IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cont. Case (Cvl.) No. 314 of 2015

Shankar Prasad Gupta, son of Late Bishwanath Sahu, resident of Upper Bazar, Mahabir Chowk, P.O. Ranchi (Sadar), P.S. Ranchi (Kotwali), District-Ranchi.

… … Petitioner

Versus

1. State of Jharkhand.
2. Sri Awadhesh Kumar Pandey, father's name not known to the petitioner, Additional Collector, Lohardaga, P.O. & P.S. Lohardaga, District Lohardaga.

… …Opp. Parties

With
C.M.P. No. 333 of 2015
With
I.A. No. 7074 of 2017

State of Jharkhand represented through Deputy Commissioner, Lohardaga, P.O. & P.S. Lohardaga, District-Lohardaga.

… … Petitioner

Versus

1. Shankar Prasad Gupta, son of Late Bishwanth Sahu, resident of Upper Bazar, Mahavir Chowk, P.O. G.P.O., P.S. Kotwali, District-Ranchi.
2. Sri Arbind Kumar Choudhary, the then Additional Collector Lohardaga.
3. Sri Badri Nath Choubey, present Additional Collector, Lohardaga.

… …Opp. Parties

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioners : None
[Cont. Case (C) No. 314 of 2015]
: Mr. Rantesh Kumar, SC(L&C)-I
Mr. R.K. Shahi, AC to SC(L&C)-I
[C.M.P. No. 333 of 2015]

For the Opp. Parties : None

35/Dated: 06th May, 2026

1. The present cases have been listed today along with W.P.(C) No. 3441 of 2012.

2. The writ petition W.P.(C) No. 3441 of 2012 is separated from the present cases to pass separate order and the present two cases, i.e.,

Cont. Case (Cvl.) No. 314 of 2015 and C.M.P. No. 333 of 2015 have been heard and are being disposed of by this common order.

Cont. Case (Cvl.) No. 314 of 2015:

3. None is present to represent the petitioner even after repeated call.

4. None is also present to represent the opp. parties.

5. Mr. Niraj Kishore, learned counsel has submitted that although he was on record for the petitioner but during pendency of the contempt case, he has given NOC, therefore, he is having no instructions.

6. Accordingly, due to non-appearance on behalf of the petitioner, the instant contempt case is dismissed for non-prosecution, as such, disposed of.

7. Pending interlocutory application(s), if any, also stands disposed of.

I.A. No. 7074 of 2017 [in C.M.P. No. 333 of 2015]:

8. The present interlocutory application has been filed for substitution of respondent no.1, namely, Smt. Kamala Devi through her legal heirs as per the details referred in paragraph-2 of the said interlocutory application on the ground that during pendency of the writ petition, the respondent no.1 had died.

9. Considering the reason assigned in the said interlocutory application, the instant application is allowed, as such, disposed of.

10. Accordingly, Office is directed to carry out necessary deletion and addition in the arrays of the parties as per the details furnished in paragraph-2 of the instant interlocutory application.

C.M.P. No. 333 of 2015

11. The instant civil misc. petition has been filed under Article 226 of the Constitution of India for modification of the part of the order dated 16.01.2015 passed in Contempt Case (C) No. 838 of 2012.

12. The background upon which the present petition has been filed is that the original order was passed by the co-ordinate Bench of this Court in C.W.J.C. No. 2179 of 1998(R) and while disposing of the writ petition vide order dated 23.06.2011, the Additional Collector,

Lohardaga was directed to consider the petitioner's claim and pass a reasoned order in accordance with law within a period of six months from the receipt/production of the copy of the order, as such, the order was passed on the rival claim put forth before the Court on the issue of the disbursement of the amount of interest w.e.f. 26.01.1955 till the date of payment.

13. The contempt case was filed for alleged non-compliance of the order dated 23.06.2011 being Contempt Case (Cvl.) No. 838 of 2012 which was disposed of vide order dated 16.01.2015 directing the opp. party no.3 to take immediate steps so that the compensation amount be paid to the applicant within four weeks.

