
(2013) 03 MP CK 0085
In the Madhya Pradesh High Court
Case No : CONC No. 737 of 2012

Ram Bharose Lal Shrivastava

APPELLANT

Vs

Smt. Aruna Sharma and Others

RESPONDENT

Date of Decision : 21-03-2013

Acts Referred:

Citation : (2013) 03 MP CK 0085

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Judgement

Sujoy Paul, J.—This contempt petition is arising out of order passed in W.P. No. 6561/2003 (Ram Bharose Lal Shrivastava Vs. State of M.P. & Ors.). This Court in para 4 and 5 of the said order directed as under:-

4. In the present cases also, there is no difference as far as the aforesaid legal position is concerned.

5. Accordingly, all these petitions are allowed. Respondents are directed to reconsider the matter afresh and by applying the law laid down in the case of Panchayat Karmachari Sangh and Another Vs. State of M.P. and Another, , granted pensionary benefits from the respective date when they were appointed as Panchayat Secretary in accordance with directives issued by the Local Self-Government in its order dated 18-2-1965 referred to as Annexure A/2 in the aforesaid case.

A Writ Appeal No. 330/06 was filed by the State which was dismissed by the Division Bench on 30.7.2007. No interference was made by the Apex Court also.

Shri Anil Sharma, learned counsel for the petitioner, submits that the action of the respondents in non-granting the benefits as directed by this Court amounts to wilful disobedience of the order and amounts to contempt.

2. Per contra, Shri M.P.S. Raghuwanshi, Advocate for respondents No. 1 and 2 and Shri Raghvendra Dixit, Advocate for respondents No. 3 and 4, submit that

this Court directed to consider the case of the petitioner in accordance with law. The consideration was made and the claim of the petitioner was rejected after due application of mind. They submit that no contempt is made out.

3. I have bestowed my anxious consideration to the rival contentions of the learned counsel for the parties and perused the record.

4. A careful reading of the order passed by the Writ Court shows that the direction was to consider the case of the petitioner by taking into account the judgment passed by this Court in the case of Panchayat Karmachari Sangh and Another Vs. State of M.P. and Another, . The direction was for "reconsidering" the matter "afresh". The respondents have passed an order dated 13.2.13 (Annexure C-3). In this order running in 13 pages the respondents have dealt with the matter in extenso. The relevant portion of the said order reads as under:-

5. The respondents after a detailed discussion, opined that the petitioner is not entitled to enjoy the benefit of the judgment in Panchayat Karmachari Sangh (supra). The question is whether this amounts to contempt.

6. In my opinion, this point is no more res integra. In absence of any positive and mandatory direction, it cannot be said that contempt is committed by the respondents in passing the impugned order. In other words, since the order passed by the Writ Court was for considering the case afresh, it was open for the respondents to consider it and pass afresh order. If the said order is erroneous or suffers from any illegality, the remedy of the petitioner is elsewhere and correctness and validity of the said order cannot be gone into in a contempt proceeding. This view was taken by the Supreme Court in J. Parihar Vs. Ganpat Duggar and others, . The relevant portion reads as under:-

Once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions but that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. However, that cannot be considered to be the wilful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the Single Judge could not be given to redraw the seniority list as in doing so the Single Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible u/s 12 of the Act.

7. In the light of the aforesaid, in my opinion, no case for contempt is made out. The petitioner if advised may file appropriate proceeding for challenging the order dated 13.2.2013.

8. Before parting with the matter, I deem it proper to deal with the additional affidavit filed by respondent No. 3. Earlier respondent No. 3 made incorrect statements in his affidavit. The same is sought to be corrected by filing additional

affidavit. The respondent No. 3 showed his regret for the incorrect averments made by him earlier. I deem it proper to accept the apology tendered by respondent No. 3. The respondent No. 3 should be careful in future in this regard. In the opinion of this Court, no case is made out by the petitioner in contempt jurisdiction. Accordingly, contempt petition is dismissed. Rule nisi is discharged. Liberty is reserved to the petitioner to challenge the rejection order before the appropriate forum.