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

+ **CONT.CAS(C) 872/2018**

**SOCIAL ACTION FOR FOREST &
ENVIRONMENT**

.....Petitioner

Through: Mr. Vanshdeep Dalmia and Ms.
Anisha Jain, Advs.

versus

C K MISHRA SECRETARY

.....Respondent

Through: Ms. Monika Arora, CGSC with
Mr. Subhrodeep S & Ms.
Radhika, Advs.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

09.10.2024

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1. Having heard the learned counsel for the parties and on perusal of the record, this contempt petition filed under Section 2(b) and Section 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India, 1950, is coming up for final disposal.

2. In a nutshell, the petitioner preferred W.P.(C) No.11027/2018 in which it raised certain grievances against the impugned draft notification dated 13.03.2018 issued by the respondent viz. MoEF¹ and thereby sought directions to the MoEF to consider all the objections or suggestions received by them under Rule 5 of the Environment Protection Rules, 1986, before notifying the contents of the draft of the impugned notification dated 13.03.2018.

¹ Ministry of Environment, Forest & Climate Change



3. The aforesaid writ petition was disposed of *vide* order dated 01.11.2018, whereby the Court has observed that more than 2000 objections have been filed against the said notification as per the petitioner and yet, in terms of the information received under the Right to Information Act, 2005, only 1196 objections were indicated against the draft proposal. Accordingly, this Court passed the following directions:

“5. This Court is not inclined to interfere with the draft Notification at this stage. As is apparent, the draft Notification is put in public domain for inviting representations/objections and the respondents are required to examine all objections before considering to finalise the same. Insofar as the petitioner's apprehension that the objections furnished to the respondents will not be considered, the same can be allayed by permitting the petitioner to furnish details of the same. The respondent will examine the all such objections/representation before taking a final view. The petitioner is also granted liberty to make a detailed representation within a period of four weeks from today. The respondent shall also consider the same while taking an informed decision with regard to the draft Notification.

6. The petition is disposed of in the above terms. The pending applications is also disposed of.

7. Needless to state that all rights and contentions of the parties are open and in the event, the petitioner is aggrieved by the Notification as finally issued, the petitioner is not precluded from availing such remedies as available in law.”

4. Ms. Monika Arora, learned Central Government standing counsel for the respondent submitted that a copy of the said order was received in the concerned office on 29.11.2018, however, in the meanwhile, after hearing the objections of all the concerned parties, the notifications dated 14.11.2018 and 15.11.2018 were promulgated.

5. It is pointed out that the MoEF had provided a draft notification to the general public, which draft was available in the public domain



through the official website of the MoEF, and all objections and suggestions from the general public were considered by the MoEF before issuing the aforesaid notifications on 14.11.2018 and 15.11.2018.

6. This Court is not impressed with the submission made by the learned Central Government standing counsel suggesting that the concerned Department was unaware of the order dated 01.11.2018, and it is also not impressed by the argument that the order was received in the concerned office on 29.02.2018 for the simple reason that the reply filed on behalf of the respondent acknowledges that the petitioner had sent a letter on 05.11.2018 along with a copy of the order dated 01.11.2018 to the MoEF in the CR Section and the same was sent to the Legal Monitoring Cell on 14.11.2018.

7. All the same, this Court is not inclined to take any action against the erring respondent for the simple reason that the petitioner has also assailed the notifications dated 14.11.2018 in separate writ proceedings. The crux of the matter is that the objections besides suggestions received against the draft notification have been duly considered by the competent authority in the MoEF. It is not sure as to how the representation or any objection filed by the petitioner, was any different from the objection or suggestions which were already considered by the MoEF.

8. It is well settled that the contempt proceedings should be used sparingly and in exceptional cases. Merely because the petitioner was not given sufficient time to raise objections or provide suggestions would not by itself constitute wilful or deliberate disobedience of the directions of this Court. The delay probably occurred on account of inter-departmental communication gap. In any case, the vires of the



notification is already under challenge in the appropriate legal proceedings, thus, it would serve no purpose to proceed against the respondent in the present contempt petition.

9. Hence, the present contempt petition is dismissed.

DHARMESH SHARMA, J.

OCTOBER 9, 2024

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