is seen from the order dated November 8, 2023, passed by the second appellate authority within such timeline, that although the second appeal was kept pending, the penultimate paragraph clearly recorded that the SPIO was directed to provide the information as sought in the RTI petition of the petitioner within a particular period.
8. Thus, not only was the challenge preferred by the petitioner in the second appeal substantially disposed of, relief was granted to the petitioner beyond the

prayer before the second appellate authority. The petitioner had challenged the inaction on the part of the first appellate authority in not dealing with its first appeal in its challenge before the second appellate authority. However, the second appellate authority, by the order dated November 8, 2023, went one step further, not only directing the first appellate authority to ensure compliance of the statute, but directing the SPIO itself to furnish the information, thereby granting final relief to the petitioner.

9. In a contempt petition, the Court has to adopt a pragmatic approach to see whether there has actually been wilful and deliberate violation of the order of the Court. In the present case, although the second appeal was technically kept pending, apparently for the purpose of ensuring compliance of the second appellate authority's directions, for all practical purposes, it was finally disposed of by the direction recorded in the order dated November 23, 2018, to the SPIO to furnish information, thereby granting final relief to the petitioner. Thus, the further pendency of the appeal, evidently to ensure compliance of the direction of the second appellate authority, could not be construed to be in contravention of the order of this Court. Rather, the said pendency was merely to facilitate that the order passed by the second appellate

authority in compliance with the order of this Court was further complied with properly by the SPIO.

10. From the affidavit-in-opposition filed by the alleged contemnor no.1, it transpires that although the SPIO had not communicated the reply to the petitioner, the information sought for by the petitioner was furnished nonetheless by the SPIO.
11. Since the said replies to the queries of the petitioner have been annexed to the affidavit-in-opposition of the alleged contemnor no.1, nothing further remains to be discussed in connection with the contempt petition.
12. In the event the petitioner is further aggrieved with the replies furnished by the SPIO, as transpiring from the affidavit-in-opposition filed by the alleged contemnor no.1 to the present application, it is always open to the petitioner to challenge the same before the appropriate authority.
13. However, for the present purpose, this Court is of the unambiguous opinion that by the order dated November 8, 2023, substantial compliance of the order of this Court was done by the alleged contemnors. Hence, there is no scope of the contempt application being kept pending further.
14. Accordingly, CPAN 623 of 2024 is disposed of as infructuous, however, granting liberty to the petitioner to challenge the information furnished to the petitioner

in the event the petitioner is aggrieved by the same before the appropriate forum.

15. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)