



2026:DHC:1179



\$~27

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of Decision: 10.02.2026+ **CONT.CAS(C) 174/2023 and CM APPLs.7428/2023, 6608/2024**

DR. PRABAL PAL

.....Petitioner

Through: Mr. M.D. Jangra and Mr. Gagan Mathur, Advs.

versus

DR. RAJENDRA KUMAR & ORS.

.....Respondents

Through: Mr. Manish Kumar Saran, Mr. Sidhant Sharma and Mr. Mani Saran, Advs. for ESIC.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (Oral)**

1. The present petition alleges wilful disobedience of the directions contained in the judgment / order dated 16.08.2021, passed in W.P.(C) 3157/2021. The operative directions therein are as under:

“9. Accordingly, the writ petition is disposed of with a direction that the inquiry officer, while preparing the report qua the impugned memorandum of charges dated 11.07.2019 will not take into account the observations made in the investigation report dated 04.10.2018 qua the complaint of Mr. Prasenjit Santra, to the extent, they are adverse to the interests of the petitioner.”

2. The aforesaid judgment / order clearly requires that in the inquiry against the petitioner, the Inquiry Officer must not be influenced by the Investigation Report dated 04.10.2018 *qua* the complaint of Mr. Prasenjit Santra.

3. It transpired subsequently, that even prior to passing of the order dated 16.08.2021, the Inquiry Report dated 26.07.2021 had already been



2026:DHC:1179



prepared. Incidentally, the same came to be submitted to the Medical Superintendent, ESIC, Medical College, Faridabad on 16.08.2021 i.e. on the very same date on which W.P.(C) 3157/2021 was disposed of with the aforesaid directions.

4. Evidently, this fact was not apprised to this Court on 16.08.2021.

5. Learned counsel for the petitioner makes a serious allegation that the Inquiry Report has been antedated. The same is however strongly refuted by learned counsel for the respondents.

6. Be that as it may, it is admitted that the Inquiry Report does place reliance / refers to the Investigation Report dated 04.10.2018 *qua* the complaint of Mr. Prasenjit Santra.

7. To that extent, the said Inquiry Report is clearly tainted and in derogation / violation of the directions contained in the judgment / order dated 16.08.2021. The subsequent consideration by the Disciplinary Authority and Appellate Authority is based on the same Inquiry Report which is tainted.

8. The law is well settled that the petitioner ought not to be prejudiced by the actions of the respondent which are in evident violation / disregard of the binding orders / directions. In this regard, reference may be made to dicta laid down in **DDA v. Skipper Construction Co. (P) Ltd.**, (1996) 4 SCC 622. The relevant portion reads as under:

“17. The principle that a contemner ought not to be permitted to enjoy and/or keep the fruits of his contempt is well settled. In Mohd. Idris v. Rustam Jehangir Babuji [(1984) 4 SCC 216 : 1984 SCC (Cri) 587 : (1985) 1 SCR 598] this Court held clearly that undergoing the punishment for contempt does not mean that the court is not entitled to give appropriate directions for remedying and rectifying the things done in violation of its orders. The petitioners therein had given an undertaking to the Bombay High Court. They acted in breach of it. A learned Single



2026:DHC:1179



Judge held them guilty of contempt and imposed a sentence of one month's imprisonment. In addition thereto, the learned Single Judge made appropriate directions to remedy the breach of undertaking. It was contended before this Court that the learned Judge was not justified in giving the aforesaid directions in addition to punishing the petitioners for contempt of court. The argument was rejected holding that "the Single Judge was quite right in giving appropriate directions to close the breach (of undertaking)".

18. The above principle has been applied even in the case of violation of orders of injunction issued by civil courts. In Clarke v. Chadburn [(1985) 1 All ER 211] Sir Robert Megarry V-C observed:

"I need not cite authority for the proposition that it is of high importance that orders of the court should be obeyed. Wilful disobedience to an order of the court is punishable as a contempt of court, and I feel no doubt that such disobedience may properly be described as being illegal. If by such disobedience the persons enjoined claim that they have validly effected some change in the rights and liabilities of others, I cannot see why it should be said that although they are liable to penalties for contempt of court for doing what they did, nevertheless those acts were validly done. Of course, if an act is done, it is not undone merely by pointing out that it was done in breach of the law. If a meeting is held in breach of an injunction, it cannot be said that the meeting has not been held. But the legal consequences of what has been done in breach of the law may plainly be very much affected by the illegality. It seems to me on principle that those who defy a prohibition ought not to be able to claim that the fruits of their defiance are good, and not tainted by the illegality that produced them."

19. To the same effect are the decisions of the Madras and Calcutta High Courts in Century Flour Mills Ltd. v. S. Suppiah [AIR 1975 Mad 270 : (1975) 2 MLJ 54] and Sujit Pal v. Prabir Kumar Sun [AIR 1986 Cal 220 : (1986) 90 CWN 342] . In Century Flour Mills Ltd. [AIR 1975 Mad 270 : (1975) 2 MLJ 54] it was held by a Full Bench of the Madras High Court that where an act is done in violation of an order of stay or injunction, it is the duty of the court, as a policy, to set the wrong right and not allow the perpetuation of the wrongdoing. The inherent power of the court, it was held, is not only available in such a case, but it is bound to exercise it to undo the wrong in the interest of justice. That was a case where a meeting was held contrary to an order of injunction. The Court refused to recognise that the holding of the meeting is a legal one. It put back the parties in the same position as they stood immediately prior to the service of the interim order.



2026:DHC:1179



20. In Sujit Pal [AIR 1986 Cal 220 : (1986) 90 CWN 342] a Division Bench of the Calcutta High Court has taken the same view. There, the defendant forcibly dispossessed the plaintiff in violation of the order of injunction and took possession of the property. The Court directed the restoration of possession to the plaintiff with the aid of police. The Court observed that no technicality can prevent the court from doing justice in exercise of its inherent powers. It held that the object of Rule 2-A of Order 39 will be fulfilled only where such mandatory direction is given for restoration of possession to the aggrieved party. This was necessary, it observed, to prevent the abuse of process of law.”

9. In the circumstances, the order dated 14.11.2022, passed by the Disciplinary Authority, the order dated 25.05.2023, passed by the Appellate Authority and the Inquiry Report dated 26.07.2021 are set aside. The respondents are at liberty to undertake a fresh inquiry, strictly in consonance with the directions contained in the order dated 16.08.2021, passed in W.P.(C) 3157/2021.

10. As regards the petitioner’s allegations that this Court was deliberately misled on 16.08.2021 and/or that the Inquiry Report dated 26.07.2021 was antedated, this Court is inclined to give the respondents the benefit of doubt, and accepts the explanation that the relevant information was not provided to the Court through inadvertence.

11. In the circumstances, the contempt proceedings against the respondents stand discharged.

12. The petition is disposed of in the above terms. Pending applications also stand disposed of.

SACHIN DATTA, J

FEBRUARY 10, 2026/cl