

(2002) 09 AHC CK 0244

In the Allahabad High Court

Case No : C.M. Contempt Petition No. 2414 of 2002

Ramesh Singh Bhadauria

APPELLANT

Vs

Devendra Verma, Deputy Registrar Listing, High Court and
Another

RESPONDENT

Date of Decision : 19-09-2002

Acts Referred:

Citation : (2003) 1 ACR 208

Hon'ble Judges : S. Harkauli, J

Bench : Single Bench

Advocate : J.S. Baghel, for the Appellant;

Judgement

S. Harkauli, J.—This civil contempt petition has been filed with the averment that a direction of the Court for listing the case in "the next supplementary cause list" has been violated by the opposite parties by not so listing the case.

2. Opposite parties Sri D. N. Agarwal (J.R.) along with Sri Devendra Verma (D.R.) have appeared before the Court in person on being summoned. They have stated that Writ Petition No. 21848 of 2001 was finally disposed of by a Division Bench of this Court consisting of Hon'ble Mr. Justice Sudhir Narain and Hon'ble Mr. Justice V. K. Chaturvedi. In this writ petition, a correction application has been moved in which a direction was issued for filing supplementary affidavit. Another direction was issued for listing the same in the "next supplementary cause list."

3. The supplementary-affidavit, which is alleged to have been filed, is not on the record of this writ petition. Therefore, the Petitioner may supply the date of filing of the supplementary-affidavit so that it can be traced out and placed on the record. Without tracing out of the supplementary-affidavit, constitution of the Division Bench only for this one case would cause inconvenience to the Bench as the case is not likely to proceed. Further the Writ Petition No. 10892 of 2002 which was also directed to be listed, was actually listed in the cause list of 23.5.2002 along with Writ Petition No. 21848 of 2001 before the Bench

comprising of Hon''ble Mr. Justice S. R. Singh and Hon''ble Mr. Justice S. P. Mehrotra, therefore, it cannot be said that there was non-compliance of listing order of this Court.

4. In the circumstances, if the Petitioner supplies within 48 hours, to the Joint Registrar (Listing) in writing the date of filing of the aforesaid supplementary-affidavit, then subject to it being traced out and restored to the file and subject to permission of the Hon''ble the Chief Justice the Writ Petition No. 21848 of 2001 may, according to Sri D. N. Agarwal, be got listed of Friday 27.9.2002 by constituting the Bench concerned as in this week Hon''ble Sudhir Narain is not available.

5. While dealing with this slightly unusual contempt petition, it may be pointed out that this is very big High Court and due to practical difficulties, cases cannot always be listed as directed in the "next cause list" or "next supplementary cause list". Non-listing may be due to several factors including over-sight, lack of listing capacity, etc. Therefore, unless it can be shown that non-listing is mala fide on the part of any opposite party with deliberate intention to violate the order of the Court, it could not be a proper case for taking action in contempt. The proper remedy for aggrieved litigants or lawyers in such a case is, instead of filing contempt petitions, to give a written request to the listing department and if that request is not attended to, then to approach the Bench concerned by a misc. application seeking fixation of a firm date.

6. In the circumstances, I am of the opinion that this is not a fit case for taking any action in contempt. The contempt petition is therefore dismissed.