

13.08.2024
sayandeep
Sl. No. 52
Ct. No. 08

CPAN 1718 of 2023
in
WPST 46 of 2017

Snehasis Saha
Vs.
Smt. Antara Acharya

Mr. Jay Brata Ghosh

..... for the applicant

The writ petition at the behest of the State assailing the order of the West Bengal Administrative Tribunal dated 16.09.2016 in OA 266 of 2014 was dismissed by this Court thereby affirming the order of the Tribunal. The present contempt application is taken out alleging that the direction passed by the Tribunal which is affirmed by this Court has been willfully and deliberately violated by the alleged contemnor. The moment, the higher forum affirmed the order of the forum of the first instance by rejecting the proceeding, the contempt application on the alleged violation of the said order shall lie before the forum whose order has been affirmed and not before the higher forum.

In this regard, reliance can further be placed upon the special Bench decision of this Court rendered in **Shri Sailesh Kumar -vs- Ms. Smitha R, IAS & anr.** (CPAN 26 of 2022 decided on 18.05.2023) wherein it is held in the following:

- (i) *“In case of an affirmation of an order of Single Bench passed in exercise of the original jurisdiction either in*

Original Side or the Appellate Side, the contempt would lie before the Single Bench alleging the violation of the directions of orders passed by him.

- (ii) *In case of reversal, modification and setting aside the order of the Single Bench in an appeal under Clause 15 of the Letters Patent by the Division Bench, the contempt application would lie before the Judges constituting a Division Bench who passed the order.*
- (iii) *In the event, an undertaking is given by the party to the proceeding before the Single Judge to do or not to do a certain thing and challenge to an order could not yield in reversal and/or modification of the original order is recorded the contempt would lie to a Judge before whom such undertaking was given.”*

This Court, therefore, does not find that the contempt application is maintainable.

The same is hereby dismissed.

However, it will not prevent the petitioner to approach the appropriate forum in accordance with law. On such approach, the Tribunal shall take into account the period spent for the pendency of the instant contempt application in a rational and pragmatic manner.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)