
(2003) 02 AHC CK 0073
In the Allahabad High Court
Case No : C.M.W.P. No. 7453 of 2003

Bhagwati Prasad Chaudhari	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 18-02-2003

Acts Referred:

Constitution of India, 1950 — Article 215, 226
Contempt of Courts Act, 1971 — Section 2

Citation : (2003) 2 AWC 1111

Hon'ble Judges : Prakash Krishna, J; M. Katju, J

Bench : Division Bench

Advocate : R.S. Singh and G.N. Kanaujiya, for the Appellant;

Final Decision : Allowed

Judgement

M. Katju, J.—Standing Counsel is granted one week's time to file counter-affidavit. List peremptorily on 25th February, 2003.

2. This case illustrates how the executive authorities have now started disobeying the orders of this Court by giving scant regard to the same.

3. The dispute in this case is regarding no-confidence motion against the Chairman of the District Cooperative Bank Limited, Mirzapur.

4. The controversy came up before this Court in Writ Petition No. 55526 of 2002, Ranjan Jaiswal v. Registrar, Cooperative Societies, U. P., Lucknow and Ors., which was decided on 3.1.2003, vide Annexure-1 to the writ petition. A Division Bench of Hon'ble S. Rafat Alam and Hon'ble D. P. Singh, JJ. allowed the writ petition in which the District Magistrate, Mirzapur as well as the Sub-Divisional Magistrate, Sadar, Mirzapur as also the Director of the District Co-operative Bank Limited, Mirzapur were respondents. In this case, it was held that the no-confidence motion was not invalid for want of quorum or lack of requisite majority because two-third members were present in the meeting.

5. We would have expected that after this judgment, the meeting for considering the motion of no-confidence would have been held on 27.1.2003 as had been fixed earlier, but by the impugned order dated 25.1.2003, the meeting has been adjourned, vide Annexure-V to the writ petition, by the District Magistrate, Mirzapur, respondent No. 2 in this petition. In the impugned order, the District Magistrate states that there are contradictions regarding the decision of the dispute regarding the validity of nomination of nominated members. According to him, the High Court has held that the District Magistrate is the competent authority to decide the objections, whereas the Registrar Co-operative Societies is of the opinion, vide his letter dated 17.1.2003, that the controversy has to be decided by the Sub-Divisional Magistrate, who has decided the controversy. According to the District Magistrate, as mentioned in his impugned order, there is contradiction between the direction of the Registrar, who has directed that the controversy will be decided by the Sub-Divisional Magistrate and the judgment of this Court dated 3.1.2003, which has directed that the controversy should be decided by the District Magistrate.

6. Thus, it appears that the District Magistrate is of the opinion that the Registrar's order is contrary to the view expressed by this Court in its judgment dated 3.1.2003 and in view of these contradictory orders, he has postponed the meeting. We fail to understand how a senior officer like the District Magistrate is of the opinion that the Registrar, Cooperative Society's order will prevail over the opinion expressed by this Court in its judgment. Prima facie, it seems to us that it was with ulterior motive that the District Magistrate, Mirzapur has passed the impugned order to adjourn the meeting of no-confidence on some flimsy pretext. Thus, he appears to have committed gross contempt of the order of this Court dated 3.1.2003.

7. We, therefore, issue notice of contempt of Court to Sri Amrit Abhijat, District Magistrate, Mirzapur to show cause as to why he should not be punished for contempt of Court for violating the judgment of this Court dated 3.1.2003. The District Magistrate, Mirzapur, Sri Amrit Abhijat, should be personally present in Court on the- date fixed i.e., 25.2.2003 along with his reply. The learned Standing Counsel will communicate this order to the District Magistrate, Mirzapur forthwith. We further direct that the meeting for consideration of no-confidence motion will be held on Monday March 3, 2003 and it shall not be adjourned on that date.

8. This order has been passed in presence of Sri R. S. Singh, learned counsel for the petitioner and the learned Standing Counsel. The petitioner will serve the respondent Nos. 2 and 4 personally within three days and they may file counter-affidavit by the next date fixed in the matter i.e., 25.2.2003. Standing Counsel will also communicate this order to the District Magistrate, Mirzapur.