

(2012) 06 CAL CK 0041

In the Calcutta High Court

Case No : WPCRC 42 (W) of 2012 in Writ Petition 26456 (W) of 2006

Debasri Chakraborty (Banerjee)

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 06-06-2012

Acts Referred:

Citation : (2012) 06 CAL CK 0041

Hon'ble Judges : Harish Tandon, J

Bench : Single Bench

Advocate : Tarapada Halder, for the Appellant; Kamalesh Bhattacharya, Swapan Kr. Pal for the Contemnor No. 2, Mr. Subir Sanyal and Mr. Ratul Biswas for the Contemnor No. 1, for the Respondent

Final Decision : Dismissed

Judgement

Harish Tandon, J.—This contempt application is taken out on the alleged violation of order dated 1st February, 2011 passed in W.P. 26456 (w) of 2006 whereby and whereunder the Chairman, Howrah District Primary School Council was directed to consider the application filed by the petitioner seeking appointment on compassionate ground and to dispose of the same within three weeks from the date of the communication of this order. The District Primary School Council, Howrah received the said order on 07.03.2011. On 09.03.2011, the petitioner was communicated by the secretary to meet the Chairman of the said council along with the application and relevant documents. The documents were submitted as requisitioned in Memo dated 09.03.2011.

2. By Memo dated 23.02.2011, the Chairman of the said council requested the petitioner to furnish the particulars mentioned therein which includes the signature of the ward and duly filled in prescribed proforma "A" countersigned by the Sub-inspector of School.

3. It is contended by the petitioner that she along with the father appeared before the Sub-Inspector of School being the alleged contemnor No. 1 herein

from time to time but the said authority avoided to provide the particulars requisitioned by the Chairman of the said Council. Ultimately on 18.4.2011, the complaint was lodged with the said alleged contemnor No. 1 regarding his misconduct and a copy whereof was duly forwarded to the Chairman of the Council as well as the Director of the School Education (Primary Section), Government of West Bengal. However, the contemnor No. 2, the Chairman of the Howrah District Primary School Council further issued the Memo dated 03.06.2011 requiring the petitioner to submit the documents through the Sub-Inspector of Schools, the contemnor No. 1 herein. In compliance of the said requisition, the petitioner submitted all the documents on 06.06.2011 but thereafter no progress could be noted by the petitioner. Subsequently a notice containing the threat of contempt was issued on 19.08.2011 upon the alleged contemnors and thereafter, the contempt application was taken out on 28.09.2011.

4. A plea has been taken by the contemnor No. 2 i.e. Sub-Inspector of School that the order passed by this court, the violation of which has been complained in this contempt application, was never communicated to him. From the affidavit-in-opposition used by the said alleged contemnor No. 2, it reveals that on 03.06.2011, the copy of the Memo of the even date issued to the petitioner was served upon him which discloses that the same has been issued in compliance of the High Court's order although the date of the order is not mentioned. The same Memo is also annexed by the alleged contemnor No. 1 in his affidavit-in-opposition which bears the date of the High Court's order.

5. There is no dispute that both the alleged contemnors are shirking the responsibility from their shoulder by putting of blame against each other. The fact remains that the order which was passed as far back as on 1st February, 2011 has been circumvented by the alleged contemnors in one way or another. Assuming that the communication made to the alleged contemnor No. 2 does not bear the date of the High Court's Order but the words expressed, therein, would sufficiently indicate that the same is intended for due compliance thereof. It is improbable that after noticing that there is an order passed by the High Court, the authority would plead ignorance thereof as it does not mention the date when the said order was passed.

6. The alleged contemnor No. 2 woke up only after the contempt Rule was issued against him and started the action in jet speed to avoid the rigour of contempt.

7. During the course of the hearing of this contempt application, one Memo bearing No. 76/H/2 dated 09.04.2012 has been submitted before this court wherefrom it is gathered that the Chairman of the said council has forwarded the said application along with finding to the Director of School Education for taking a necessary decision.

8. There is no hesitation in my mind that the alleged contemnor No. 2 has been a guilty of dormant and passive conduct in complying the requisition made by the

alleged contemnor No. 1. Although the court proposes to punish the alleged contemnor No. 2 for such conduct but in view of a subsequent compliance, this court does not propose to pass an order inflicting the punishment under the contempt of Courts Act. The alleged contemnor No. 2 is reminded of his responsibility and duties entrusted upon him and shall hopefully discharge the same with great caution and diligence in future.

9. In view of the finding made above, the contempt application is hereby dismissed.

10. Notwithstanding the dismissal of the contempt application, the Director of the School Education shall take a decision relating to the appointment of the petitioner on compassionate ground within 8 weeks from the date of the communication of this order in accordance with law.

11. However, there shall be no order as to costs. Urgent photostat certified copy of the judgment, if applied for, be given to the parties on priority basis.