

19.07.2024
Item No. 03
Crt.No.02
b.r.

CPAN 1059 of 2023
In
WPA 2280 of 2013
With
CAN 3 of 2024

Amir Ali

-vs-

**T. Balasubramaniam, Inspector General of
Registration & Commissioner of Stamp Revenue**

Mr. Shamim ul Bari
Ms. Jhilik Singha
Ms. Asmita Mitra
.... For the petitioner.

Mr. Sudipta Panda
Mr. Subrata Ghosh
... for the contemnor/opposite party.

In Re: CAN 3 of 2024.

This application arises out of a contempt proceeding. In the contempt application charges for contempt were levelled against the alleged contemnor mentioned therein for willful and deliberate violation of the order dated **August 5, 2022** passed by this Court, **annexure A/1 at page 12** to the instant application. The observation of this Court from the said order dated **August 5, 2022**, relevant for the purpose of deciding the instant application are quoted below:-

“ After hearing the learned counsel for the writ petitioner and on perusal of records it appears that, the objection of the petitioner dated December 26, 2011 at page 91 of the writ petition was not considered

by the appropriate State authority. When an objection is raised by the writ petitioner before a State authority, it is the responsibility and bounden duty of such authority to dispose of such objection with a reasoned decision and to communicate the same to the objector. The writ petitioner has as right to know the fate of his objection with reasons. Keeping pending such objection since 2011, was nothing but an arbitrary exercise of power and discretion by the relevant State authority.

In view of the above, this Court is of the view that, justice will be sub-served if the appropriate State authority is directed to consider the objection of the petitioner and comes to a reasonable conclusion with a reasoned decision.

Accordingly, the second respondent is directed to consider the objection of the petitioner dated December 26, 2011 at page 91 of the writ petition and also by taking into account the writ petition along with all its annexures filed by the petitioner before this Court as a composite representation of the petitioner after giving an opportunity of hearing to both the writ petitioner and the 7th respondent and shall come to a reasonable conclusion thereof with a reasoned order/decision. For this purpose the respondent No.2 must given at least seven days prior notice of hearing to the petitioner and the 7th respondent intimating the date and place of hearing.”

The hearing was granted by the alleged contemnor and the applicant herein had participated in the hearing from time to time and throughout. Pursuant to the direction of the alleged contemnor, the applicant filed two sets of written submissions before it. The first being dated **September 30, 2022 at page 19** to the instant application. The second being **February 20, 2023 at page-29** to the instant application. First order of the alleged contemnor passed in course of hearing was **September 20, 2022, annexure A-3 at page 24** to the instant application.

Finally, the reasoned order was passed by the alleged contemnor on **February 29, 2024 at page-36** to the instant application. The observations of the alleged contemnor relevant for adjudication of the instant application are quoted below:-

“ Upon receiving replies from the concerned authorities with regard to genuineness of the certificate possessed and submitted by the private respondent at the time of submission of his candidature for the post of MMR for KLC P.S. Area, further hearing was held on 16/02/2023 in presence of the District Registrar, South 24- Parganas, the petitioner, the private respondent, Md. Abdur Rahaman Sk. And their respective Ld. Advocate. In the said hearing proceedings, the petitioner was duty

provided with the copies of the authenticity reports issued by the concerned issuing authorities with regard to certificates of the private respondent. After then, the petitioner, placed request for giving last opportunity to him for submitting further submission on the issue and allow him for some time for such submission.

And, as per request made by the petitioner, permission was allowed for submission of written statement, if any, on that issue with a direction to deposit such at an early date. But the petitioner remained silent till date in submitting written version on his behalf on the issue.

A considerable period of time has been lapsed and no any issue has been pointed out by the petitioner with regard to the matter under consideration. So, the question of waiting further for having response from the petitioner's end does not arise at this point of consideration.

Therefore, considering the facts and circumstances of the case, as well as, taking into account the verification reports of genuine of the certificates of the private respondents, this Directorate finds no any reasonable ground to conclude that the appointment procedures as followed for giving temporary appointment to the private respondent to the post of MMR for

the Kolkata Leather Camp Police Station Area in the district of South 24-Parganas was vitiated.

Hence, it is concluded that the private respondent, Md. Abdur Rahaman Sk. can continue performing his assigned duties as MMR for the aforementioned Police Station Area until he attains the age of 68 years or such license is revoked or suspended by the State Government whichever is earlier.

The matter is thus disposed of. Necessary copies of this order be served upon the Petitioner, namely, Sk. Amir Ali and the private respondent, Md. Abdur Rahaman Sk. for their perusal as to no cost thereof.”