14. It had further been ordered that the amount of interest was also to be calculated during the said period.

15. Mr. Ratnesh Kumar, learned SC(L&C)-I appearing for the petitioner-State has submitted by referring to the order dated 23.06.2011 passed in C.W.J.C. No. 2179 of 1998(R) that there was no direction by this Court in the aforesaid order to make payment of the amount of compensation along with the interest rather the writ petition was preferred only for issuance of direction upon the respondents to release the interest on the amount of compensation till the date of its payment.

16. Learned State counsel has referred the very first and second paragraph of the order dated 23.06.2011 passed in C.W.J.C. No. 2179 of 1998(R).

17. He, therefore, contends that the direction which had been passed by this Court under the Contempt jurisdiction directing the respondent no.3 to take immediate steps for the purpose of making payment of the amount of compensation and in addition thereto, the interest amount be also calculated within the aforesaid period for its disbursement is contrary to the direction so passed by the writ court in the order dated 23.06.2011 in C.W.J.C. No. 2179 of 1998(R).

18. Therefore, the present petition has been filed for modification of the part of the order dated 16.01.2015 passed in Contempt Case (C) No. 838 of 2012.

19. This Court, in course of argument has raised the legal issue regarding the maintainability of the present petition under Article 226 of the Constitution of India for modification of the order passed by this Court under the contempt jurisdiction as contained in the order dated 16.01.2015 passed Contempt Case (C) No. 838 of 2012.

20. It has been submitted by him that the present petition is only for the purpose of modification of the said order and as such, the Court having the extraordinary jurisdiction under Article 226 of the Constitution of India is well within its jurisdiction to exercise the same for modification of the said order.

21. This Court, therefore, is to decide as to whether in a order which has been passed by this Court under the Contempt of Courts Act is amenable to be looked into for interfering even for the purpose of modification in exercise of power conferred under Article 226 of the Constitution of India.

22. This Court, in order to answer the aforesaid issue, first needs to refer herein the provision as conferred under Article 226 of the Constitution of India by which the mechanism has been carved out by providing five prerogative writs to be issued and in addition thereto, the power is also to be exercised if there is any infringement of any legal vested right.

23. The concept of exercise of power under Article 226 of the Constitution of India in a case of legal vested right is wider than the power enshrined under Article 32 of the Constitution of India. Although the power which has been conferred under Article 226 is wider but only with respect to the issue of issuance of prerogative writs and for enforcement of legal vested right.

24. It is not in dispute that the power as conferred under Article 226 is original jurisdiction of the High Court to be exercised for the purpose of enforcement of the fundamental right as also legal vested right.

25. The Article 215 of the Constitution of India confers upon the High Court being the court of record to initiate proceeding for contempt. The day when the Constitution has been enacted there was no procedure how to punish the offender who has been found to be at fault in non-compliance of the High Court's order as per the provision as provided under Article 226 or under Article 129 so far as it relates to the Hon'ble Supreme Court.

26. The legislature, therefore, has thought it proper to have the process and for that, the Contempt of Courts Act, 1971 has been enacted laying down the procedure for enforcement of the power which has been conferred to the High Court under Article 226 of the Constitution of India or under Article 129 so far as the Hon'ble Supreme Court is concerned.

27. The process as is being provided under the Contempt of Courts Act is for the purpose of punishing the contemner who if found to be defying the order passed by the High Court or the Hon'ble Supreme Court, as the case may be, subject to the condition that if such non-compliance is found to be willful and deliberate.

28. The said power has been vested under Section 11, 12 & 13 of the said Act, 1971 along with the condition stipulated therein under Section 20 that the contempt proceeding is to be initiated within a period of one year from the date on which the contempt is alleged to have committed. For ready reference, Section 11, 12, 13 and 20 of the said Act is being referred as under:

> *"**11. Power of High Court to try offences committed or offenders found outside jurisdiction.—**A High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction, and whether the person alleged to be guilty of contempt is within or outside such limits.*
>
> ***12. Punishment for contempt of court.—**(1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term which*

may extend to six months, or with fine which may extend to two thousand rupees, or with both:

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court.

