



\$~

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

+ **CONT.CAS(C) 1852/2023 & CM APPL. 11214/2024**

ANUPAM TRIVEDI

..... Petitioner

Through: Ms. Monika Arora, Mr. Vibhor Mathur, Mr. Subhrodeep Saha, Advocates (M:9810246300)

versus

RAM SINGH RATHWA AND ANOTHER

..... Respondents

Through: Mr. Tushar Ranjan Mohanty, Mr. Vedansh Anand, Advocates for R-1 (M:8076802450)

Mr. K.M. Natraj, ASG with Mr. Rajesh Gogna, CGSC with Ms. Priya Singh, Mr. Ashok, Ms. Rebina Rai, Advocates for R-2 (M:9911222251)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

02.04.2024

MINI PUSHKARNA, J:

1. The present petition has been filed alleging willful disobedience by the respondents of the order dated 22nd August, 2023 passed by this Court in *W.P.(C) No. 8630/2023* and for willful breach of the undertaking/order dated 31st July, 2023 given by respondent no. 1. By way of the aforesaid order dated 22nd August, 2023, the writ petition filed by the petitioner against his repatriation was disposed of thereby holding that no further adjudication was required in the matter, whilst taking into consideration the submission made on behalf of the petitioner that his representation against repatriation had been decided by letter dated 31st July, 2023 issued by the respondent no. 1



herein.

2. The petitioner was working on deputation on the post of Executive Director in the Tribal Cooperative Marketing, Development Federation of India Limited (“TRIFED”), Ministry of Tribal Affairs, Government of India.

3. The respondent no. 2-Managing Director, TRIFED, vide Office Order dated 20th June, 2023, directed the petitioner to be repatriated to his parent department, i.e., Government of Chhattisgarh. Aggrieved by the same, the petitioner filed a writ petition being *W.P.(C) No. 8630/2023*.

4. During the pendency of the aforesaid writ petition, respondent no. 1-Chairman, TRIFED issued a letter dated 31st July, 2023, wherein it was stated that the services of the petitioner herein as Executive Director be continued in TRIFED. The said letter was brought to the notice of the Court. Thus, by order dated 22nd August, 2023, the writ petition was disposed of holding that since the representation of the petitioner was already decided by the Chairman of TRIFED, nothing survived in the said petition for further adjudication. However, despite the aforesaid, the petitioner was not allowed to join his duty in TRIFED, hence, the present contempt petition has been filed.

5. On behalf of the petitioner, it is contended that in spite of a clear undertaking in the letter dated 31st July, 2023, the petitioner has not been allowed to join his duty. The respondent no. 2-Managing Director, TRIFED has refused to permit the petitioner to join or continue as Executive Director in TRIFED. It is submitted that respondent no. 2 has neither allowed the petitioner to join at his post, nor has the salary of the petitioner been released to him since 28th June, 2023. Thus, it is submitted that the act of respondent no. 2 is in direct violation of the letter and spirit of the order dated 22nd



August, 2023.

6. Supporting the case of the petitioner, learned counsel appearing for respondent no. 1-Chairman, TRIFED submits that TRIFED is a Multi State Cooperative Society. The respondent no. 1 has been elected as a Chairman of the Board of Directors in terms of Clause 45 of the Multi State Cooperative Societies Act, 1984 (“the Act”) and under Bye Laws of the TRIFED by due election process on 4th October, 2021. The letter dated 31st July, 2023 was issued by respondent no. 1 in terms of the Rules and Bye Laws of TRIFED for continuation of the services of the petitioner in TRIFED.

7. Learned counsel for respondent no. 1 further submits that pursuant to the order dated 22nd August, 2023 passed by this Court, the respondent no. 1 directed the respondent no. 2 to unlock the room/office of the petitioner and to release his salary and other perks, but the respondent no. 2 has failed to comply with the order of this Court as well as that of respondent no. 1. It is further submitted that the appointment of respondent no. 2/Managing Director has not been confirmed by the Board of TRIFED. Therefore, any order/direction issued by the respondent no. 2 is illegal and unlawful.

