
(2004) 08 AHC CK 0063
In the Allahabad High Court

Muinuddin

APPELLANT

Vs

Sri Shiv Raj Singh, Director, Ayurvedic and Unani Services

RESPONDENT

Date of Decision : 24-08-2004

Acts Referred:

Contempt of Courts Act, 1971 — Section 12, 15

Citation : (2004) 08 AHC CK 0063

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

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.P. Mehrotra, J.—Case called out.

2. Learned Counsel for the parties are not present.

3. The present Contempt Petition, purporting to be u/s 12 read with Section 15 of the Contempt of Courts Act, 1971, has been filed by the petitioner-applicant, inter-alia, praying for initiating contempt proceedings against the Opposite Party for dis-obeying the order dated 4-2-1994 passed by this Court in Civil Misc. Writ Petition No. 29487 of 1991, Muinuddin v. State of U.P. and Ors.

4. It is, inter-alia, stated in the Contempt Petition that the petitioner-applicant was appointed as a Physician in the Subordinate Gazetted Medical Services, Ayurvedic and Unani through the Public Service Commission, U.P. in 1961; and that the appointment letter was issued to the petitioner-applicant on 28-5-1962; and that the petitioner-applicant reached the age of superannuation on 30-11-1984; and that, thereafter, as the petitioner-applicant was not paid his full pension and other benefits as admissible, the petitioner-applicant made a representation to the Opposite Party as well as to the Secretary, Medical Department, State of U.P., Lucknow; and that the petitioner-applicant made several representations both to the Opposite Party as well as to the Secretary, Government of U.P., Medical Department, Lucknow; and that nothing was being done on the said representations, the petitioner-applicant filed the

aforementioned Civil Misc. Writ Petition No. 29487 of 1991; and that the said Writ Petition was disposed of by this Court by its order dated 4-2-1994, inter-alia, directing the Respondent No. 1 in the said Writ Petition, namely, Director, Ayurvedic and Unani Services, Uttar Pradesh, Lucknow to decide the said representations of the petitioner-applicant within the period mentioned in the said order dated 4-2-1994.

5. Copy of the said order dated 4-2-1994 has been filed as Annexure 1 to the Contempt Petition.

6. The relevant portion of the said order dated 4-2-1994 passed in the said Writ Petition is quoted below:

We have heard learned Counsel for the petitioner and in our opinion, a case has been made out to direct the Director, Ayurvedic and Unani Services, Uttar Pradesh, Lucknow, respondent No. 1 to decide the representations of petitioner, which are filed as Annexures 3 and 5 to the writ petition, within three months from the date a certified copy of this order is filed before him. In case these representations are not traceable in the office of respondent No. 1, fresh representation may be made within two weeks.

With these observations, the writ petition is disposed of finally.

7. It is, inter-alia, further stated in the Contempt Petition that in pursuance of the said order dated 4-2-1994 passed in the said Writ Petition, the petitioner-applicant moved an application before the Opposite Party on 16-3-1994 alongwith the certified copy of the said order dated 4-2-1994 passed by this Court; and that despite the directions given by this Court in the said order dated 4-2-1994, the Opposite Party only wrote a letter to the petitioner-applicant on 23-7-1994 that the matter of the petitioner-applicant was under consideration, and as soon as the same was finalized, the petitioner-applicant would be informed about the same.

8. Copy of the said letter dated 23-7-1994 has been filed as Annexure 4 to the Contempt Petition.

9. It is, inter-alia, further stated in the Contempt Petition that thereafter, the petitioner-applicant made another representation to the Opposite Party on 3-8-1994 through registered post.

10. It is, inter-alia, further stated in the Contempt Petition that even though about 9 months were going to expire, the Opposite Party did not take any action pursuant to the directions given by this Court on 4-2-1994.

11. By the order dated 14-12-1994, notice was directed to be issued to the Opposite Party to show cause as to why he be not prosecuted and punished for the alleged flouting of the said order dated 4-2-1994 passed in the said Writ Petition.

12. It further appears that pursuant to the issuance of notice, as directed by the

said order dated 14-12-1994, the Opposite Party (Shiv Raj Singh) put in appearance and filed a short counter affidavit, sworn on 6th March, 1995.

13. Paragraphs 6 and 7 of the said short-counter affidavit, which are relevant in the present context, are reproduced below:

6. That vide his letter dated 2-3-1995 the deponent further requested to the State Government to issue necessary direction on the representation of the petitioner so that order's of the Hon''ble Court may be complied forth with.

A Photostat copy of the letter dated 2-3-1995 is being filed herewith as Annexure 4 to this affidavit.

7. That it is pertinent to submit here that the competent authority for disposal of the petitioner's representation is the State Government and the matter of the petitioner have already been referred to the State Government which is still pending for disposal. Opposite Party is not competent to decide the petitioner's representation as well as allow him the benefits which he have sought through his representation.

14. It further appears from a perusal of the order-sheet of the Contempt Petition that by the order dated 2nd May, 1995, the Opposite Party was directed to file a detailed counter affidavit on the date mentioned in the said order dated 2nd May, 1995.

15. In the meantime, it appears that in view of the aforesaid stand taken in the short-counter affidavit filed by the Opposite Party, an application being Civil Misc. Application No. 23941 of 1995, was filed, inter-alia, praying that the petitioner-applicant be permitted to implead Secretary, State of U.P., Medical Department-1, Lucknow as the Opposite Party No. 2 in the Contempt Petition, and the contempt proceedings be initiated against the said Secretary for non-compliance of the said order dated 4-2-1994 passed in the said Writ Petition.

