

(1985) 10 AHC CK 0066

In the Allahabad High Court

Case No : Criminal Miscellaneous Case No. 1507 of 1984, C.M. Application No. 1373 (W) of 1984 and Writ Petition No. 2208 of 1980

Jagat Narain Singh and Others

APPELLANT

Vs

U. P. S. R. T.C. and Others

RESPONDENT

Date of Decision : 11-10-1985

Acts Referred:

Constitution of India, 1950 — Article 215, 226
Contempt of Courts Act, 1971 — Section 20

Citation : (1986) 10 ACR 268

Hon'ble Judges : D.N. Jha, J

Bench : Single Bench

Advocate : A. Mannan, for the Appellant; S.K. Kalia, for the Respondent

Final Decision : Dismissed

Judgement

D.N. Jha, J.—The facts giving rise to this contempt application arises out in view of certain orders passed in Writ Petition No. 2208 of 1980. This writ petition was filed by 249 Petitioners challenging the cancellation of the select list prepared by the U.P. State Road Transport Corporation. The U.P. State Road Transport Coporation had prepared a select list of appointment of conductors and that list was cancelled hence the Petitioners filed the writ petition under Article 226 of the Constitution. The Court admitted the writ petition on 18-8-1980 and a stay order was also granted to the effect that the impugned order of cancellation was stayed. Thereafter another application was moved on which on 12-12-1980 an order was passed to the effect that the appointments be made from the names appearing in the select list but these appointments would be subject to the ultimate decision pronounced in the writ petition. Thereafter it was brought to the notice of the Court through a miscellaneous application that out of turn appointments were being made by the Regional Manager and thereby claims of persons whose names appeared above, the appointees were by-passed. The Court on 7th October, 1983 passed an order which reads as under:

Learned Counsel for the opposite parties is not available at the moment. In view of the order dated 12-12-1980 it is ordered that the appointments if made from the select list shall be made in accordance with merit and the order in which the names appear therein.

The Regional Manager kept on making appointments irrespective of this order, therefore, another miscellaneous application was moved in this Court on which following orders were passed:

Heard learned Counsel.

The contention is that the opposite parties are making appointments from the select list itself but not in accordance with the merit and in the order their names appear in that list. If that is so, the proper course for the Petitioners is to move an application under the Contempt of Courts Act or seek such remedy as is considered expedient but the order in question does not require any clarification. The earlier orders dated 12-12-1980 and 7-10-83 are clear enough in terms.

The application is accordingly rejected.

2. It was at this stage that the present proceedings under Contempt of Courts Act were initiated under Article 215 of the Constitution. This Court on 23rd October, 1984 was pleased to issue notices to Prabhat Shastri, Assistant Regional Manager, Gonda and Sri M.K. Saksena, Regional Manager, Faizabad to show cause why action be not taken against them under the Contempt of Courts Act.

3. On receipt of this notice counter affidavit has been filed by Sri M.K. Saksena and Sri Prabhat Shastri.

4. It has been mentioned in the counter affidavit that in pursuance of letter dated 3-6-80 names of Waiting Panel Conductors were sent to various depots, namely, Sultanpur, Faizabad, Balrampur and Gonda. The names of candidates mentioned from Serial Nos. 1 to 50 in the waiting list were sent to Sultanpur Depot, names of candidates from serial Nos. 51 to 100 were sent to Faizabad Depot, names of candidates from serial Nos. 101 to 140 were sent to Balrampur Depot and names of candidates from serial Nos. 141 to 180 were sent to Gonda Depot. It has further been stated that vide letter dated 10-7-1980 there was further addition in the list and the candidates from serial Nos. 181 to 200 were attached to Faizabad Depot, candidates from serial Nos. 201 to 220 were attached to Gonda Depot, candidates from serial Nos. 221 to 240 were attached to Sultanpur Depot and candidates from serial Nos. 241 to 258 were attached to Balrampur Depot. It has been denied that any appointments of conductors has been made from outside the select list. It has also been asserted that the waiting list had been prepared depot wise and in the writ petition no challenge is made on that score. It has been reiterated that appointments were made strictly in accordance with the panel of waiting conductors which has been prepared depot wise. It has also been stated that there was neither any intention to flout the orders of the Court and if the Court finds that the deponent has in any manner

flouted the orders of this Court he tenders unqualified apology for the same. A rejoinder affidavit has been filed today wherein in para 4 it has been stated that the bifurcation of the list should not have been allowed and the appointments ought to have been made in the order in which the names appeared in the said select list in accordance with the orders of the Hon"ble High Court. In para 5 it has been stated that the allegations made in para 6 about which a mention has been made above by me are denied. The manner in which the appointments have been made is contrary to the orders of this Court and the same has not been corrected or rectified inspite of the fact that the same was pointed out to the opposite party. The names of the juniors were not given in the paragraph under reply and it has also reiterated that the persons senior have not been given appointment uptil now as pointed out by the applicants in their application.

