

1308
2024

TUESDAY

Court : 08
Item : DL-46
Matter : CPAN
Status : DISMISSED
Bench ID : 266048
Transcriber : NANDY

IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION (CONTEMPT)
APPELLATE SIDE

CPAN 1072 of 2023

in

WPST 20 of 2023

Partha Das

Vs.

Dr. Sidharta Neogi,

Director of Health Services.

Mr. Joy Chakraborty, Advocate

Ms. Ipsita Ghosh, Advocate

.....for the Petitioner

Mr. Tapan Kumar Mujherjee, Advocate

Ms. Debdooti Dutta, Advocate

.....for the alleged contemnors

1. The contempt application is taken out alleging violation of the order dated 20.03.2023. At the time of passing the said order, this Court noticed the subsequent amendment having brought by way of Rule 10 (aa) provides for extension of timeline fixed under Rule 10(a) and, therefore, the earlier rejection of an application taking a plea of belated application was not accepted. This Court directed the authorities to consider the application on the parameters provided under Rule 10 (aa) of West Bengal Scheme for Compassionate Appointment, 2013 as amended by Notification dated 01.03.2016 affording an opportunity to the respective parties and by recording reasons.
2. Pursuant to the said order, the authorities have disposed of the said application on 17.05.2023 holding that the medical documents filed by the

petitioner herein does not indicate that the mother was physically incapacitated to do the job on 15.01.2013. However, the authorities further found that the case does not come under the exception carved out by virtue of the said amended provision and proceeded to reject the said application.

3. The Counsel for the petitioner submits that once the Court directed the authorities to consider the application on the parameters provided under Rule 10 (aa) of the said Scheme, the authorities cannot reject the application on the ground that the mother was alive.
4. The contempt jurisdiction cannot be used as a tool to decide the fresh cause of action arisen from the order passed in terms of the direction passed by the Court. The moment the decision gives rise to a new cause of action, it would be open to the parties to challenge the same before the appropriate forum.
5. Since the order has been implemented by disposing of the application filed by the petitioner, we do not find any contumacious act having disclosed in the instant contempt application.
6. The contempt application being **CPAN 1072 of 2023** is thus **dismissed**.
7. However, the dismissal of the contempt application shall not prevent the petitioner to challenge the said order passed by the authority on 17.05.2023 before the appropriate forum.
8. The authority shall take a pragmatic view, if the approach is made, on the delay having occasioned

because of the pendency of the instant contempt application and shall pass an order in accordance with law.

(Harish Tandon, J.)

(Prasenjit Biswas, J)