16. By the order dated 15th May, 1995, the said Civil Misc Application No. 23941 of 1995 was rejected by this Court as the name of the Opposite Party was not mentioned in the said application. The said order dated 15th May, 1995 is quoted below:

The name of the opposite party is not mentioned in this petition. Hence, no notice can be issued to the opposite party as such.

This application is rejected.

Let it be kept on the record.

17. It further appears that the petitioner-applicant, thereafter, filed another application being Civil Misc. Application No. 66297 of 1995, inter-alia, praying for impleading Sri Ramesh Yadav, Sachiv, Chikitsa Shiksha, U.P., Lucknow as the Opposite Party No. 2 and for issuing contempt notice against the said Sachiv for dis-obeying the order dated 4-2-1994 passed by this Court in the said Writ

Petition.

18. By the order dated 7-12-1995, the said application was directed to be listed on 18th January, 1996.

19. It further appears that pursuant to the said order dated 7-12-1995, the case was listed before the Court on 22nd January, 1996. As none was present on the said date i.e. 22nd January, 1996, the case was passed over for the day.

20. Again, the case was taken up before the Court on 23rd January, 1996. On the said date i.e. 23rd January, 1996, none was present, and in the circumstances, the case was directed to be listed in the ordinary course.

21. It further appears that thereafter, an application, being Civil Misc. Listing Application No. 61598 of 1996, was filed on behalf of the petitioner-applicant praying for listing the case at an early date.

22. By the order dated 4-10-1996, passed on the said Civil Misc. Listing Application No. 61598 of 1996, the case was directed to be listed along with the record at an early date.

23. Again, Civil Misc. Listing Application No. 73400 of 1996, was filed on behalf of the petitioner-applicant.

24. By the order dated 26th November, 1996, passed on the said Civil Misc. Listing Application No. 73400 of 1996, the case was directed to be listed in the next cause list at the earliest.

25. The petitioner-applicant moved another application, being Civil Misc. Listing Application No. 24499 of 1997, inter-alia, praying for listing the case at an early date.

26. By the order dated 8-4-1997, the case was directed to be listed in July 1997.

27. A perusal of the order-sheet of the Contempt Petition shows that the case was put up, thereafter, before the Court along with the Office Report dated 11th August, 1997. However, no order appears to have been passed by the Court on the said date.

28. The case was, thereafter, listed before the Court on 11th May, 2004. On the said date, i.e., 11th May, 2004, the case was passed over and was directed to be listed in the next cause list, as the learned Counsel for the parties were not present even when the case was taken up in the revised list.

29. Thereafter, the case was listed on 18th May, 2004. The learned Counsel for the parties were again not present even when the case was taken up in the revised list.

30. In the circumstances, the Court passed an order dated 18th May, 2004 whereby the case was passed over and was directed to be listed in the next cause list.

31. The case was, thereafter, listed before the Court on 6th July, 2004. The learned Counsel for the parties were not present even when the case was taken up in the revised list, and, therefore, the case was passed over and was directed to be listed in the next cause list.

32. The case was, thereafter, listed on 27th July, 2004. On the said date, i.e., 27th July, 2004, the case was again passed over and was directed to be listed in the next cause list, as the learned Counsel for the parties were not present even when the case was taken up in the revised list.

33. From the above narration of facts, it is evident that the Opposite Party (Shiv Raj Singh) in his said short-counter affidavit, inter-alia, stated that the Competent Authority for disposal of the representation of the petitioner-applicant was the State Government, and the matter of the petitioner-applicant had been referred to the State Government, which was still pending for disposal.

34. Having regard to the said averments made in the said short-counter affidavit, the petitioner-applicant first filed Civil Misc. Application No. 23941 of 1995 for impleading the Secretary, State of U.P., Medical Department-1, Lucknow as the Opposite Party No. 2 in the Contempt Petition. However, the said Civil Misc. Application No. 23941 of 1995 was rejected by the said order dated 15th May, 1995 as the name of the Opposite Party was not mentioned in the said application.

35. Thereafter, the petitioner-applicant filed the aforementioned Civil Misc. Application No. 66297 of 1995 in December, 1995.

36. As is evident from the narration of facts given above, the said Civil Misapplication No. 66297 of 1995, inter-alia, seeking to implead Sri Ramesh Yadav, Sachiv, Chikitsa Shiksha, U.P., Lucknow as the Opposite Party No. 2 in the Contempt Petition, has not so far been allowed, and no notice has, therefore, so far been issued to the said Sri Ramesh Yadav, Sachiv, Chikitsa Shiksha, U.P., Lucknow.

37. As no order has so far been passed on the said Civil Misc. Application No. 66297 of 1995, I am of the opinion that no useful purpose will be served by allowing the said Civil Misc. Application No. 66297 of 1995 now after a lapse of about 9 years since the filing of the said Application, and directing for issuance of notice to the said Sri Ramesh Yadav.

38. There is reasonable possibility that the incumbent on the post of Sachiv, Chikitsa Shiksha, U.P., Lucknow may have been changed by now.

39. It is further note-worthy that for the last four dates, mentioned above, the learned Counsel for the parties have not been appearing even when the case has been taken up in the revised list.

40. In view of the aforesaid facts and circumstances, it is evident that the present Contempt Petition has become infructuous by lapse of time, and the

same is liable to be dismissed as such.

41. The Contempt Petition is, accordingly, dismissed as having become infructuous.

42. In consequence of the dismissal of the Contempt Petition, the show-cause notice issued to the Opposite Party (Shiv Raj Singh) is discharged.