8. Per contra, learned Additional Solicitor General of India (“ASG”) appearing for respondent no. 2 has vehemently opposed the present petition. He submits that the order dated 22nd August, 2023 passed by this Court is in the nature of withdrawal of the writ petition by the petitioner. There were no directions passed by this Court and the said order proceeded on a satisfactory compliance of the grievance of the petitioner on the basis of letter dated 31st July, 2023 issued by respondent no. 1. He further submits that respondent no. 1-Chairman, TRIFED had no authority to issue such a



letter and enjoys no executive power to take administrative decisions on behalf of TRIFED as the said power vests with the Managing Director, TRIFED.

9. Learned ASG appearing for respondent no. 2 further submits that the deputation of the petitioner in TRIFED was as per the decision of the Ministry of Tribal Affairs (“the Ministry”). Therefore, the sole authority to take a decision as regards to retention or repatriation of the petitioner is with the Ministry. Since the Ministry had taken a decision to repatriate the petitioner, the respondent no. 2-Managing Director, TRIFED had no reason to act on the letter dated 31st July, 2023 issued by respondent no. 1, which has been issued without any authority. Further, pursuant to the order of repatriation of the petitioner passed by the Ministry dated 20th June, 2023, the petitioner was not entitled to receive any salary, nor was he entitled to report to work at TRIFED. Thus, it is submitted that the present contempt petition is misconceived and liable to be dismissed.

10. An application, being *CM No. 17769/2024* was also filed on behalf of respondent no. 2 praying for removal of reply filed by respondent no. 1 on the ground that the respondent no. 1, in the capacity of Chairperson of TRIFED, does not possess the legal authority or power to represent TRIFED in any judicial proceedings.

11. Having heard learned counsels for the parties and having perused the record, this Court notes that vide order dated 22nd August, 2023, the writ petition filed by the petitioner against his repatriation, was disposed of by taking into account the submission made on behalf of the petitioner that vide letter dated 31st July, 2023 issued by Chairman, TRIFED, his representation had already been decided in his favour and nothing was left for further



adjudication in the said petition. The order dated 22nd August, 2023 passed in W.P.(C) No. 8630/2023, reads as under:

“1. Learned counsel appearing on behalf of petitioner submitted that the representation dated 21st June, 2023 made by the petitioner has already been decided by the Chairman of the TRIFED/respondent No.2 vide letter dated 31st July, 2023. Hence, nothing is left for further adjudication in the instant petition and, therefore, it is prayed that the matter may be disposed of in the light of the said letter.

2. During the proceedings, learned counsel for the petitioner placed the letter dated 31st July, 2023 before this Court, which is taken on record.

3. Learned senior panel counsel appearing on behalf of respondent No.1 and learned CGSC for respondent No.2 have fairly conceded to the fact that the representation of the petitioner has already been decided by the Chairman of the TRIFED/respondent No.2. **However, learned senior panel counsel for respondent No.1 submitted that the said representation was decided by a person without having the requisite authority.**

4. Heard learned counsel for the parties and perused the letter dated 31st July, 2023.

5. **In view of the above, nothing survives in the present petition for further adjudication.** Accordingly, the instant petition alongwith pending application stands disposed of.”

(Emphasis Supplied)

12. Perusal of the aforesaid order clearly shows that no issues were decided while disposing of the writ petition of the petitioner. Rather, upon the statement made by learned counsel for the petitioner with regard to satisfaction of his grievance in view of letter dated 31st July, 2023 issued by respondent no. 1 herein, the writ petition of the petitioner was simply disposed of by holding that nothing survived in the petition for further adjudication.

13. This Court also notes that the order dated 22nd August, 2023 clearly recorded the stand of the Union of India that representation of the petitioner



had been decided by the Chairman, TRIFED, without having the requisite authority. Even before this Court, learned ASG appearing on behalf of respondent no. 2-Managing Director, TRIFED has fervently submitted that the letter dated 31st July, 2023 issued by respondent no. 1-Chairman, TRIFED was without any authority, as the decision to retain or repatriate the petitioner lies with the Ministry. There is no order from the Ministry withdrawing the repatriation of the petitioner. Thus, the stand of respondent no. 2-Managing Director, TRIFED, as given in his reply, reads as under:

“xxx xxx xxx

2.....

