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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 24.05.2024

+ **CONT.CAS(C) 299/2023**

SARABJEET KAUR

..... Petitioner

Through: Ms. Gareema Agarwal, Mr. H.S. Bhullar, Mr. Shashank Agrawal, Advocates (M:8383058424)

versus

DIRECTORATE OF ENFORCEMENT 1

..... Respondent

Through: Mr. Ravi Prakash, CGSC and Mr. Ali Khan, adv.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J (ORAL)

1. The present petition has been filed alleging willful disobedience of the order dated 18th April, 2022, passed in *W.P.(CRL) 1566/2021*.
2. The order dated 18th April, 2022, reads as under:

“In the present petition, the main prayer of the petitioner reads as under:

“A. Issue a Writ of mandamus or any other writ for appropriate direction to the Respondents for directions to the Respondents to consider and decide the representations dated 22.11.2019 and 16.06.2021 submitted by the Petitioner to the Respondents and register an ECIR against the company M/s Ajay Enterprises Pvt. Ltd., its directions, shareholders and authorized representatives for committing scheduled offences punishable under Section 3 and Section 4 of Prevention of Money Laundering Act, 2002 and to attach the properties connected with the proceeds of crime accumulated by cheating and defrauding investors by a scam related to Eros Corporate Park, IMT Manesar.”

Mr. Nandrajog, Sr. Advocate appearing for the petitioner, states



that he shall be satisfied if the respondents are directed to dispose of his representation

In view of the limited prayer, it is directed that the respondent No. 2 shall dispose of the representations dated 22.11.2019 and 16.06.2021 filed by the petitioner within a period of 4 weeks from today. The petition is disposed of in the above terms."

3. This Court notes that an affidavit of compliance has been filed on behalf of the respondent, wherein, it is stated as follows:

"xxx xxx xxx

2. That the captioned matter was listed on 13.03.2023 before this Hon'ble Court in CONT. CAS (C) 299/2023, whereby the following, among others, directions were passed:

"1. The present petition has been filed by the Petitioner against the Respondent for the wilful non-compliance of the time bound directions in the order dated 18.04.2022 passed by a Coordinate Bench of this Court in W.P. (Crl.) No. 1566/2021, whereby the Respondent was directed to dispose of the representations dated 22.11.2019 and 16.06.2021 filed by the Petitioner, within a period of four (04) weeks from the date of the order.

3. Respondents are directed to file their compliance affidavit, one week prior to the next date of hearing."

(emphasis supplied)

Copy of the order dated 13.03.2023 passed by this Hon'ble Court in CONT. CAS (C) No. 299 of 2023 is annexed herewith and is marked as ANNEXURE R-1

3. That the Petitioner had submitted representations dated 22.11.2019 and 16.06.2021 seeking, inter alia, registration of an Enforcement Case Information Report ('ECIR') against M/s Ajay Enterprises Pvt. Ltd, its shareholders, directors and authorised representatives alleging commission of offences punishable under Section 3 and 4 of the Prevention of Money Laundering Act, 2004.

4. That the Respondent Directorate examined the above-mentioned representations dated 22.11.2019 & 16.06.2021 and after going through the contents and allegations made in the representations, it was found that the pre-requisites for recording an ECIR are not



present. Accordingly, the Respondent disposed of the said representations vide letter dated 08.05.2023.

Copy of the letter dated 08.05.2023 passed by the Respondent is annexed herewith and is marked as ANNEXURE R-2

5. It is respectfully submitted that the Respondent has taken all necessary and adequate steps to comply with the directions passed by this Hon'ble Court vide order dated 13.03.2023. It is further submitted that any delay in compliance thereof may not be considered as wilful or intentional.

xxx xxx xxx”

4. Along with the aforesaid compliance affidavit, a copy of the letter dated 08th May, 2023 has been attached, by which the representation of the petitioner has also been disposed of. The letter dated 08th May, 2023, issued by the respondent, reads as under:

**“DIRECTORATE OF ENFORCEMENT
CENTRAL REGION OFFICE
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE,
GOVERNMENT OF INDIA
Pravartan Bhawan, 'C' Wing, Dr A.P.J. Abdul Kalam Road, New Delhi- 110008.
File No. Misc/INT/PMLA Complaints/DLZO-II/2021/351 & 352
Dated: 08/05/2023**

To,

1. Mrs. Sarabjeet Kaur
*W/o Shri. Harvinder Singh Bhullar
R/o E-69. 2nd Floor
Greater Kailash Enclave-I
New Delhi-110048*

