

(2004) 08 AHC CK 0034
In the Allahabad High Court

Sabha Jeet Misra

APPELLANT

Vs

Ram Ashrey Singh, District Inspector of Schools

RESPONDENT

Date of Decision : 19-08-2004

Acts Referred:

Contempt of Courts Act, 1971 — Section 12

Citation : (2004) 08 AHC CK 0034

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

Bench : Single Bench

Judgement

S.P. Mehrotra, J.—The present contempt petition has been riled u/s 12 of the Contempt of Courts Act, 1971.

2. It is, interalia, prayed in the said Contempt Petition that the opposite party be punished for having committed contempt of this Court by floating the order dated 29.6.1994 passed by this Court in Civil Misc. Writ Petition No. 14637 of 1994.

3. It is, interalia, stated in the contempt petition that the institution in question, namely, Janta Inter College, Khaparah was recognized institution; and that the provisions of the Payment of Salary Act, 197 1 were fully applicable to the said institution; and that the petitioner/applicant was appointed as Clerk on 1.7.1968 in the said institution, and the approval was granted by the opposite party; and that the petitioner/applicant was promoted as Head Clerk on 28.12.1972; and that the opposite party by the order dated 28.12.1972 granted approval in respect of the promotion of the petitioner/applicant; and that the petitioner/applicant fell ill, and as such, he went on medical leave with effect from 2.7.1993; and that the petitioner/applicant gave application for leave to the Manager through the Principal of the said institution; and that the leave was extended from time to time up to 1.3.19 94 by proper applications, which were sanctioned by the Committee of Management; and that the petitioner/applicant joined on 2.3.1994 and submitted fitness certificate and that the petitioner/applicant after joining on 2.3.1994 continued to work and sign the attendance

register upto 24.3.1994; and that on 25.3.1994 the Principal of the said institution did not permit the petitioner/applicant to sign the attendance register saying that the Manager had restrained the petitioner/applicant from signing the register; and that the salary of the petitioner/applicant had been paid upto 14.1.1994, and thereafter, salary had been stopped without assigning any reason; and that in the circumstances, the petitioner/applicant filed the aforesaid Civil Misc. Writ Petition No. 14637 of 1994; and that the said writ petition was disposed of by this Court by its order dated 29.6.1994, interalia, directing the District Inspector of Schools, Jaunpur to decide the representation of the petitioner/applicant by a reasoned order in accordance with law within the period mentioned in the said order dated 29.6.1994.

4. Copy of the said order dated 29.6.1994 has been filed as Annexure-3 to the contempt petition.

5. The relevant portion of the said order dated 29.6.1994 is quoted below:

The petition is disposed of finally with the direction to the District Inspector of Schools to decide the representation of the petitioner by a reasoned order in accordance with law within one month from the date a copy of this order is filed before him.

6. It is, interalia, further stated in the contempt petition that the copy of the said order dated 29.6.1994 was given to the opposite party on 25.7.1994 alongwith covering letter, but the opposite party did not receive the same; and that the petitioner/applicant thereafter sent the copy by the registered letter on 28.7.1994; and that the petitioner/applicant sent reminder letter dated 26.9.1994 by registered post; and that the petitioner/applicant also sent letters to the Deputy Director of Education, Varanasi and the Additional Deputy Director of Education, Allahabad; and that the representation of the petitioner/applicant had not been decided by the opposite party even after the expiry of three months.

7. It appears that by the order dated 21.12.1994, notice was directed to be issued to the opposite party on the contempt petition.

8. In response to the notice issued pursuant to the said order dated 21.12.1994, the opposite party (Ram Ashrey Singh) put in appearance and filed his counter affidavit, sworn on 20.2.1995.

9. Paragraph 9 of the said counter affidavit, which is relevant in the present context, is quoted below:

That the contents of the paragraph Nos. 16, 17, 18, 19 and 20 of the petition are denied. In reply, it is respectfully submitted that as soon as the order of this Hon'ble Court came in the notice of the deponent, he immediately took steps and called upon the parties including the petitioner to appear before him on 11.8.1994 but on the said date both parties did not appear then again the matter was adjourned upto 30.9.1994 but under the same situation the same was

adjourned on subsequent dates as on 27.10.1994, 27.1.1995, 7.2.1995 and 8.2.1995 ultimately the matter was decided vide order dated 17.2.1995 which is being annexed herewith and marked as Annexure No. CA-I to this affidavit. It is further essential to mention before this Hon"ble Court that it was bonafide efforts of the deponent and there is no deliberation. It is further respectfully submitted that the deponent is associate Distt. Inspector of Schools however in absence of regular Distt. Inspector of Schools he was given officiating charge of District Inspector of Schools from March 1994 till 16.12.1994 a part from that during his regime, the deponent tried his best and proceeded to decide the dispute by summoning both parties but due to adjournments sought by either of the parties some more time spent which is bonafide effort of the deponent. The deponent has esteem honour of this Hon"ble Court and he can not imagine to disobey the order of this Hon"ble Court even in dream, a part from the aforesaid facts and circumstances, in case this Hon"ble Court finds slightest contempt on the part of the deponent, for which the deponent tenders his unqualified apology before this Court which may be accepted.

10. A perusal of the averments made in paragraph 9 of the counter affidavit, quoted above, shows that the representation of the petitioner/applicant pursuant to the directions given by this Court in the said order dated 29.6.1994 passed in the said Civil Misc. Writ Petition No. 14637 of 1994 was decided by the opposite party by the order dated 17.2.1995. Copy of the said order dated 17.2. 995 has been filed as Annexure-CA-I to the said counter affidavit.

11. Reasons for the delay in complying with the directions given in the said order dated 29.6.1994 have also been stated in the said counter affidavit, particularly in paragraph 9 thereof quoted above, and it is evident that the delay is neither wilful nor deliberate.

12. In view of the fact that the directions given in the said order dated 29.6.1994 passed in the aforesaid Civil Misc. Writ Petition No. 14 637 of 1994 have been complied with, and the delay in complying with the said directions has been found to be neither deliberate nor wilful, I am of the opinion that the opposite party cannot be held guilty of having committed contempt of this Court, and the show-cause notice issued to the opposite party is liable to be discharged.

13. The show cause notice issued to the opposite party is accordingly discharged.

14. The contempt petition stands disposed of accordingly.