

(2004) 08 AHC CK 0274

In the Allahabad High Court

Case No : Civil Miscellaneous Contempt Petition No. 2041 of 1993

Jharkhandey Singh and Gopal Lal

APPELLANT

Vs

Sri Prem Narain, District Magistrate, Sri R.D. Shukla, Joint
Secretary and Legal Rembrancer and Sri Ashok Kumar,
Secretary and Judicial Legal Remembrancer

RESPONDENT

Date of Decision : 16-08-2004

Acts Referred:

Constitution of India, 1950 — Article 215

Contempt of Courts Act, 1971 — Section 12, 13

Citation : (2004) 08 AHC CK 0274

Hon'ble Judges : S.P. Mehrotra, J

Bench : Single Bench

Advocate : P.M.N. Singh, for the Appellant; B.R. Tripathi and S.C., for the Respondent

Judgement

S.P. Mehrotra, J.—The present contempt petition purporting to be under Sections 12/13 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India has been filed by the petitioners applicants , interalia, praying for initiating proceedings against the opposite parties for contempt of this Court on account of their failure to comply with the order dated 3.5.1993 passed by this Court in Civil Misc. Writ Petition No. 13703 of 1993, Jharkhandey Singh and Anr. v. State of U.P. and Ors.

2. It is stated in the affidavit accompanying the contempt petition that the petitioners-applicants applied for appointment on the post of Assistant District Government Counsel (Criminal) in the year 1992; and that their applications were duly forwarded by the District Magistrate, Varanasi and the District Judge, Varanasi. , and that in pursuance of the aforesaid recommendation made by the District Judge and the District Magistrate, the State Government issued appointment letters on 28.11.1992 to the petitioners applicants Copy of the said appointment letter dated 28.11.1992 has been filed as Annexure No. I to the affidavit accompanying the contempt petition .

3. A perusal of the said appointment letter dated 28.11.1992 shows that the appointments were for the period upto 30.11.1993.

4. It is, inter alia, further stated in the affidavit accompanying the contempt petition that in spite of the said order passed by the State Government for appointment of the petitioners-applicants, the District Magistrate, Varanasi did not implement the same. and in the circumstances, the petitioners-applicants filed the aforesaid Civil Misc. Writ Petition No. 13703 of 1993 before this Court; and that in the said writ petition, this Court passed an interim order dated 3.5.1993. Copy of the said interim order dated 3.5.1993 has been filed as Annexure No. 2 to the affidavit accompanying the contempt petition. The said interim order dated 3.5.1993 is emoted below:

Learned standing counsel is granted one month's time for filing a counter affidavit. Rejoinder affidavit may be filed within three weeks thereafter.

List for admission thereafter.

In view of the order dated 28.11.1992 unless the services of the petitioners have been terminated respondents will allot work to petitioners and make payment to them in accordance with law.

5. It further appears that by the order dated 27.10.1993, the notice was directed to be issued to the opposite party No. 1 (Prem Narain, District Magistrate, Varanasi) to show cause as to why he be not punished for contempt of this Court by not complying with the said order dated 3.5.1993.

6. In response to the said notice issued pursuant to the said order dated 27.10.1993, the said Prem Narain (opposite party No. 1) put in appearance and filed counter affidavit sworn on 4.1.1994.

7. In paragraph Nos. 11 and 12 of the said counter affidavit, the opposite party No. 1 (Prem Narain) stated the circumstances on account of which the petitioners-applicants could not be given fresh engagement.

8. By the order dated 17.5.2004, the present contempt petition was directed to be listed along with the record of the aforesaid Civil Misc. Writ Petition No. 13703 of 1993.

9. The case has accordingly, been listed along with the record of the aforesaid Civil Misc. Writ Petition No. 13703 of 1993.

10. A perusal of the record of the aforesaid Civil Misc. Writ Petition No. 13703 of 1993 shows that the said writ petition was dismissed for want of prosecution by the order dated 24.10.1998. The said order dated 24.10.1998 is quoted below:

List has been revised. No one appears to press this petition.

Accordingly, the petition is dismissed for want of prosecution. The interim order dated 3rd May, 1993 is vacated.

11. During the pendency of the said writ petition, the present contempt petition was filed on the ground of the alleged non-compliance with the directions given in the said order dated 3.5.1993 passed in the said writ petition.... The said order dated 3.5.1993 was evidently an interim order passed during the pendency of the said writ petition.

12. It is further evident that the said writ petition was dismissed for want of prosecution by the order dated 24.10.1998, and the said interim order dated 3.5.1993 was vacated.

13. Evidently, therefore, the present contempt petition filed on account of non-compliance of the said interim order dated 3.5.1993 passed in the said writ petition has become infructuous.

14. Even otherwise , as noted above, the appointments of the petitioners-applicants made by the said order dated 28.11 1992 were only for the period upto 30.11.1993. In view of this also, the present contempt petition has become infructuous .

15. In view of the aforesaid discussion, I am of the opinion that the present contempt petition is liable to be dismissed as having become infructuous, and the same is, accordingly, dismissed as such.

16. In consequence of the dismissal of the contempt petition , show cause notice issued to the opposite party No. I is discharged.

17. The record of the aforesaid Civil Misc. Writ Petition No. 13703 of 1993, which is appended to the present contempt petition, will be detached , and sent to the concerned Section.