

(1999) 01 P&H CK 0047

In the Punjab And Haryana At Chandigarh

Case No : Civil Original Contempt Petition No. 251 of 1998

Milkhi Ram

APPELLANT

Vs

Manohar Singh and others

RESPONDENT

Date of Decision : 19-01-1999

Acts Referred:

Contempt of Courts Act, 1971 — Section 12, 2

Citation : (1999) CriLJ 1674 : (1999) 1 RCR(Civil) 674 : (1999) 3 RCR(Criminal) 102

Hon'ble Judges : V.K. Bali, J;B. Rai, J

Bench : Division Bench

Advocate : G.K. Chatrath and Ms. Alka Chatrath, for the Appellant; Sandeep Khunger, Gurdial Singh, H.S. Mattewal, Sukhbir Singh and P.S. Thiara, for the Respondent

Judgement

V.K. Bali, J.—In this contempt petition filed u/s 12 of the Contempt of Courts Act, 1971 by Milkhi Ram, President, under order of removal at the time of filing this petition, Nagar Panchayat, Ajnala, District Amritsar, a deterrent punishment to respondents is sought for on the basic allegations that they had informed the Tehsildar that stay granted by this Court in CWP No. 18693 of 1997 has since been vacated, which resulted in postponement of the meeting of the Nagar Panchayat which was to be held on February 10, 1998.

2. It has, inter-alia, been pleaded that Civil Writ Petition No. 18693 of 1997 was filed in this Court for quashing notification dated December 5, 1997 communicated to the petitioner on December 11, 1997 vide which he was removed from the office of the President and Membership of the Nagar Panchayat, Ajnala, under Rule 22 and 16(1)(e) of the Punjab Municipal Act, 1911. The writ aforesaid came up for hearing before a Division Bench of this Court on December 17, 1997 when following order was passed :-

"Present : Mr. G. K. Chatrath, Sr. Advocate with Ms. Anu Chatrath, Advocate.

Notice of motion for 18-2-1998.

Operation of Annexure P-10 shall remain stayed till further orders.

Copy of the order be given dasti."

3. It is the case of the petitioner that a copy of the order, as reproduced above, was given to the respondents and, therefore, he was allowed to continue to work as member and President of Nagar Panchayat, Ajnala. Registry of this Court as well sent a copy of order dated December 17, 1997 to the respondents for implementation of the orders. The writ aforesaid then came up for hearing on February 18, 1998 when following order was passed :- "Reply on behalf of respondents 1 and 6 filed in the Court today, copy whereof has been given to the counsel for the petitioner.

To come up for arguments on March 20, 1998.

Replication, if any, be filed 3 days before the date fixed with an advance copy to the opposite counsel."

4. It is then pleaded that in the meantime, at the instance of Dr. Rattan Singh, Vijay Kumar, Mulakh Raj and Smt. Amarjeet Kaur, Members, were also ordered to be removed. This order also became the subject matter of Civil Writ Petitions Nos. 2071, 2073 and 2074 of 1998 respectively. In these writs as well, operation of the impugned orders was stayed. Respondent No. 1, Executive Officer, Nagar Panchayat, Ajnala called a meeting of the Nagar Panchayat, Ajnala on February 10, 1998 at 3 PM for the election of Vice President in the office of Nagar Panchayat, Ajnala. It is then pleaded that inasmuch as stay has since been granted by this Court in the writ petitions aforesaid, the game plan of Dr. Rattan Singh to get elected his patronage, Shri Kimti Lal, respondent No. 4 as Vice President of Nagar Panchayat, Ajnala, fell through as all the members including the petitioner came to attend the meeting called by the Executive Officer on February 18, 1998 at 3 p.m. Respondents knew it well that the stay order granted in the case of the petitioner had not been vacated by this Court. However, respondent No. 4 Kimti Lal was told by other members to misinform the Tehsildar, who was to supervise the elections for the post of Vice President on February 18, 1998, that the stay granted by this Court to the petitioner has been vacated, as reported by their counsel. It is also the case of petitioner that Kimti Lal, respondent No. 4 had not engaged any counsel nor he was present on the date the stay was granted nor the stay has in fact been ever vacated. It is also pleaded that the respondents had master minded the whole game plan to obstruct the judicial process by making wrong statement to get the election postponed because they were sure to lose in the election of Vice President on that day and their game plan became clear when the Tehsildar announced the postponement of the election, though in law, the, election process could not be stopped by anybody including the said Tehsildar. The respondents left the meeting room but the petitioner continued the meeting inviting proposals for the conduct of election to the office of Vice President and the whole house

unanimously elected Shri Vijay Kumar as Vice President of Nagar Panchayat, Ajnala.