2. Mrs. Monica Widhani
*R/o 7 Asian Games Village
New Delhi-110029*

Sub: Disposal of Representations

Ref: (1) Representation dated 16.06.2021 sent on behalf of Mrs. Sarabjeet Kaur



(2) Representation dated 22.11.2019 sent on behalf of Mrs. Sarabjeet Kaur and Monica Widhani

Dear Madam,

1. The abovementioned representations dated 16.06.2021 and 22.11.2019 sent for registration of ECIR for offences committed by M/S Ajay Enterprises Pvt. Ltd., its Directors. Shareholders and Authorized Representatives in relation to the project. Eros Corporate Park, IMT Manesar was considered by this Directorate.

2. This Directorate after analysing the details mentioned in the representations and considering the essential pre-requisites for recording of ECIR in a particular case decided not to record an ECIR in the present case.

3. The aforesaid representations sent are disposed of accordingly.

*Ratish Chandra Mishra
Assistant Director*

xxx xxx xxx”

5. By referring to the aforesaid letter dated 08th May, 2023, learned counsel for respondent submits, that the order in question has already been complied with.

6. However, learned counsel for petitioner submits that the order dated 08th May, 2023 is bereft of any reason and no reasons have been provided for rejecting the case of the petitioner.

7. Position of law is undisputed that a contempt Court will not adjudicate on the merits of the decision taken by the respondent. If a party is aggrieved by any decision taken pursuant to an order passed by the Court, of which compliance is sought, the same would constitute a fresh cause of action. Thus, in the case of **Snehasis Giri and Others versus Subhasis Mitra, 2023 SCC OnLine SC 107**, Supreme Court has held as follows:

“xxx xxx xxx



11. Furthermore, this court, in lawful exercise of contempt jurisdiction, cannot examine the merits of a decision, whether the state or the madrasa's stand that any of the petitioners is entitled to the benefits of being treated as an employee, having regard to the concerned rules and regulations. In *J.S. Parihar v. Ganpat Duggar*³ this court explained the limited scope of contempt proceedings, as follows, in the facts of the case:

*“6. The question then is whether the Division Bench was right in setting aside the direction issued by the learned Single Judge to redraw the seniority list. It is contended by Mr. S.K. Jain, the learned counsel appearing for the appellant, that unless the learned Judge goes into the correctness of the decision taken by the Government in preparation of the seniority list in the light of the law laid down by three Benches, the learned Judge cannot come to a conclusion whether or not the respondent had wilfully or deliberately disobeyed the orders of the Court as defined under Section 2(b) of the Act. Therefore, the learned Single Judge of the High Court necessarily has to go into the merits of that question. We do not find that the contention is well founded. It is seen that, admittedly, the respondents had prepared the seniority list on 2-7-1991. Subsequently promotions came to be made. The question is whether seniority list is open to review in the contempt proceedings to find out whether it is in conformity with the directions issued by the earlier Benches. **It is seen that once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum.** The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. **But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be the wilful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the learned Single Judge cannot be given to redraw the seniority list. In other words, the learned Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible under Section 12 of the Act.** Therefore, the Division Bench has exercised the power under Section 18 of the Rajasthan High Court Ordinance being a judgment or order of the Single Judge; the Division Bench corrected the mistake committed by the learned Single Judge. Therefore, it*



may not be necessary for the State to file an appeal in this Court against the judgment of the learned Single Judge when the matter was already seized of the Division Bench.”

12. In a later decision, *Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda*⁴ this court explained the limitations of a court exercising contempt jurisdiction:

“11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarised thus:

I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of “jurisdiction to punish for contempt” and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions.

V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other



cases).”

13. It is thus, apparent, that if this court were to pronounce upon the merits of the respondents' position, it would necessarily have to consider the facts of each case, and decide whether the stand of the alleged contemnors - wherever a decision adverse to the petitioners is taken, is correct on its merits. That exercise, plainly is not admissible in proper exercise of contempt jurisdiction.

xxx xxx xxx”

(Emphasis Supplied)

8. In view of the aforesaid, no further orders can be passed in the present petition.
9. Considering the submissions made before this Court, this Court grants liberty to the petitioner to take appropriate remedies, as per law, to challenge the action of the respondent, in appropriate proceedings.
10. With the aforesaid directions, the present petition is disposed of.

MINI PUSHKARNA, J

MAY 24, 2024

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