

16.08.2024
Item No.30
SB/RP
Ct. No.36

CPAN 1124 of 2024
Quality Caterer Represented by Malay Sarkar & Anr.
Vs.
Dr. Jayanta Chakraborti & Anr.
In
WPA 232 of 2024

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
Mr. Rahul Kumar Singh
Mr. Subhajit Das

..... for the Petitioner

1. Learned counsel for the petitioner submits in his usual fairness that after filing of the contempt application, a tender has been floated, relying on which it may be contended by the alleged contemnors that the contempt alleged in the present application has been purged.
2. However, it is pointed out that the specific desire of this Court as reflected in the order dated January 5, 2024 passed in WPA 232 of 2024 was that a fresh tender should be issued by the alleged contemnors within three months from the date of such order and to ensure that the work is allocated for a longer term in terms of the said tender and the said tender alone.
3. While explaining the context of the said order, the learned counsel for the petitioner further elucidates that in paragraph 24 of the order the Court had observed that it was obvious that the respondents

are duty-bound to float a new tender at the earliest and to ensure that the works were allocated on permanent basis for a longer period only in terms of the said tender, which should be transparent and adhering to the principles of justice, equity and good conscience. It is further argued that the respondents/alleged contemnors have been extending the work on ad hoc basis for three months on each occasion, which prompted the Court to make such observation.

4. It is thus argued that although a tender has been issued afresh now, the alleged contemnors ought to be called upon to furnish an explanation as to why they did not comply with the desire of the Court to float the same within three months.
5. Upon a careful perusal of the order dated January 5, 2024 passed on WPA 232 of 2024, I am of the considered opinion that no specific direction on the alleged contemnors was incorporated therein, the violation of which would tantamount to contempt of Court.
6. A composite and conjoint reading of paragraph nos. 26 and 27 of the said order only goes to show that this Court had only observed that the respondents were duty-bound to float a new tender and to ensure that the work was allocated on a permanent basis for a longer period of time in a transparent manner.

7. However, in the ultimate analysis, the said observation was only a finding and not a direction on the respondents to do anything or to abstain from doing anything.
8. In paragraph 27 of the said order also, no direction was passed, but it was only clarified that nothing in the order (dismissing the present petitioner's writ petition) would come in the way of the respondents/alleged contemnors issuing a fresh tender within three months in terms of the observations made therein. The said paragraph is couched in such a language that it left it to the discretion of the respondents to issue such tender within three months, which would not be fettered by the dismissal of the writ petition.
9. However, said paragraph also does not contain any mandatory direction so as to call for issuance of a rule of contempt on its violation.
10. That apart, it cannot be lost sight of that even before service of notice of the instant contempt application, a tender has actually been floated afresh in consonance with the spirit of the order under contempt.
11. If such compliance was subsequent to the notice of contempt being served, there might still have been a presumption that the alleged contemnors chose to float the fresh tender just to obviate the consequence

of contempt. However, since the fresh tender was floated by the alleged contemnors prior to receiving notice of contempt, such presumption cannot also be drawn.

12. Seen from such perspective as well, no contempt lies in the present case.
13. Accordingly, CPAN 1124 of 2024 is dismissed.

(SABYASACHI BHATTACHARYYA, J.)