On **May 3, 2024** when the contempt proceeding was taken up the said reasoned order dated **February 29, 2024** was placed before this Court. Copy of the reasoned order was also made over to the learned counsel appearing for the applicant herein being the petitioner in the contempt proceeding. The contempt proceeding was, accordingly, dropped and closed, **annexure A-9 at page 41** to the instant application.

Mr. Shamim ul Bari, learned counsel appearing for the applicant submits that though this Court had directed the alleged contemnor to decide the issue

after affording an opportunity of hearing to the petitioner and then to pass a reasoned order but the decision of the alleged contemnor dated February 29, 2024 is not at all a reasoned order, hence the act of contempt continues and the said order dated May 3, 2024 needs to be recalled. Referring to the said order dated **February 29, 2024**, learned counsel for the applicant further submits that from the reasoned order it appears that despite opportunities granted to the applicant, the applicant had not raised any issue for decision before the alleged contemnor though the written submissions were submitted by the applicant which were on record. The written submissions contained the entire issues raised by the applicant.

In the light of the above submissions made on behalf of the applicant, learned counsel for the applicant submits that there is a gross willful and deliberate violation of the order dated **August 5, 2022** and accordingly the alleged contemnor shall be proceeded with for contempt of this Court.

He further submits that the last hearing took place on February 16, 2023 whereas the reasoned order was passed on February 29, 2024

Mr. Sudipto Panda, learned counsel appearing for the alleged contemnor submits that pursuant to

the direction of this Court dated August 5, 2022, the alleged contemnor has disposed of the issue raised before it by passing the said reasoned order dated **February 29, 2024**. He submits that the delay in between February 23, 2023 when the hearing was concluded and the reasoned order was passed in 2024 was for the reason that the Inspector General of Registration at the relevant point of time was transferred and the subsequent incumbent immediately after joining the said post proceeded with the hearing in strict compliance of the direction of this Court and passed its reasoned order. He further submits that all the verification reports as indicated in the said reasoned order were made available before the alleged contemnor by the respective authorities after a considerable period of time for which if any delay had occurred the same was beyond the control of the alleged contemnor.

Learned counsel for the alleged contemnor further submits that if for any reason, the applicant is aggrieved with the said reasoned order dated February 29, 2024, he can take appropriate recourse to legal remedy but not in a contempt proceeding.

Learned counsel for the alleged contemnor tenders apology on behalf of the alleged contemnor for the delay, if any, had happened on the issue.

Per contra, Mr. Bari submits the impugned order further shows that verification of the documents was completed even before the second hearing took place.

After considering the rival contentions of the parties and upon perusal of the materials on record, at the outset, this Court reiterates the legal principles for adjudication of a contempt proceeding. While dealing with a contempt matter, the jurisdiction of a Court is very narrow and limited to scrutiny the act of contempt. In view of the definition of **Civil Contempt** as defined **under Section 2(b) of the Contempt of Court Act**, the Court shall only look at whether any willful or deliberate violation of the direction or order of Court is taken place on the part of the alleged contemnor. How a contemnor would understand or read the direction of a Court is not the look out of the Court in exercise of its contempt jurisdiction. The Court will only look at that the direction of the Court stands complied with all bona fide by the alleged contemnor and an alleged contemnor has not acted in a manner which would amount to any deliberate or willful violation of the direction or order. Any omission on the part of the alleged contemnor in understanding the scope of the order cannot be contempt. While adjudicating a

contempt proceeding, a Court must bear in mind that it is a quasi criminal proceeding and if an alleged contemnor is found to be guilty of contempt, the punishment is imprisonment and/or fine.

The quality of reason or the correctness thereof as provided in the said reasoned order dated **February 29, 2024** is not the lookout of this Court while adjudicating this contempt proceeding. The reason may be bad, the reason may be good provided by the alleged contemnor in the said impugned order, the quality of such reason cannot be assessed by a Court of contempt.

Upon scrutiny of the said impugned order, it appears to this Court that the alleged contemnor while disposing of the issue had passed a reasoned order and has come to its own conclusion. This was sufficient compliance of the order passed by this Court dated **August 5, 2022**. If the applicant is aggrieved with the reasons or findings of the said impugned order, he may apply for other legal remedy, if any, available to him, in accordance with law but not in a contempt proceeding.

In view of the foregoing reasons and discussions, this Court is of the firm view that, no contempt has been committed by the alleged contemnor.

The previous order of this Court dated **May 3, 2024** does not warrant any interference.

This application is totally devoid of any merit, frivolous, harassive and filed in abuse of the process of law.

Resultantly, this application **CAN 3 of 2024** stands **dismissed** with cost assessed at Rs.3,000/- (Three Thousand) to be paid to the benevolent fund of the Bar Association, High Court, Calcutta positively within a period of one week from date.

(Aniruddha Roy, J.)