

14.05.2025
Item No.25
Ali
ct. no.24

**CPAN 1735 of 2023
in
WPA 4329 of 2012**

**Tarun Kumar Halder
Vs.
Abhijeet Chavan**

Mr. Amlan Jyoti Sengupta
....for the Petitioner/Applicant.

Mr. Sanjib Kr. Mal,
Mr. Bimalendu Das,
Ms. Shomrita Das
....for the alleged contemnor.

Supplementary affidavit filed on behalf of the
petitioner is taken on record.

This is an application under Article 215 of the
Constitution of India for alleged willful violation of order
dated 05th of July, 2013 passed by a Single Judge of this
Court in WP. No. 4329 (W) of 2012.

It has been alleged by the petitioner that the
concerned authority has deliberately violated the order
of this Court passed initially on 5th of July, 2013, which
was affirmed by an appellate Court vide order dated
June 14, 2022 in MAT No. 1188 of 2013. On the set of
grounds and facts, the petitioner prayed for issuance of
Rule against the alleged contemnor for criminal
contempt.

Having heard the learned counsel for the parties;
it appears that a Coordinate Bench of this Court on 5th of

July, 2013 vide W.P. No. 4329 (W) of 2012 has disposed of the writ petition with a direction as follows:

"Let the Chairman of the Corporation constitute an appellate body of three officers to hear an appeal which the petitioner may file from the adjudication dated 10th February, 2012. The appeal may be informal. The appeal should be filed by the petitioner within 30 days of issuance of a copy of this order.

The appellate body to be constituted by the Chairman of Bharat Petroleum Corporation Limited will decide the appeal to be filed as early as possible preferably within a period of ten weeks from the date of institution thereof.

The existing status quo regarding the petrol pump will continue for four months from date".

The respondent authority i.e. Bharat Petroleum Corporation Limited preferred an appeal being MAT No. 1188 of 2013 against the said order along with an application for stay. The appeal was admitted and the stay was granted till the disposal of the said appeal. The appeal being MAT No. 1188 of 2013 was disposed of by the Hon'ble Division Bench on June 14, 2022 with the observation as follows:

"In view thereof, we do not find any reason to interfere with the order dated July 5, 2013 passed by the learned Single Judge. The time to constitute the appellate body is extended by eight weeks from date and the time to file the appeal before the appellate body by the writ petitioner is extended by thirty days from the date of constitution of the appellate body. The appellate

body is directed to dispose of the appeal to be filed by the writ petitioner after giving reasonable opportunity of hearing to the parties within a period of two months from the date of first hearing.

With the aforesaid observations, the appeal is disposed of.

In view of disposal of the appeal, nothing remains to be decided in the application for stay filed under CAN 8102 of 2013 and the same is also disposed of".

Learned counsel for the petitioner submits that in pursuance to the direction of the Hon'ble Division Bench the concerned authority has constituted an appellate body and the petitioner has filed an appeal before the appellate authority. The appeal was disposed of, against which the petitioner has preferred one review application. Such review application was not considered yet. But, the respondent authority had issued letter of acceptance on 14th of November, 2022 in favour of third party.

It is the contentions of the petitioner that the act and action of the respondent authority (Bharat Petroleum Corporation Limited) is willful disobedience of the order of this Court. So, he approached this Court for issuance of criminal contempt against the respondent authority.

Mr. Sanjib Kr. Mal, learned counsel appearing on behalf of the respondent authority submits that the

impugned order dated 5.7.2013 passed by the learned Single Judge has been extended till the disposal of the appeal being MAT 1188 of 2013 i.e. till June 14, 2022. By the order of the Division Bench it would appear that the interim order passed by the learned Single Judge was not extended further. Thereafter, the concerned authority has issued Letter of Intent in favour of a person on 14th of November, 2022 when there were no interim order passed by any of the Court.

Mr. Sanjib Kr. Mal, submits that the instant application is infructuous. No criminal contempt lies on the basis of the alleged violation.

Having heard the learned counsel for the parties; it appears from the order dated 5th of July, 2013 that a Single Judge of this Court has passed a status quo order regarding continuation of petrol pump by the petitioner that interim order was extended till the disposal of the appeal being MAT 1188 of 2013. The Hon'ble Division Bench while disposing of the appeal has also disposed of the application being CAN 8102 of 2013 and no further stay was granted.

It further appears that the concerned authority in terms of the direction of the Hon'ble Division Bench of this Court has constituted an appellate authority wherein the petitioner has filed his appeal and the appeal has been heard and disposed of.

Considering the entire facts of this case it appears to me that the concerned authority has properly complied with the order of this Court passed in 5th of July, 2023 as well as June 14, 2022 in its *true letter and spirit*. There is no deliberate violation of the concerned authority against the impugned orders passed by this Court.

Non consideration of review application filed by the petitioner may entitle him to file a separate writ petition on separate cause of action but for that reasons the concerned authority cannot be take under clutches of this Court under the contempt application. Furthermore, in this matter there are no ingrediances of criminal contempt as prayed for by the petitioner in the instant application.

Under the above observations, the instant contempt application being CPAN 1735 of 2023 is considered to be non meritorious and the same is hereby dismissed.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)