
(1998) 08 DEL CK 0036
In the Delhi High Court
Case No : CCP. No. 33 of 1996

M. Riyaz Khan

APPELLANT

Vs

Municipal Corporation of Delhi

RESPONDENT

Date of Decision : 07-08-1998

Acts Referred:

Citation : (1998) 46 DRJ 586

Hon'ble Judges : K. Ramamoorthy, J;Devinder Gupta, J

Bench : Division Bench

Advocate : Mr. Bahar U. Barqi, for the Appellant; Mr. R.P. Bansal and Mr. P.D. Gupta, for the Respondent

Judgement

K. Ramamoorthy, J.—The petitioner, who instituted CW.4657/95 & CM.7765/95, has filed this contempt petition on the ground that on the 12th of December, 1995 this Court passed stay order and in-spite of the stay order, the fourth respondent in the contempt petition and fifth respondent in CW.4657/95, Mr.V.P.Tanwar, Inquiry Officer(W) issued a letter bearing No.95/94 dated 13th of December, 1995 calling upon him to attend the office of the Inquiry Officer on the 27th of December, 1995. The stay order dated the 12th of December, 1995 reads as under:-

"CW.4657/95

Notice to the respondents to show cause as to why the writ petition be not admitted, returnable on 12th February, 1996.

CM.7765/95

Notice for the same date.

Till the next date of hearing, no proceedings be taken."

2. It is stated the in the letter dated 13th December, 1995 that if the petitioner fail to appear, the inquiry would be continued ex parte. The fourth respondent

Mr.V.P.Tanwar, also wanted the petitioner to produce certified copy of the order passed by this Court on the 12th of December, 1995. The fourth respondent sent another letter dated the 1st of January, 1996 calling upon the petitioner to be present before the Inquiry Officer on 5th of January, 1996 at 2.00 p.m. to participate in the inquiry proceedings. The petitioner received the intimation on the 4th of January, 1996 at 4.00 p.m. According to the petitioner, the fourth respondent acted contrary and in willful disobedience of the order passed by this Court on the 12th of December, 1995.

3. The contempt petition was presented on the 8th of January, 1996. The fourth respondent Mr.V.P.Tanwar, filed his reply to the contempt petition on the 27th of February, 1997. In paragraph II to IV the fourth respondent has explained-

"That the petitioner vide a letter dated 12th December, 1995, informed the deponent that he has filed a writ petition in this Hon''ble Court and also stated that a stay order has been granted by this Hon''ble Court but he is not aware of the exact wording of the same. He also stated in the said letter that he will produce a certified copy of the stay order. The next date of hearing fixed in the enquiry proceedings was 13th of December, 1995. Sh.Riyaz Khan did not appear on the said date. In these circumstances, the deponent acting as enquiry officer sent a communication requesting him to appear before the deponent and produce/furnish a certified copy of the order passed by this Hon''ble Court and fixed 27th December, 1996 for this purpose. Despite receiving this communication, Sh.Riyaz Khan did not appear on 27th December, 1995. For his non-appearance on 13th December, 1995 and on 27th December, 1995, neither any proceedings were taken by the deponent nor any adverse order was passed except simple adjournment. In fact, no proceedings were taken by the deponent. As a matter of routine, another reminder notice was sent to him for the said purpose for 5th January, 1996.

That the petitioner did not appear on 5th January, 1996 also. However, by that time, the certified copy of the order passed by this Hon''ble Court (which was submitted by Sh.Riyaz Khan) had reached on the file of the enquiry proceedings. Taking cognizance of that order, the deponent there and then stayed the enquiry and did not proceed thereafter at all.

That the only lapse in this case is that Sh.Riyaz Khan delivered the certified copy of the judgment to the diarist on 18th December, 1995 which escaped the notice of the deponent and he could see that order only on 5th January, 1996.

Had Sh.Riyaz Khan appeared and produced the certified copy personally before the deponent, this confusion would not have arisen at all. The notice dated 13.12.95 issued by the deponent categorically requesting the production of certified copy which establishes the intention of the deponent that he was interested in only knowing the exact wording of the order passed by the court. It is also clear from the conduct of the deponent that he was not at all interested in proceeding with the enquiry after receiving the communication from the

petitioner nor the enquiry has at all proceeded with in any manner. The file containing the proceedings of the enquiry shall be produced before this Hon"ble Court at the time of hearing by this Hon"ble Court."

4. In the reply on merits, the fourth respondent has stated that he was not at all aware of the order passed by this Court. He came to know about the order dated the 12th of December, 1995 only on the 5th of January, 1996. He further stated that he did not proceed further with the inquiry from 13th of December, 1995 onwards.

5. From the affidavit exchanged by the parties, it becomes clear that nothing further was done, after the fourth respondent became aware of the stay order.

6. As such, we are clearly of the opinion that no case of contempt has been made out by the petitioner. Accordingly, the notice is discharged and the contempt petition is dismissed.