A. *It is significant to note that, the Chairman, TRIFED has no executive power to take the administrative decisions on behalf of TRIFED and the said power vests with Managing Director and that therefore, in the first place, the Chairman had no decision-making authority to consider or decide the representation submitted by the Petitioner. This being so, it was not open to the Petitioner to make any representation to the Chairman nor was it open to the Chairman to decide the same one way or the other.*

xxx xxx xxx

E.*The so-called withdrawal order of the Petitioner's repatriation can be sourced to no other document except the Chairman's letter dated 31.07.2023, which as stated above, did not have the effect of withdrawing the Ministry's order dated 20.06.2023. There is no order from the Ministry withdrawing the repatriation of the Petitioner* which was effected pursuant to the order dated 20.06.2023. A copy of the said order dated 20.06.2023 is annexed with this Reply as Annexure R-2. *The Petitioner's initial appointment was by way of an Office Memorandum issued by the Ministry of Tribal Affairs* dated 30.06.2020. A copy whereof is filed as Annexure R-3.

3. It is thus clear that the Answering Respondent was not responsible for the appointment of the Petitioner in TRIFED. The same was the decision of the Ministry of Tribal Affairs. As a natural sequitur to the above, the Answering Respondent had no authority to repatriate or for that matter withhold the repatriation of the Petitioner. *The sole authority to take a decision as to whether the Petitioner ought to be retained with TRIFED or alternatively, be repatriated is the Ministry*



of Tribal Affairs. It is submitted that in the case of the Petitioner, the Ministry had taken a decision to repatriate and as stated above, the Answering Respondent had no reason or occasion to act on the letter dated 31.07.2023, which is sought to be projected in the present Contempt Petition as a letter withdrawing the repatriation order dated 20.06.2023.

xxx xxx xxx”

(Emphasis Supplied)

14. Perusal of the documents on record show that the initial appointment of the petitioner in TRIFED was pursuant to the Office Memorandum (“OM”) issued by the Ministry. Thus, OM dated 30th June, 2020 issued by the Ministry regarding selection of the petitioner to TRIFED, reads as under:

“F.No.3/01/2017-Livelihood
Government of India
Ministry of Tribal Affairs
Livelihood Section

Gate No. 5, 1st Floor,
Jeevan Tara Building, Sansad Marg,
New Delhi
Date: 30.06.2020

OFFICE MEMORANDUM

Subject: Selection of Shri Anupam Trivedi, Deputy Programme Director, Chhattisgarh Tribal Development Society, Nava Raipur, Chhattisgarh to the post of Executive Director in the Tribal Cooperative Marketing Development Federation of India Ltd. (TRIFED) under Ministry of Tribal Affairs, Government of India on deputation basis.

The undersigned is directed to refer to the communication No. 884 dated 12/12/2019 of the Secretary, Scheduled Tribes and Scheduled Castes Development Department, Govt. of Chhattisgarh conveying the ‘No Objection Certificate’, Vigilance clearance and Integrity certificate in respect of Shri Anupam Trivedi, Deputy Programme Director, Chhattisgarh Tribal Development Society, Chhattisgarh along with his application dated 12.11.2019 and to say that Shri Anupam Trivedi, Deputy Programme Director has been selected for appointment to the post of Executive Director, TRIFED in the pay scale/pay band of Rs. 1,44,200-2,18,200/-(Level-14)(as per 7th CPC) on deputation basis.

2. It is requested that Shri Anupam Trivedi, Deputy Programme



director may kindly be relieved of his duties immediately with instructions to take up his new assignment as Executive Director, TRIFED, Ministry of Tribal Affairs, Government of India by 20th July, 2020 and report to the Managing Director, TRIFED, NCUI Building, 2nd floor, 3 Siri Institutional Area, August Kranti Marg, New Delhi-1100016.