5. Pursuant to notice issued by this Court, respondents have filed separate written statements. Manohar Singh, respondent No. 1 in his affidavit has stated that in view of the order of this Court dated December 17, 1997, petitioner started functioning as President of the Nagar Panchayat, Ajnala and he is still continuing as such till date. The meeting of the Nagar Panchayat had been fixed for February 18, 1998 to elect a new Vice President. It is admitted that Shri Kimti Lal, Member, Nagar Panchayat, Ajnala informed Shri Bhupinder Singh, Tehsildar, Ajnala, who was observer to conduct the meeting of the Nagar Panchayat, Ajnala that the stay order granted to the petitioner has been vacated and he has got this information from his lawyer. This fact, it is further stated, stands admitted even by Shri Bhupinder Singh, Tehsildar in his reply to this contempt petition. This fact also stands proved from the proceedings of the meeting which were recorded and authenticated by the observer himself from Annexure P-4. The case of respondent No. 1 is thus that respondent No. 4 is liable to be punished for contempt of Court as insofar as respondent No. 1 is concerned, he has no role to play. Dr. Rattan Singh, respondent No. 2 denied having ever told Kimti Lal to misinform Tehsildar about the vacation of stay order. He has also denied the so called game plan as alleged by the petitioner. It is then pleaded that the meeting was postponed as there was a lot of hue and cry raised by the petitioner and his followers, who also created unruly scenes and used indecent language in the meeting. Proceedings book was also snatched by the petitioner. It may be mentioned here that this respondent has not specifically denied the role of Kimti Lal in informing Tehsildar that stay has been vacated as informed to him by his lawyer. Insofar as respondent No. 3 Bhupinder Singh, Tehsildar is concerned, he too admits that Kimti Lal had informed him that the stay order granted to petitioner has been vacated and he had got this information from his lawyer. He further avers in his written statement that the assertion made by the petitioner that Dr. Rattan Singh, Kimti Lal and Manohar Singh knew fully well that the stay order granted in his case had not been vacated, is denied for want of knowledge as it is only Kimti Lal who informed him with regard to vacation of stay order and this fact was also recorded by him in the proceedings of the meeting of the Nagar Panchayat held on February 18, 1998. It has then been admitted that when Kimti Lal informed respondent No. 3 in the meeting the stay granted to the petitioner has been vacated, respondent No. 3 was left with no alternative except to postpone the meeting till the decision of the writ petition.

6. Coming now to the written statement filed by respondent No. 4 Kimti Lal, it may be mentioned here that whereas the basic facts, as pleaded in the petition, have not been denied, nor the same, in view of documentary evidence, could be denied, it has been vehemently denied by him that he had informed the Tehsildar that the stay granted by this Court to the petitioner has since been vacated. He further denies that the Tehsildar was misinformed about the vacation of stay at the instance of any other person. He further pleads that he was not a party to

any writ petition and, therefore, he did not have a lawyer and there was no question of his having receiving any information from the lawyer and conveying the same to the Tehsildar.

7. We have heard learned counsel for the parties and with their assistance gone through the records of the case. It is admitted at all ends that if assertion made by the petitioner to the effect that Tehsildar was misinformed with regard to vacation of stay, is accepted, it would certainly amount to criminal contempt as defined in Section 2(c) of the Contempt of Courts Act, 1971. That being so, all that needs to be determined in this case is as to whether the assertion made by the petitioner with regard to Kimti Lal having misinformed the Tehsildar with regard to vacation of stay and that too at the instance of other respondents, deserves to be accepted or not. At the outset, we would like to mention that the bald assertion made by the petitioner that there was a conspiracy hatched by respondents, the same could not be substantiated. The assertion to that effect, as mentioned above, has been controverted by the respondents. It is also not the case of the petitioner that at the time when respondent No. 4 misinformed respondent No. 3 with regard to vacation of stay on the information received by him from his lawyer, the other respondents supported the said assertion. No case of contempt, in our view, is thus made out against respondents 1 to 3. Insofar as mis-information given by respondent No. 4 to Tehsildar, respondent No. 3 is concerned, this Court is of the firm view that the same has to be accepted as true. Not only that respondent No. 3, Tehsildar, who was to preside over the meeting, has admitted this fact, but the same is also borne out from the proceedings of the meeting. The fact aforesaid has further been admitted by all other respondents, but for, of course, respondent No. 4 Kimti Lal. The fact that respondent No. 4 had, thus, misinformed respondent No. 3 with regard to vacation of stay is proved by over-whelming evidence that has been brought on record of the case. The fact that respondent No. 4 had not engaged any lawyer and, thus, there was no question of informing the Tehsildar that stay has been vacated, as told to him by his lawyer, as is the case of respondent No. 4, does not advance his case at all. It rather shows falsity of information supplied by him to the Tehsildar at the time when meeting was held. Respondent No. 4 has not even tendered apology nor any thing for accepting apology on his behalf has been argued by the counsel representing him.

8. In view of what has been said above, we are of the view that respondent No. 4-Kimti Lal has committed criminal contempt of Court and we, thus, hold him guilty of the same. In totality of the facts and circumstances of the case, we are of the view that ends of justice would be served if he is sentenced to undergo simple imprisonment for a period of fifteen days and to pay a fine of Rs. 2000/-. So ordered. If fine is realised, the same shall be paid to the petitioner. Rule against the other respondents is discharged.

9. We, however, suspend the sentence imposed upon respondent No. 4 for a period of fifteen days enabling him to file an appeal against this order, if he may

so desire. A copy of this order be given free of costs to respondent No. 4 today itself under the signatures of the Court Secretary.

10. Order accordingly.