

(2003) 07 AHC CK 0106

In the Allahabad High Court

Case No : C.M. Contempt Petition No. 834 of 2000

Dinesh Prasad

APPELLANT

Vs

Kapil Dev, Director, Social Welfare and Others

RESPONDENT

Date of Decision : 09-07-2003

Acts Referred:

Contempt of Courts Act, 1971 — Section 12, 2

Citation : (2003) 3 AWC 2591

Hon'ble Judges : B.K. Rathi, J

Bench : Single Bench

Advocate : Yogesh Agarwal, for the Appellant; Rajendra Rai, P.C. Yadav (In Person) and N.L. Pandey and S.C., for the Respondent

Final Decision : Dismissed

Judgement

B.K. Rathi, J.—Heard Sri Yogesh Agarwal, learned counsel for the petitioner and Sri Rajendra Rai, learned counsel for the opposite party No. 6. The petitioner was working as Assistant Teacher in primary vidyalaya, in which he was appointed on 22.4.1996 by letter Annexure-1 to the petition. The petitioner joined the service on 23.4.1996. However, the petitioner was stopped from working and, therefore, the petitioner filed Writ Petition No. 47203 of 1999, in which counter-affidavit was called and the following interim order was also passed :

"Since the petitioner had been appointed on 22nd April, 1996 vide appointment letter of the same date, copy of which has been filed as Annexure-2 to the writ petition, there is no provision in law for stopping the petitioner to do work by an oral order.

It is directed that the petitioner shall continue to do work, if he has been working prior to 1.7.1999."

2. It is alleged that the order of this Court was served on Sri B. P. Sharma, District Social Welfare Officer, Kushinagar, Padrauna on 24.11.1999, that inspite of service of the order of this Court, the same has not been complied with.

Hence, the contempt petition was filed.

3. Notice of contempt petition was issued to opposite party, Sri B.P. Sharma, District Social Welfare Officer, Kushinagar at Padrauna. He filed counter-affidavit on 14.5.2000. In para 3, he has mentioned that when he received the order, he perused the record and relevant documents and directed the petitioner to work on the post in question by passing an order in this regard on 24.4.2000, the copy of which is Annexure C.A. 1. Later on, similar affidavit was also filed by Sri Ram Kumar, District Magistrate of Kushinagar.

4. Subsequent to this, the petitioner was again not permitted to work by Dr. Phool Chand Yadav, the present District Social Welfare Officer, Kushinagar at Padrauna. He filed his counter-affidavit, in which he alleged that the appointment of the petitioner was totally illegal. That the minimum qualification for the post of teacher is that the person should have the degree of intermediate. That it is admitted that the petitioner passed the intermediate examination in the year 1999. He has further mentioned in the affidavit that the appointment letter of the petitioner is forged. It is alleged to have been issued by Sri Hari Nam Singh, the then Superintendent, Government Bal Sadan, Deoria. An enquiry from him regarding the same was made by Sri B. P. Sharma who earlier filed counter-affidavit and complied with the order regarding this appointment letter by letter Annexure-C.A. 1. The reply was given by Sri Hari Nam Singh, Annexure-C.A. 2 dated 3.5.2000, in which it is mentioned by Sri Hari Nam Singh that he has never issued any appointment letter to the petitioner and his signatures on the appointment letter are forged.

5. In the circumstances, there are two controversies in this case, namely, (1) whether the petitioner was qualified for appointment on 22.4.1996? and (2) Whether the appointment letter of the petitioner is forged?

6. The only interim order has been passed in the writ petition, which is still pending. These questions can be properly decided in the writ petition. These questions go to the root of the matter and till the same are decided, I do not find it proper to punish the opposite party for committing the contempt of the order of this Court.

7. Accordingly, the petition for contempt is dismissed and the notices issued are discharged