
(2000) 11 RAJ CK 0035

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4336 of 1998

Rama and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 23-11-2000

Acts Referred:

Constitution of India, 1950 — Article 215, 226, 227

Citation : (2001) 2 RLW 802 : (2001) 3 WLN 369

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Advocate : P.R. Mehta, for the Appellant; Basti Chand, for the Respondent

Judgement

Shethana, J.—For implementing the impugned award dated 30.4.1998 (Annex. 1) passed by the Labour Court, Udaipur in favour of respondents workmen this petition is filed by the petitioners workmen on 13.4.1998. Notice was ordered to be issued on 9.12.1998 making it returnable within six weeks and the respondents were directed to ensure the compliance of the award made in their favour, but the said order was not complied with in the sense that compliance of the award is not made so far. On 17.5.1999, the petition was admitted and it is pending since then. Reply affidavit is filed in this petition on behalf of the respondent nos. 1 and 2 and in para No.6 of the same it is stated that:-

".....after the passing Award and after issuing the notification in official Gazette, the respondents submitted the writ petition challenging the Award dated 30.4.98 and the writ that the petitioner had been ordered to reinstate and as regards back wages the respondents are awaiting financial sanction and without financial sanction no back wages can be made. Thus respondents had implemented the part of the Award and with regard to back-wages the answering respondents arrange to make back- wages as soon as the financial sanction is accorded by the Government."

(2). This reply was filed alongwith the affidavit on 22.9.99 by the respondents.

More than sufficient period has passed after passing of the award at Annex. 1, but so far the impugned award is not fully complied with.

(3). It may be stated that earlier an order dated 21.5.1999 was passed regarding back wages, but for the reasons best known to them the same was withdrawn on 25.4.2000. Against that, writ petition No. 1517/2000 was filed before this Court. On 18.5.2000, my learned brother Hon"ble Dr. B.S. Chauhan, J issued notice and stayed the order of withdrawal dated 25.4.2000 withdrawing the earlier order dated 21.5.1999 giving back wages to the workmen. In spite of this, the award at Annex.1 is not fully complied with and back wages are not so far paid.

(4). It was submitted by learned counsel for the petitioner Shri Mehta that the respondents have committed gross contempt of the Labour Courts award dated 30.4.98 (Annex.1) by not complying with the same in toto. However, learned counsel Shri Basti Chand for the respondent State submitted that Labour Courts are not included in the definition of the court and for not implementing the award passed by the Labour Court, the court suo moto cannot initiate contempt proceedings. It is true that so far the view was that for breach of order passed by the Labour Court contempt petition would not lie because they were not falling under the strict definition of courts for the purpose of initiating contempt proceedings under the Contempt of Courts Act. However, only yesterday news item is published in "Rajasthan Patrika" to the effect that Division Bench of Gujarat High Court has now taken the view that non compliance of the order/award passed by the Labour Court also constitute contempt.

(5). Prima facie, I am also of the view that non compliance of the order/award passed by the Labour Court would be nothing but contempt. However, at present I do not want to propose to initiate contempt proceedings under Article 215 of the Constitution of India. But, non compliance of the order passed by this court is certainly contempt. On 9.12.1999 while issuing notice to the respondents and making it return-able within six weeks, the learned Single Judge of this Court directed the respondents to ensure compliance of the award made in their favour. Not doing so for all these lime would nothing but a contempt for which the respondents can be suitably dealt with. However, learned counsel Shri Basti Chand, learned counsel for the respondents stated at the bar that due to financial crisis faced by the Government, the award at Annex.1 was not fully complied with by the respondents and the same shall be complied with latest by 1.4.2001.

(6). In that view of the matter, I do not propose to initiate contempt proceedings for the time being against the respondents.

(7). In view of the above discussion this petition is allowed. The respondents are now directed to fully comply with the award passed by the Labour Court on 30.4.98 (Annex. 1) latest by 1.4.2001, failing which they will be liable for contempt.