*(Roopak Chaudhari)
Director
Tel. No. 23367333*

xxx xxx xxx”

15. This Court notes that vide letter dated 20th June, 2023, the Ministry of Tribal Affairs, Government of India conveyed the approval of the competent authority to repatriate the petitioner, which letter reads as under:

*“No. 03/00/2019-Livelihood
Government of India
Ministry of Tribal Affairs*

*Gate No. 5, 1st Floor,
Jeewan Tara Building
Sansad Marg,
New Delhi-110001
Dated: 20.06.2023*

*To,
Managing Director,
TRIFED,
NSIC Business Park, NSIC Estate,
Okhla Phase-III, Okhla Industrial Area,
New Delhi-110020.*

*Subject: Repatriation of Shri Anupam Trivedi, Executive
Director, TRIFED.*

Madam,

I am directed to convey that with approval of the Competent Authority, it has been decided to repatriate Shri Anupam Trivedi, Executive Director, TRIFED. Accordingly, you are requested to relieve Shri Anupam Trivedi with immediate effect.

Yours sincerely,

*(B.N. Prasad)
Joint Secretary”*



16. Pursuant to the aforesaid letter received from the Ministry conveying the approval of the competent authority to repatriate the petitioner to his parent department, by Office Order dated 20th June, 2023, the petitioner was relieved from TRIFED with immediate effect. The Office Order dated 20th June, 2023 issued by TRIFED reads as under:

***“Tribal Co-operative Marketing Development Federation of India
Ltd. (TRIFED)
Ministry of Tribal Affairs, Government of India
HEAD OFFICE: NEW DELHI
(Pers. Division)***

*NSIC Business Park, NSIC Estate
Okhla Phase-III, Okhla Industrial Area,
New Delhi-110020*

TFD/HO/Pers-ED/2020/857

Dated: 20.06.2023

OFFICE ORDER

Sub: Repatriation of Shri Anupam Trivedi, Executive Director, TRIFED to Department of Tribal and Scheduled Caste Development cum State Programme Director, Chhattisgarh Tribal Development Society, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, Chhattisgarh.

In pursuance of Ministry of Tribal Affairs, Government of India letter No. 03/00/2019-Livelihood dated 20/06/2023 conveying the approval of the competent authority to repatriate Shri Anupam Trivedi, Executive Director, TRIFED to his parent department. Shri Anupam Trivedi is, hereby, relieved from TRIFED with immediate effect i.e. 20/06/2023 (afternoon).

*(Amit Bhatnagar)
General Manager (pers)*

xxx xxx xxx”

17. Reading of the aforesaid clearly shows that the initial appointment of the petitioner to TRIFED was pursuant to OM issued by the Ministry. Even the Office Order by TRIFED for relieving the petitioner, was issued pursuant to receiving approval of the competent authority of the Ministry.



18. There is no specific direction by this Court in the order dated 22nd August, 2023 with regard to letting the petitioner continue to the post of Executive Director in TRIFED. The writ petition filed by the petitioner was simply disposed of by recording the statement made by learned counsel for the petitioner that his representation against repatriation had already been decided by the Chairman, TRIFED vide letter dated 31st July, 2023. Thus, the petition was disposed of by recording that nothing survived in the petition for further adjudication. The validity of the letter dated 31st July, 2023 issued by the Chairman, TRIFED in allowing the petitioner to continue in TRIFED, was never adjudicated in the said proceedings. Rather, the objection raised by respondent no. 2 herein was recorded in the aforesaid order, wherein a categorical statement had been made that the representation of the petitioner had been decided by a person without having the requisite authority.

19. This Court also notes that when the writ petition filed by the petitioner was listed for hearing on 3rd July, 2023, learned Senior Counsel appearing for the petitioner had requested for extension of time for the petitioner to join the parent department. Thus, the relevant portion of the order dated 3rd July, 2023 passed in *W.P.(C) 8630/2023* is extracted as below:

“xxx xxx xxx

4. At this stage, learned Senior Counsel for the petitioner further submitted that as per the DoPT Guidelines, the employee/officer on deputation after being relieved is required to join the Parent Department within 15 days from the date of relieving order and since the said period is coming to an end on 5th July, 2023, the petitioner may be granted an additional 10 days to join the Parent Department.

