
(1992) 03 AHC CK 0005

In the Allahabad High Court

Case No : Civil Miscellaneous Contempt Application No. 803 of 1990

Bhullar Nath Yadav and Others

APPELLANT

Vs

Munna Singh Rathore Ex-Officer Incharge Mayo Hall Sports
Complex and Others

RESPONDENT

Date of Decision : 31-03-1992

Acts Referred:

Citation : (1993) 17 ACR 631

Hon'ble Judges : Ravi S. Dhavan, J

Bench : Single Bench

Advocate : Rakesh Dwivedi and Dinesh Dwivedi, for the Appellant; G.L. Tripathi, for the Respondent

Judgement

Ravi S. Dhavan, J.—Writ Petition No. 24195 of 1988 was decided on May 2, 1990 by a Division Bench of this Court comprising of their Lordships Hon'ble K.P. Singh, J. and Hon'ble R.A. Sharma, J. It carried a direction, to the effect, that certain daily wage employees of the State Government be regularised in their service within three months of the receipt of a certified copy of the judgment to be placed before the Respondents. The Respondents are the Incharge of a local sports Complex, at Mayo Hall, the Director of Sports at Lucknow and Secretary, Ministry of Sports, Lucknow.

2. Almost two years have elapsed since the decision and [the direction given by the High Court is yet to be implemented. The mandamus of the Court should not have needed a reminder and things must normally be done within a reasonable time and in this case three months was granted by the Bench, which decided the case. If there were any reservations in complying with the order, the judgment should have been challenged in an appropriate forum. But, it was permitted to become final and the judgment was accepted. Six months after the judgment the Petitioners not having received the fruits of the judgment of the court complained by the only recourse they had by reporting to the High Court by a contempt petition.

3. The Respondents in the writ petition were under notice of the court in the contempt petition on 17 October, 1990, This case remained pending as also the mandamus of the High Court in the writ petition which should have been complied with within the time given by the Court.

4. As if one contempt petition was not enough, the mandamus issued by the High court still remained uncomplied. The Petitioners, all daily wagers now filed another contempt petition on May 3, 1991. Complaining that as the personnel at the Sports Ministry keep changing the orders of the High Court continue to be ignored. This second contempt petition registered was contempt petition No. 636 of 1991. Thus, on the non-compliance of the same judgment two contempt petitions are pending today. It is not in issue that the judgment of the High Court, as of, date, stands ignored and uncompleted. It is two years since the judgment of the High Court was delivered still the Respondents seek further time.

5. If such a state of affairs were to continue there would be endless filing of contempt petitions arising out of a solitary case and it further shows that while this Court may keep on giving orders and judgments which have been permitted to become final, a trend is creeping into the fabric which holds the Rule of Law together, to belittle the orders or the High Court. In the facts and circumstances of the present case all these are matters of record and not an issue.

6. Officials who are to comply with the orders of the court will keep on changing and receive different posting as part of routine administration. But, does the continuity of administration comes to a halt in transfer? If it not part of administration to implement court orders within the period prescribed and should orders of the court be put in the cold storage? Is it good administration that a court order or judgment is considered for implementation only when a contempt complaint is filed?

7. Today, the Chief Stading Counsel seeks further time to enable the Respondents to comply with the order of this Court. The application is supported by an affidavit of, the record riveals, Respondent No. 1 in the first contempt petition as he was the officer who was posted at Allahabad when the writ petition was filed This Court cannot enlarge the time on the mandamus which has become absolute. Since the judgment was permitted to become final by the Respondents and as long as the judgment remains uncomplied, any officer who will be in an ex-officio position in the array of parties as in the writ petition will be understood to be under notice. Such cannot be the state of affairs that the Respondents are aware of the proceedings in the writ petition pending or decided, and are to be served separately in a separately instituted contempt petition. Such a position or procedure is inconsistent with the concept and pattern of a court of record.

8. The judgment of the High Court dated 2-5-1990, in context, was meant to be complied within three months being brought to the notice of the Respondents in the writ petition. It has not been implemented and continues to be disregarded

This is a contemptuous situation. If callous disregard of court orders lapses into a practise this trend will be subversive to the destruction of courts established under the laws of the land. In contempt proceedings, in India courts have not given attention to the writ of sequestration which is a necessary corollary as part of contempt proceeding under the common law. The writ is utilised to secure compliance of orders of court. The stage to use this writ, should normally never arise unless circumstances occasion its issue.

9. Mr. V.B. Singh, Advocate, counsel appearing for certain Respondents submitted that the responsibility in not complying with the orders of the High Court rests with the "higher ups" and they are directly responsible for the non-compliance of the judgment of this High Court. This Court is afraid, that such general and sweeping argument cannot be appreciated. This is a contempt proceeding, and every contemnor is answerable to the court regardless of rank.

10. But, having regard to the learned Chief Standing counsel who has taken charge recently, the court reposes faith in him that he will appraise himself with the record. The prime concern of the court at present is that the judgment of this Court, which has become final must not be dishonored, and has to be implemented in toto. Respondents in Contempt petition No. 636 of 1991 are under notice and may show cause and present their defence to explain why the judgment remains uncomplied as of date. Such of the officers who are arrayed in the writ petition and hold office today, are also under a show cause notice from the court if the occasion arise may have to appear personally. At present no one may appear in person, but the Secretary of Sports U.P. has to personally explain on an affidavit why the judgment has remained uncomplied with until today.

11. Let the matter be listed for further orders before this Court immediately after two weeks on 16th April, 1992.