

(1986) 11 BOM CK 0009

In the Bombay High Court

Case No : Motion No. 1446 of 1986 in Writ Petition No. 2477 of 1984

P. Ripalkumar and Co.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 05-11-1986

Acts Referred:

Citation : (1993) 63 ELT 404

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

Bench : Single Bench

Judgement

Bharucha, J.—This is a notice of motion for contempt of court directed against the Union of India and one S. K. Bhatta, Joint Chief Controller of Imports and Exports, Bombay, at the relevant time and now holding the same position in New Delhi.

2. By his judgment and order dated 20th August 1985, Pratap J. disposed of the aforementioned writ petition and directed the Union of India, the Chief Controller of Imports and Exports, New Delhi, and the Joint Chief Controller, Imports and Exports, Bombay, "to (i) revalidate for a period of six months from the date of revalidation the petitioners' import licence; and (ii) endorse the said licence to be valid for import of O.G.L. items under Paragraph 185 (excluding sub-para 7 thereof) of the AM 83 Policy except any item the import of which has been specifically banned under the current policy".

3. The respondents preferred an appeal against Pratap J.'s judgment and order. The appeal was dismissed by a Division Bench of this court on 19th December 1985. The respondents filed a petition for special leave to appeal to the Supreme Court. This was dismissed on 13th October, 1986.

4. Until the SLP was dismissed on 13th October, 1986 the respondents were entitled not to carry out the directions given by Pratap J. They are, however, still not carried out.

5. I, therefore, asked Mr. Bulchandani, learned counsel for the Union of India and the said Bhatta, when the order Pratap J. would be complied with. He stated that even as late as 2 p.m. today telex and telephonic messages had been received from the said Bhatta at New Delhi that the petitioners' licence would be endorsed with a clause additional to those required by Pratap J.'s order or not at all. While the motion was being argued, the petitioners' licence so endorsed was produced. It contained the following additional clause :

"Items as per O.G.L. 1982-83 excluding the items not permitted to export houses under the Import Policy for AM 85-88, i.e. excluding items appearing in the lists of restricted items, limited permissible items and canalised items."

The additional clause whittles down the relief granted to the petitioners by Pratap J.

6. The order of Pratap J. has been confirmed by a Division Bench of this court and not disturbed by the Supreme Court. The respondents either did not ask for or asked for but failed to obtain from the Supreme Court the right to include the additional clause. Because this clause has been incorporated the respondents have failed to comply with the order of Pratap J., as upheld by the Division Bench of this Court and the Supreme Court, and are in contempt. There is no attempt to purge the contempt.

7. The said Bhatta is no longer the Joint Chief Controller of Imports and Exports, Bombay, but it is clear from the messages that I have been shown that he is still the officer who is in charge and giving instructions. It is on his instructions that the additional clause has been incorporated.

8. The denial to the petitioners, even after the Supreme Court's order, of the full measure of relief granted in an act of remarkable defiance of the court's authority. The Union of India and its officers ought to set the standard of respect due to the court. When the Union of India and its officers flout the courts' orders the punishment must be condign.

9. The Union of India and the said Bhatta are guilty of contempt of court. The Union of India shall pay a fine of Rs. 2,000/-. The said Bhatta shall serve a term of simple imprisonment for 4 weeks.

10. The contempt of which the Union of India and the said Bhatta are guilty is a continuing offence. They shall be in contempt and liable to be punished therefore until an endorsement is made upon the petitioners' licence that conforms exactly with the order passed by Pratap J. In view of this observation, the Joint Secretary, Ministry of Law and Company Affairs, Bombay, is directed forthwith to send a copy of this order to the Commerce Ministry of the Union of India.

11. The Union of India and the said Bhatta to pay to the petitioners the costs of this motion.

12. Application for stay refused.