

19.12.2025
Item No.65
Ct. No. 1
KS

WP.CT 186 of 2023

Sk. Jahirul Islam

Vs.

Sri Anil Kujmar Misra & Ors.

Mr. Syed Shamsul Arefin

.....For the Petitioner

Mr. Souvik Nandy

Mr. Subrata Santra

.....For the Union of India

PER, SUJOY PAUL, ACJ.:

1. WP.CT 130 of 2023 is de-tagged from WP.CT 186 of 2023.
2. Parties are represented through their respective learned counsels.
3. With the consent finally heard.
4. This petition has been filed under Article 226/227 of the Constitution of India contains following reliefs:-

“In view of the aforesaid facts and circumstances your petitioner most humbly pray that your Lordship would be graciously be pleased to -

a) To issue a writ in the nature of Mandamus directing the respondents to give appointment of the petitioner as directed by the Tribunal within stipulated period.

b) Issue a writ in the nature of Certiorari directing the respondents their men and agent to produce all relevant records before this Court so that conscionable justice may be done.

c) Ad-interim order of injunction restraining the respondents for giving any appointment except the petitioner till the disposal of the case in the establishment of railway recruitment.

d) Rule NISI in terms of prayer (a) and (c).

e) Any other or further order or orders as your Lordship may deem fit and proper; And for this Act of kindness your petitioner as in duty bound shall ever pray."

5. Learned counsel for petitioner submits that petitioner is aggrieved by order dated 18.04.2023 passed by learned Tribunal, whereby several contempt petitioners were dismissed by the Tribunal.
6. During the course of hearing, on more than one occasion, we pointed out to learned counsel for petitioner that his reliefs reproduced hereinabove shows that as if he is before a Court of first instance. The Constitution Bench of Supreme Court (Seven-Judges) in *L. Chandra Kumar vs. Union of India & Ors.* reported in (1997) 3 SCC 261 opined that High Court cannot act as a Court of first instance.

7. In our opinion, if petitioner is aggrieved by the order dated 18.04.2023 in not entertaining the contempt petitions, the minimum requirement was to assail this said order in the relief clause. In absence of any challenge mounted to this order dated 18.04.2023, the petition cannot be entertained. Resultantly, petition is dismissed.
8. However, in the interest of justice, liberty is reserved to the petitioner to file appropriate proceedings, if he is aggrieved by order dated 18.04.2023.
9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, ACJ.)

(PARTHA SARATHI SEN, J.)