Explanation.—An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide.

(2) Notwithstanding anything contained in any law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section (1) for any contempt either in respect of itself or of a court subordinate to it.

(3) Notwithstanding anything contained in this section, where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit.

(4) Where the person found guilty of contempt of court in respect of any undertaking given to a court is a company, every person who, at the time the contempt was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of each such person:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment if he proves that the contempt was committed without his knowledge or that he exercised all due diligence to prevent its commission.

(5) Notwithstanding anything contained in sub-section (4), where the contempt of court referred to therein has been committed by a company and it is proved that the contempt has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of such director, manager, secretary or other officer.

Explanation.—For the purpose of sub-sections (4) and (5),—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

13. Contempts not punishable in certain cases.—*Notwithstanding anything contained in any law for the time being in force,—*

(a) no court shall impose a sentence under this Act for a contempt of court unless it is satisfied that the contempt is of such a nature that it substantially interferes, or tends substantially to interfere with the due course of justice;

(b) the court may permit, in any proceeding for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is bona fide.

...

> ***20.*** *Limitation for actions for contempt.—No court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed."*

29. It is thus evident that the Act, 1971 is both the procedural law as also the substantive law for the purpose of punishing the contemnor who is found to be in defiance of the order passed by the High Court or the Hon'ble Supreme Court, as the case may be.

30. The process of appeal has also been provided under Section 19(1) of the Act, 1971 providing remedy that in case anybody has defied the Court's order, then, the contempt appeal will lie. For ready reference, Section 19 of the Act, 1971 is being referred as under:

> *"**19. Appeals.—**(1) An appeal shall lie as of right from any order or decision of the High Court in the exercise of its jurisdiction to punish for contempt—*
>
> *(a) where the order or decision is that of a single judge, to a Bench of not less than two judges of the Court;*
>
> *(b) where the order or decision is that of a Bench, to the Supreme Court:*
>
> *Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.*
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> *(2) Pending any appeal, the appellate Court may order that—*
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> *(a) the execution of the punishment or order appealed against be suspended;*
>
> *(b) if the appellant is in confinement, he be released on bail; and*
>
> *(c) the appeal be heard notwithstanding that the appellant has not purged his contempt.*
>
> *(3) Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2).*
>
> *(4) An appeal under sub-section (1) shall be filed—*
>
> *(a) in the case of an appeal to a Bench of the High Court, within thirty days;*
>
> *(b) in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against."*

31. The purpose of referring these provisions is that the Act, 1971 is totally different to the power which has been exercised by the High Court under Article 226 of the Constitution of India. The contemnor if found to be held guilty then, the remedy available is to file contempt appeal but there is no provision carved out under the Act, 1971 that if

the contempt court will exceed its jurisdiction by passing further direction which is not in the original order, then, what should be done. Such situation has been taken care of by the Hon'ble Supreme Court in the case of ***V.M. Manohar Prasad vs. N. Ratnam Raju and Anr., (2004) 13 SCC 610*** and ***Snehasis Giri and Ors. vs. Subhasis Mitra, (2023) 13 SCC 529*** wherein it has been held that in such a situation where another direction has been passed in addition to the direction already passed which is the subject matter of the contempt case then, such direction will be treated to be passed in excess of its power under Article 226 of the Constitution of India and in such circumstances, the remedy available is of filing letters patent appeal under Clause 10. Relevant paragraphs of the said judgments are being reproduced as under:

(i) ***V.M. Manohar Prasad vs. N. Ratnam Raju and Anr.*** (supra):