5. In view of the facts & circumstance as stated by the learned senior counsel for the petitioner, the petitioner is granted leave to join the Parent Department on or before 16th July, 2023.

xxx xxx xxx”



20. It is no longer *res-integra* that a Contempt Court cannot travel beyond the four corners of the order/judgment in contempt or enter into questions that have not been dealt with or decided in the judgment. Thus, in the case of ***Sudhir Vasudeva, Chairman and Managing Director, Oil and Natural Gas Corporation Limited and Others Versus M. George Ravishekar and Others, (2014) 3 SCC 373***, Supreme Court has held as follows:

“xxx xxx xxx

*19. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. **The Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or wilful violation of the same.** Decided issues cannot be reopened; nor can the plea of equities be considered. The Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenching upon. **No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law;** such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. The above principles would appear to be the cumulative outcome of the precedents cited at the Bar, namely, *Jharieswar Prasad Paul v. Tarak Nath Ganguly [(2002) 5 SCC 352 : 2002 SCC (L&S) 703]* , *V.M. Manohar Prasad v. N. Ratnam Raju [(2004) 13 SCC 610 : 2006 SCC (L&S) 907]* , *Bihar Finance Service House ConstructionCoop. Society Ltd. v. Gautam Goswami [(2008) 5 SCC 339]* and *Union of India v. Subedar Devassy**



PV [(2006) 1 SCC 613].

xxx xxx xxx”

(Emphasis Supplied)

21. This Court in contempt proceedings cannot give any further or incidental directions that are not envisaged in the original order of which contempt is alleged. A Contempt Court cannot give any additional directions, and cannot traverse beyond the specific directions as given in the order, non-compliance of which is alleged. Thus, Supreme Court in the case of **Director of Education, Uttaranchal and Others Versus Ved Prakash Joshi and Others, (2005) 6 SCC 98** has held as follows:

“xxx xxx xxx

7. While dealing with an application for contempt, the Court is really concerned with the question whether the earlier decision which has received its finality had been complied with or not. It would not be permissible for a court to examine the correctness of the earlier decision which had not been assailed and to take a view different than what was taken in the earlier decision. A similar view was taken in *K.G. Derasari v. Union of India* [(2001) 10 SCC 496: 2002 SCC (L&S) 756]. The court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party who is alleged to have committed default in complying with the directions in the judgment or order. If there was no ambiguity or indefiniteness in the order, it is for the party concerned to approach the higher court if according to him the same is not legally tenable. Such a question has necessarily to be agitated before the higher court. **The court exercising contempt jurisdiction cannot take upon itself power to decide the original proceedings in a manner not dealt with by the court passing the judgment or order. Right or wrong the order has to be obeyed. Flouting an order of the court would render the party liable for contempt. While dealing with an application for contempt, the court cannot traverse beyond the order, non-compliance of which is alleged. In other words, it cannot say what should not have been done or what should have been done. It cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional directions or delete any direction. That would be exercising review jurisdiction while dealing with an application for initiation of contempt proceedings. The same would be impermissible and indefensible.** In that view of the matter, the order



of the High Court is set aside.

xxx xxx xxx”

(Emphasis Supplied)

22. Likewise, in the case of ***Bihar Finance Service House Construction Cooperative Society Ltd. Versus Gautam Goswami and Others***, (2008) 5 SCC 339, Supreme Court has held as follows:

“xxx xxx xxx

32. While exercising the said jurisdiction this Court does not intend to reopen the issues which could have been raised in the original proceeding nor shall it embark upon other questions including the plea of equities which could fall for consideration only in the original proceedings. The court is not concerned with as to whether the original order was right or wrong. The court must not take a different view or traverse beyond the same. It cannot ordinarily give an additional direction or delete a direction issued. In short, it will not do anything which would amount to exercise of its review jurisdiction. (See *Director of Education v. Ved Prakash Joshi* [(2005) 6 SCC 98 : 2005 SCC (Cri) 1357 : 2005 SCC (L&S) 812 : AIR 2005 SC 3200] and *K.G. Derasari v. Union of India* [(2001) 10 SCC 496 : 2002 SCC (L&S) 756] .)

xxx xxx xxx”

(Emphasis Supplied)

23. Considering the aforesaid detailed discussion, this Court finds no merit in the present petition. Accordingly, the present petition is dismissed along with pending applications.

**(MINI PUSHKARNA)
JUDGE**

APRIL 2, 2024

ak