



\$~89

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

+ **CONT.CAS(C) 747/2024 & CM APPL. 26913/2024**

SANJAY KUMAR

..... Petitioner

Through: Mr. Mritunjay Kumar Singh, Mr.
Saikat Khatua, Mr. Gulshan Khatri,
Mr. Parmanand Prasad and Dr.
Anjani Kumar, Advocates

versus

SMT. RACHNA SHAH & ORS.

..... Respondents

Through: Ms. Monika Arora, CGSC along with
Mr. Arnav Mittal, Advocate (GP) for
UIO
Mr. Raman Kapur, Sr. Advocate with
Mr. Varun Kapur, Advocate for R-3
and R-4

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

07.05.2024

%

1. The instant petition under Section 11 and 12 read with Section 2(b) of the Contempt of Courts Act, 1971 seeking the following reliefs:

i. Initiate contempt proceedings against the Respondents for their wilful disobedience towards the directions given by this Hon'ble Court in Judgment dated 15.12.2023 passed in "Sanjay Kumar V. UIO & Ors.", bearing W.P. (C) No. 7695/2022;

ii. Summon the Respondents and direct them to explain their position for their non-compliance to the directions given by this Hon'ble Court's Judgment dated 15.12.2023 passed in "Sanjay Kumar V. UIO & Ors.", bearing W.P. (C) No. 7695/2022;

iii. Direct the Respondents/Contemnors to pay 50% subsistence allowance to the Petitioner, till the inquiry is completed in terms of the directions issued by this Hon'ble Court in Judgment dated 15.12.2023 passed in "Sanjay Kumar V. UIO



*& Ors.”, bearing W.P. (C) No. 7695/2022;
iv. Pass any other or further order which this Hon’ble Court
may deem fit and proper in the interest of justice.”*

2. Learned counsel appearing on behalf of the petitioner submitted that the contemnors have willfully and intentionally violated the directions in judgment ***Sanjay Kumar V. UOI & Ors., W.P. (C) No. 7695/2022*** dated 15th December, 2023 wherein it was held that the Carpet Export Promotion Council/respondent no. 3 is directed to pay the petitioner 50% subsistence allowance. It is further submitted that the respondent no.3 stopped paying subsistence allowance on the ground that this Court *vide* order dated 8th January, 2024 granted a stay on the payment of subsistence allowance in the review petition of the aforesaid judgment filed by respondent no. 3.

3. It is further submitted that Ms. Smita Nagarkoti, Officiating Executive Director cum Secretary/respondent no.4 wrote a letter dated 9th January, 2024 to the Development Commissioner (Handicrafts) stating that this Court while entertaining the review petition against the judgment of ***Sanjay Kumar(Supra)*** *vide* order dated 8th January, 2024 passed an interim order staying the operation of the aforementioned judgment.

4. It is further submitted that as per the aforesaid order dated 8th January, 2024 in review petition against the judgment of ***Sanjay Kumar(Supra)***, this Court merely issued notice and the stay was not granted by this Court.

5. At this juncture, learned senior counsel appearing on behalf of the respondents no. 3 and 4 placed the email dated 8th January, 2024 of the advocate namely Ms. Neha Gupta who has appeared in the review petition and mis-communicated the order of this Court passed in the review petition and it was stated as follows:



“However, the Court admitted the Review Petition based on the grounds presented by Ms. Neha Gupta. A stay of subsistence allowance until the final disposal of the matter has also been procured.”

6. Learned counsel appearing on behalf of the respondents no. 3 and 4 submitted that in pursuance of the said letter/information written by the Officiating Executive Director cum Secretary to the Development Commissioner (Handicrafts), the order of the Court passed in the review petition has been brought to the notice of the authority and thereafter, the authority has taken a decision vide letter 6th May, 2024 to pay the subsistence allowance to the contempt petitioner herein as per the judgment passed by this Court on 15th December, 2023. The email dated 8th January, 2024 and letter 6th May, 2024 are taken on record.

7. Heard learned counsel appearing on behalf of the parties and perused the records and the contentions made on behalf of the respondents.

8. It is the case of the petitioner that the respondent has not acted in compliance with the directions passed by this Court in the judgment ***Sanjay Kumar(Supra)*** on the ground that this Court while entertaining review petition against the aforementioned judgment vide order dated 8th January, 2023 had granted stay on the operation of the judgment despite the fact, that this Court merely issued notice in the said review petition.

9. In rival contentions, the respondent no.3 & 4 has placed reliance on the email dated 8th January, 2024 as per which the respondent no.3's lawyer has miscommunicated the order dated 8th January, 2024 passed by this Court however, as soon as, the respondents came to knowledge of the order vide letter dated 6th May, 2024, they have been complying with the directions



passed in the judgment of *Sanjay Kumar(Supra)*.

10. Upon perusal of the email dated 8th January, 2024, this Court is of the view that it can be established that the counsel appearing for the respondent no. 3 and 4 has wrongly communicated to the respondents order dated 8th January 2024 passed by this Court while entertaining review petition against the judgment of *Sanjay Kumar(Supra)*.

11. It is further observed that as soon as the order of the Court passed in the review petition has been brought to the notice of the respondent no.3 and 4, they again started complying with the directions passed by this Court in the judgment of *Sanjay Kumar(Supra)* and the same is evident from the letter dated 6th May, 2024 placed on record by the respondents.

12. This Court is of the view that due to certain mis-communication the respondent no.3 and 4 did not comply with the directions passed by this Court in the judgment of *Sanjay Kumar(Supra)* and they rectified their mistake as soon as they came to knowledge of the order passed by this Court in the writ petition. Since, there was no “wilful disobedience” on the part of the contemnors, the same was merely a *bonafide* mistake hence, the respondents can’t be held liable for Contempt of Court.

13. In view of the above facts and circumstances, this Court does not find any reason to entertain the instant contempt petition.

14. Accordingly, the instant petition is dismissed along with the pending applications, if any.

CHANDRA DHARI SINGH, J

MAY 7, 2024
gs/db

Click here to check corrigendum, if any