> ***"7.*** *On the basis of what has been indicated above, the first submission is that there is no violation of the order passed by the learned Single Judge directing regularisation of the employees, since the said order has not been violated in any manner. The matter was considered in the light of the scheme for regularisation dated 24-4-1994. Secondly, it is submitted that the Contempt Court had no jurisdiction to issue any direction providing any substantive relief to the petitioners moving the contempt petition. In support of this contention reliance has been placed upon decisions of this Court in Jhareswar Prasad Paul v. Tarak Nath Ganguly [(2002) 5 SCC 352 : 2002 SCC (L&S) 703] and Notified Area Council v. Bishnu C. Bhoi [(2001) 10 SCC 636 : 2002 SCC (L&S) 1018] . There is no doubt about the position under the law that in contempt proceedings no further directions could be issued by the court. In case it is found that there is violation of the order passed by the court the court may punish the contemnor otherwise notice of contempt is to be discharged. An order passed in the contempt petition, could not be a supplemental order to the main order granting relief."*

(ii) ***Snehasis Giri and Ors. vs. Subhasis Mitra*** (supra):

> *"10. Furthermore, there is merit in the respondents' submission that the court, in contempt proceeding cannot enlarge its scope and examine matters which are not part of its remit i.e. extent of the direction or orders contained in the judgment of which contempt is being alleged. In fact, in the decision in Sudhir Vasudeva [Sudhir Vasudeva v. M. George Ravishekaran, (2014) 3 SCC 373] , it was held as follows : (SCC p. 381, para 19)*
>
> > *"19. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The*

> *very nature of the power casts a sacred duty in the courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. The Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order, violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or wilful violation of the same. Decided issues cannot be reopened; nor can the plea of equities be considered. The Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. The above principles would appear to be the cumulative outcome of the precedents cited at the Bar, namely, Jhareswar Prasad Paul v. Tarak Nath Ganguly [Jhareswar Prasad Paul v. Tarak Nath Ganguly, (2002) 5 SCC 352 : 2002 SCC (L&S) 703] , V.M. Manohar Prasad v. N. Ratnam Raju [V.M. Manohar Prasad v. N. Ratnam Raju, (2004) 13 SCC 610 : 2006 SCC (L&S) 907] , Bihar Finance Service House Construction Coop. Society Ltd. v. Gautam Goswami [Bihar Finance Service House Construction Coop. Society Ltd. v. Gautam Goswami, (2008) 5 SCC 339] and Union of India v. Subedar Devassy PV [Union of India v. Subedar Devassy PV, (2006) 1 SCC 613] .”*

32. Adverting to the facts of the present case. The present case has been filed for modification of the order passed by the contempt court in a situation where, as per the petitioner-State, further direction has been passed which is in addition to the direction even though not available in the original order, thus, the original order in such circumstances, by way of issuance of direction upon the respondent no.3 to consider the claim of the interest over the amount of compensation already paid is not sustainable.

33. The aforesaid aspect of the matter is admitted one as would be evident from paragraph-1 & 2 of the order dated 16.01.2015 passed in Cont. Case (Cvl.) No. 838 of 2012. For ready reference, the same is being referred as under:

> *“Order dated 28.03.2014 indicates that it was contended on behalf of the respondent-State of Jharkhand that the compensation amount has already been finally determined.*

> *The learned Senior counsel for the applicant submits that neither compensation amount has been paid nor the interest thereon has been calculated as stated on behalf of the respondent-State of Jharkhand.:*

34. This Court has seen the order passed by the contempt court wherein the contempt court has passed an order directing the respondent no.3 to make payment of the amount of compensation and in addition thereto, to calculate the interest. For ready reference, the said part of the order is being referred as under:

> *"In view of aforesaid, the respondent no.3 is directed to take immediate steps so that the compensation amount be paid to the applicant within four weeks. It is further ordered that the amount of interest shall also be calculated within the said period."*

35. What is being contended by the State is not in dispute if both the orders will be compared but this Court is only concerned with the jurisdiction which is to be exercised as per the issue framed above.

36. The legal position is not in dispute and cannot be disputed that the object of Article 226 of the Constitution of India is to bound the authority not to exceed its jurisdiction and the said principle is equally applicable to the High Courts also.

37. The present petition since has been filed under Article 226 of the Constitution of India for modification of the part of the order dated 16.01.2015 passed in Contempt Case (C) No. 838 of 2012. As the learned State counsel has submitted that even accepting the fact that the present petition in the form of Article 226 is not maintainable but on the basis of the pleading, the present petition is maintainable.

