

Dd 22 19.06.2025

CPAN/1303/2024
SRI SUBODH KUMAR DUTTA AND ANR
VS
SRI NABENDU ROY
in
FMA/614/2015
SUSHIL KUMAR DUTTA
VS
M/S. GLUCONATE HEALTH LIMITED & ORS.

Mr. Asim Banerjee,
Mr. Bholanath Pramanik, Advocates
... .. For the Petitioners

1. Affidavit-of-service filed in Court be take on record.
2. None appears for the alleged contemnor.
3. Contempt petition is taken on record subsequent to the order dated September 25, 2024 requiring the service of the contempt petition upon the alleged contemnor.
4. Petitioners complain of violation of an order dated February 9, 2024 passed in CPAN 367 of 2020.
5. By such order, the co-ordinate Bench, directed the alleged contemnor no. 2 to get in touch with the alleged contemnor no. 1 or any officer authorized by him, so that the order dated June 25, 2019 is effectively complied with. Co-ordinate Bench required such action to be taken within two weeks.
6. Case of the petitioner is that, the contemnor did not act in terms of the order dated February 9, 2024.
7. Materials made available on record establish that, the original writ petitioner Sushil Kumar Dutta, since deceased superannuated from service on February 28, 1997 on the basis of his date of birth being February 26, 1939. Original writ petitioner received pension and accepted the same. Thereafter, the original writ petitioner asserted that his date of birth was November 15, 1940 and not February 26, 1939.

8. Original writ petitioner fled a writ petition for correction of his date of birth which was dismissed by the learned Single Judge primarily on the ground of delay. An appeal was preferred against the order of dismissal being FMA 614 of 2015. Such appeal was disposed of on June 25, 2019.
9. The Appeal Court did not find any ground to interfere with the judgment and order of the learned Single Judge. However, the Appeal Court held that, since there is a pension payment order which recorded the date of birth as November 15, 1940, the original writ petitioner will be at liberty to transmit such document to the pension payment authority who upon receipt of the same shall consider whether the age recorded therein was a typographical mistake or something else.
10. The initial direction was, therefore, of consideration of correction of the date of birth of the original writ petitioner. There was no mandatory order that the date of birth needs to be corrected as claimed by the original writ petitioner.
11. The subsequent order of the co-ordinate Bench dated February 9, 2024, enforcement of which is sought for in this petition, is required to be construed in such context. The subsequent order cannot vest a better or a higher right to the petitioner than granted by the initial order.
12. In such circumstances, we do not find any ground to invoke jurisdiction under Article 215 of the Constitution of India or the Contempt of Courts Act, 1971.
13. CPAN/1303/2024 is accordingly disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)