

02
11.03.2025
Ct. No. 11
Jayanta

CPAN 533 of 2024
in
WP.CT 92 of 2023

Ashish Nath
vs
Milind K Deouskar & Ors.

Mr. Soumya Majumder, Ld. Sr. Adv
Mr. S. K. Datta
Mr. Barun Chatterjee

..... For the Petitioner.

Mr. Sukumar Bhattacharyya
Mr. Partha Chakraborty

..... For the Alleged Contemnor No. 1 & 2.

Mr. Anirban Datta

..... For the Alleged Contemnor No. 3.

The present contempt application has been preferred alleging violation of an order dated 11th October, 2023 passed by this Court in the writ petition being WPCT 92 of 2023 which was preferred assailing an order dated 18th April, 2023 passed by the learned Tribunal in several contempt applications including the one preferred by the petitioner herein.

By the said order dated 11th October, 2023 we directed the respondents to comply with the order of the learned Tribunal dated 16th March, 2020 by adopting an identical exercise as directed in the writ petition being WPCT 74 of 2016.

Records reveal that the alleged contemnors also filed an application for review. By an order dated 19th December, 2024, this Court dismissed the review

application as infructuous since the Principal Chief Personnel Officer, Eastern Railway, Kolkata passed an order dated 18th December, 2024, in terms of the order dated 11th October, 2023 passed in the writ petition being WPCT 92 of 2023.

In the cause title of the order dated 20th November, 2024, the name of the learned advocate appearing for the alleged contemnor no. 3 was erroneously incorporated as '*Aniruddha Datta*' in place and stead of '*Anirban Datta*'.

Office is directed to effect necessary correction in the said order.

Mr. Datta, learned advocate appearing for the petitioner submits that the directions contained in the order dated 11th October, 2023 have not been complied with and such non-compliance is contemptuous and deliberate in as much as the purported ground taken in the speaking order dated 18th December, 2024 was never agitated in the earlier rounds of litigation.

He argues that the alleged contemnors have denied to follow the process as adopted in identical cases. Manner and mode of such compliance ought to have been in accordance with the order passed in WPCT 74 of 2016.

Drawing our attention to RBE 99 of 2010, Mr. Datta argues that all lands including the land of the petitioner was acquired by the Ministry of Railways for various railway projects and a policy decision was adopted for appointment of land losers as per the screening criteria

detailed therein. A perusal of the said memo would clearly reveal that only the projects for deposit works were excluded from the purview of the said memo. In view thereof, the observation in the speaking order dated 18th December, 2024 that as the petitioner's land was acquired under a special railway project, his claim cannot be considered, is derogatory to the order passed by this Court.

Drawing our attention to the order of the learned Tribunal dated 16th March, 2020, Mr. Datta argues in the last paragraph of the said order, the learned Tribunal categorically directed consideration of the claim of the petitioners '*whose right to employment under land looser category flows from RBE 99 of 2010*'. In spite of such direction and though the petitioner's claim flows from RBE 99 of 2010, the contemnors could not have taken any different stand and the denial of the petitioner's claim is *ex facie* contumacious.

Mr. Bhattacharyya, learned advocate appearing for the alleged contemnors denies and disputes the contention of the petitioner and submits that the alleged contemnor has passed an order as directed by this Court. The Court in exercise of contempt jurisdiction cannot test the validity or correctness of the order passed or give any additional directions.

He argues that there is no dispute as regards the fact that the land of the petitioners in WPCT 74 of 2016 was

acquired by Eastern Railway for Dankuni-Furfurasharif Railway Project whereas the petitioner's land was acquired under the special railway project, namely, Eastern Dedicated Freight Corridor and as such the petitioner is not similarly situated with the persons whose claims were directed to be considered by the learned Tribunal in the light of the order passed by the Hon'ble High Court in WPCT 74 of 2016.

Mr. Anirban Datta, learned advocate enters appearance on behalf of the alleged contemnor no. 3 and submits that no direction had been issued upon the alleged contemnor no. 3 in the order dated 11th October, 2023 passed by this Court in the writ petition being WPCT 91 of 2023.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

It is well settled that non-compliance of an order has to be wilful and deliberate and not merely accidental or unintentional. Once an order has been passed by a party to a proceeding on the basis of the direction issued by the Court, there arises a fresh cause of action to seek redressal in an appropriate forum and such action does not constitute contempt. While dealing with an application for contempt the Court cannot traverse beyond the order and cannot test the correctness of the order. The Court exercising contempt jurisdiction is

primarily concerned with the question of contumacious conduct of the parties.

Applying such proposition of law to the facts of the present case, we are of the opinion that no interference is called for in the present contempt application. However, it is made clear that the petitioner would be at liberty to challenge the speaking order dated 18th December, 2024 passed by the Principal Chief Personnel Officer, Eastern Railway, Kolkata before the appropriate forum, if so advised and in accordance with law.

With the above observations and directions the contempt application is disposed of.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible

(Rai Chattopadhyay,J.)

(Tapabrata Chakraborty,J.)