38. This Court is not in agreement with such submission reason being not averse to the legal position that the nomenclature is having no bearing rather pleading is to be seen.

39. The similar issue was dealt with by the Hon'ble Apex Court in the case of ***Sh. Jogendrasinhji Vijaysinghji vs. State of Gujarat and Ors.*** reported in ***(2015) 9 SCC 1***, wherein the issue fell for consideration, as to whether a party on his own invoke supervisory jurisdiction under Article 227 of the Constitution of India and in such a petition, the Court issues writ of certiorari, then, in such a situation, against the impugned order a letters patent appeal would be maintainable.

40. The Hon'ble Apex Court in ***Jogendrasinhji Vijaysinghji vs. State of Gujarat and Ors.*** (supra) at paragraph 30 has held which is being reproduced as under:

> *"**30.** From the aforesaid pronouncements, it is graphically clear that maintainability of a letters patent appeal would depend upon the pleadings in the writ petition, the nature and character of the order passed by the learned Single Judge, the type of directions issued regard being had to the jurisdictional perspectives in the constitutional context. Barring the civil court, from which order as held by the three-Judge Bench in Radhey Shyam that a writ petition can lie only under Article 227 of the Constitution, orders from tribunals cannot always be regarded for all purposes to be under Article 227 of the Constitution. Whether the learned Single Judge has exercised the jurisdiction under Article 226 or under Article 227 or both, needless to emphasise, would depend upon various aspects that have been emphasised in the aforestated authorities of this Court. There can be orders passed by the learned Single Judge which can be construed as an order under both the articles in a composite manner, for they can co-exist, coincide and imbricate. We reiterate it would depend upon the nature, contour and character of the order and it will be the obligation of the Division Bench hearing the letters patent appeal to discern and decide whether the order has been passed by the learned Single Judge in exercise of jurisdiction under Article 226 or 227 of the Constitution or both. The Division Bench would also be required to scrutinise whether the facts of the case justify the assertions made in the petition to invoke the jurisdiction under both the articles and the relief prayed on that foundation. Be it stated, one of the conclusions recorded by the High Court in the impugned judgment pertains to demand and payment of court fees. We do not intend to comment on the same as that would depend upon the rules framed by the High Court."*

41. But, such judgment has been rendered in a situation where the dispute arose of exercising the power either under Article 227 or under Article 226 of the Constitution of India and in that situation, the Hon'ble Supreme Court has come out with a view that if in place of Article 227, Article 226 has been invoked, then merely on the ground that the wrong provision has been invoked, the petition may not be thrown out rather the same is to be considered on the basis of the pleading made.

42. The obvious reason for the same is that after the amendment in the Code of Civil Procedure after taking out the power from Section 115 of the CPC, mechanism has been carved out to exercise the power under Article 227 of the Constitution of India in a situation where the judicial officers have passed an order arising out of aforesaid to be made amenable under Article 227 of the Constitution of India.

43. In such situation, if the petition would have to be filed under Article 227 of the Constitution of India but it has been filed under Article

226, then, in that situation, the Hon'ble Supreme Court has come out with a view that pleading is to be assessed but herein that is not the factual aspect rather it is a situation where the order passed by the contempt court is sought to be modified under the power to be exercised under Article 226 of the Constitution of India.

44. The modification is one thing but what has is being sought by the present petition is quashing of the part of the order. The part of the order to the effect that the direction of making payment of the amount of compensation is to be deleted from the aforesaid order. Therefore, this Court is of the view that in the present forum, this petition is not maintainable. If this petition will be held to be maintainable then it will amount to exceeding the jurisdiction conferred under Article 226 of the Constitution of India which will lay down the incorrect law.

45. This Court, in view of the aforesaid, is of the view that the present petition is not maintainable in the present form. Accordingly, the present civil misc. petition being C.M.P. No. 333 of 2015 is dismissed as not maintainable.

46. Pending interlocutory application(s), if any, also stands disposed of.

(Sujit Narayan Prasad, J.)

06th May, 2026

Saurabh/-

A.F.R.

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