5. I have heard the learned Counsel for the parties at length and gone through the averments and cross averments made by the respective parties in their affidavits. Learned Counsel for me Petitioners vehemently argued that order passed by this Court was in clear terms and it contemplated that appointments strictly should be made in accordance with the serial numbers given out in the select list. It appears that at no stage it was attempted to find out as to how many vacancies existed in various depots in the region. Learned Counsel for the Respondents on the other hand urged that according to the vacancies received from various depot candidates belonging to various serial numbers were allocated so as to avoid any further delay in the matter of appointments. Learned Counsel for the Petitioners further pointed out that out of 249 Petitioners almost all have been accommodated except ten or twelve persons. Learned Counsel for the opposite parties stated that in fact the cause for grievance has disappeared in view of such a large number of Petitioners having been absorbed. I have given my anxious consideration to various aspects involved in the case. It is, no doubt, true that the order of the Court was to the effect that appointments should be made in accordance with the names appearing in the select list. This order was clarified by order dated 7-10-1983 that the appointments if made from the select list it shall be made in accordance with the merit and the order in which the names appear therein. It is, therefore, clear that the appointments made by the opposite parties in the region should have been made according to the names mentioned serially in the select list. The Respondent adopted a peculiar method by bifurcating the names appearing at various serial numbers to various depot in the region. Howsoever good the intention of the opposite parties might have been but it was not in accordance with the spirit in which the order had been passed by this Court. Unfortunately in this case a counter affidavit had also been filed on behalf of the Respondents and not a whisper has been made with respect to the bifurcation made with respect to appointments from the select list. The opposite parties are very responsible officers of the said Corporation. They are expected to act with prudence and not like a lay man on the street. I have no hesitation in observing that the method adopted by the Regional Manager and the Assistant Regional Manager was wholly unwarranted. I have no hesitation in

also recording a finding that this bifurcation of various candidates was made to circumvent the orders passed by this Court on 7th October, 1983. Such a course of action ought to have been checked by the Chairman and the General Manager of the U.P. State Road Transport Corporation. The Regional Manager is subordinate to the General Manager and Chairman and, therefore, once the Chairman and the General Manager were party to the writ petition they should have ensured that due respect was shown to the orders passed by this Court. If there was any doubt in the mind of these officers it was always open to them to have approached the Court to get the order rescinded, modified or varied. I have gone through the record of the writ petition and I have not been able to find a single application on behalf of the Respondents seeking clarification. The conduct of these officers smacks of insubordination and indiscipline. This Court does not pass orders in vacuo, but the orders are passed to safeguard the rights of various Petitioners who approach the Court for redress. In the circumstances it is with utmost impugntity that the Respondents have tried to circumvent spirit of the order passed by this Court. I have no hesitation in holding that by their action the two officers to whom the notices have been issued have exposed themselves in including in wilful disobedience of the order passed by this Court. The orders of bifurcation were passed by the Regional Manager and that too on his own initiative. It would, therefore, not be proper for this Court to draw any proceeding against the senior officers viz. the Chairman and the General Manager or the Deputy General Manager. The Regional Manager is, therefore, guilty of wilful disobedience. Unfortunately the architect of the whole mischief is not before this Court as learned Counsel for the Respondents pointed out that orders were passed by the predecessor of Sri M.K. Saxena in 1980 as appears from letters dated 3-6-80 and 10-7-80. The Assistant Regional Manager has only conveyed the orders passed by the Regional Manager. Technically speaking, therefore, none of the officers before this Court can be held responsible. However, the conduct of predecessor of Sri M.K. Saxena calls for no exoneration. I would have initiated proceedings of contempt against him but unfortunately after a lapse of so many years in view of Section 20 of the Contempt of Courts Act it is not appropriate to draw any proceedings for contempt. It is, however, expected that the Chairman and the General Manager of the U.P. State Road Transport Corporation will take suitable action against the erring officer after finding out his name and designation.

6. This petition, unfortunately, on technical grounds fail and is accordingly dismissed. Notices issued for contempt are accordingly discharged.

Petition dismissed.