
(2015) 02 MP CK 0154
In the Madhya Pradesh High Court
Case No : Conc. No. 1233 of 2012

Anand Justi and Others

APPELLANT

Vs

Indraneel Shankar Dani and Others

RESPONDENT

Date of Decision : 02-02-2015

Acts Referred:

Citation : (2015) 02 MP CK 0154

Hon'ble Judges : Rajendra Menon, J;C.V. Sirpurkar, J

Bench : Division Bench

Advocate : Mohammad Qasim, for the Appellant; Samdarshi Tiwari, Advocates for the Respondent

Final Decision : Disposed off

Judgement

1. Inter alia contending that the directions issued by this court in W.P. No. 2134/2001 (S.S. Ahluwalia Vs. Union of India) and W.P.1045/1992 (Sardar Kuldeep Singh Vs. Union of India) on 24-01-2006 have not been complied with, this application for contempt has been filed in the year 2012 i.e. after a period of 6 years of passing of the order. On notice being issued, respondents have filed reply and now it is required to be determined as to whether contempt action should be taken or not. In the order dated 24-01-2006, in paras 8, 9 and 10, the following directions were issued by this court on 24-01-2006 :

" 8. Regarding loss of properties, the assessment of loss of property has to be made by the Collector of the concerned district in which the loss of property has taken place. In the reply before the Supreme Court on behalf of the State of M.P., it was stated that during 1984 riots there was loss of properties worth Rs. 11.05 crores. Thus, the authorities must have maintained some records with regard to the loss of properties. Any person claiming that he has suffered loss of property, movable or immovable, in the 1984 riots, may make a prayer before the Collector of the concerned district who will thereafter make the assessment of the loss suffered by him if any and award the compensation commensurate with such loss within three months from the date of the claim.

9. The riots had taken place as far back as in 1984. Hence, the compensation was really due for loss of life, permanent disablement, injuries and loss of property in 1984-85. Such compensation having not been paid or having not been paid in full must therefore carry some interest. Considering all aspects of the matter, we direct that on the amount that has not been paid to the claimants, a lump-sum interest of 40% will be paid to the persons to whom it is due. In case the amounts are not paid by 30th April 2006, or within three months from the date of determination of the compensation by the Collector on the claim of loss of property, the unpaid compensation shall carry interest at 6% per annum.

10. Before the Supreme Court, the Reserve Bank of India had filed a counter affidavit stating that pursuant to the decision of the Government of India, the Reserve Bank of India has formulated a Scheme called the "Central Interest Subsidy Scheme for November 1984 Riots Affected Borrowers" and the said scheme was circulated to all scheduled commercial banks by a circular dated 19th September 1990 and the Banks were advised to take necessary steps for speedy implementation of the scheme and provide relief to the borrowers as per the Scheme. In the said counter affidavit filed before the Supreme Court, the Reserve Bank of India has further stated that the Government of India further advised the Bank to formulate "Revised Central Interest Subsidy Scheme" which was formulated and circulated by the Bank to all banks by circular dated 1st September, 1993 and the Banks were asked to consider and determine as per the said scheme, the liability of borrowers and the relief which could be granted. All scheduled banks including commercial banks as well as other banks and financial institutions to which the schemes have been extended and which are operating in the State of M.P. are directed to implement the aforesaid Schemes namely, "Central Interest Subsidy Scheme for November 1984 Riots Affected Borrowers" and "Reserved Central Interest Subsidy Scheme" circulated by the Reserve Bank of India circulars dated 19th September, 1990 and 1st September, 1993 respectively."

2. Now from the reply filed by the respondents and the compliance report submitted, it is seen that in case of each of the persons concerned, certain amount of compensation has been determined, quantification of compensation based on the directions according to the State Government has been done and the interest amount of 6% has also been paid. A detailed affidavit has been filed indicating all these facts and documents Annexures R-3 to R-7 have also been filed indicating the determination of compensation in case of each of the applicants and document Annexure R-6 has also been filed indicating quantification of interest at the rate of 6% in accordance to the directions issued. In para-9 of the order passed on 24-01-2006, the applicant by filing a detailed rejoinder has indicated that assessment of the compensation for loss caused has not been done properly. The applicants seriously disputed the compensation assessed and challenges the manner in which compensation has been determined.

3. We have considered the rival contentions of the parties and we find that in the original order passed in the writ petition as reproduced hereinabove, there was no quantification of the compensation to be paid to each of the individual, only direction was given to the Collector to make assessment of the compensation for the loss caused and make payment within the stipulated period with interest at the rate of 6%. Now from the records, it is seen that the Collector has passed certain orders and determined the compensation and has also paid interest. However, the applicants are disputing the same and the contentions of the applicants are that the compensation has not been properly assessed. In the absence of there being any specific directions in the writ petition in the matter of assessment and quantification of the claim now in these contempt proceedings this court does not have jurisdiction to go into disputed question with regard to quantification of the compensation and giving any further directions for paying enhanced compensation. If the applicants feel the manner in which the quantification of the compensation has been done and the order has been passed by the Collector in quantifying the compensation is not proper or is illegal or erroneous, it gives a fresh cause to the applicants to challenge the quantification and claim enhanced compensation but in the absence of there being any specific directions for quantification of the compensation or any specific direction for calculation of the compensation in a particular manner it is not proper for this court to initiate action for contempt.

4. During the course of hearing of this matter, petitioners have brought to our notice a communication dated 08-10-13 and certain other dates made by the Collector concerned, demanding enhanced compensation to the applicant. However, the record goes to show that these communications were the internal communication between the Collector and the Government and after such communication was made, the Collector has thereafter determined the compensation, the applicant is now claiming the enhanced compensation based on the recommendation made by the Collector in these communications. Once the Collector after making the recommendation has passed final order determining the compensation now based on this communication which is prior to passing of the order determining the compensation finally, no action for contempt can be initiated. If the applicant feels that assessment of compensation has been done contrary to the recommendation and the demand raised by the Collector, it is for the applicant to challenge the same and seek enhancement as per recommendation made by the Collector.

5. In view of the above, no case is made out for initiating action for contempt instead liberty is granted to the applicants to challenge the subsequent action of the respondents for quantification of the compensation, payment of compensation and interest in accordance with law.

6. With the aforesaid, this contempt petition stands disposed of.