

(2005) 09 P&H CK 0123

In the Punjab And Haryana At Chandigarh

Case No : Civil Original Contempt Petition No. 1478 of 2003 (O and M) in C.W.P. No. 11144 of 2003

Shamsher

APPELLANT

Vs

Anurag Aggarwal and another

RESPONDENT

Date of Decision : 19-09-2005

Acts Referred:

Contempt of Courts Act, 1971 — Section 10, 12

Citation : (2005) 4 RCR(Civil) 381 : (2005) 4 RCR(Criminal) 369

Hon'ble Judges : M.M. Kumar, J

Bench : Single Bench

Advocate : Madan Pal, for the Appellant; Hawa Singh Hooda, Advocate General, Haryana with Mr. Kamal Sharma, Additional Advocate General, Haryana, for the Respondent

Final Decision : Allowed

Judgement

M.M. Kumar, J.—This petition filed under Sections 10 and 12 of the Contempt of Courts Act, 1971 (for brevity `the Act), is a classical illustration of obstructing and impeding the Administration of Justice. The grievance made by the Petitioner is that the undertaking dated 5.8.2003 based on the statement made by the Respondents through the State counsel was false. It is appropriate to mention that on the basis of the statement Civil Writ Petition No. 11144 of 2003, filed by the Petitioner was disposed of and the Division Bench has issued directions to Respondents. As a consequence the Petitioner has suffered an irreparable loss and a prayer has been made for punishing the Respondents in accordance with law.

2. Facts in brief are that Smt. Channo Devi was functioning as a Sarpanch of Gram Panchayat, Ferozepur, District Kaithal. There were serious allegations, inter alia, of misappropriation against her. Respondent No. 2 Shri Chand Ram, the then Block Development and Panchayat Officer, Guhla, had made an assessment report of the development works executed by the Sarpanch. A preliminary

enquiry was conducted and prima facie allegations were proved against her. On 19.12.2002, Respondent No. 1, who was Deputy Commissioner, Kaithal at that time, passed an order placing the Sarpanch under suspension. Accordingly, while charge-sheeting the Sarpanch a regular enquiry was ordered against her. The order dated 19.12.2002, passed by Respondent No. 1 reads as under:

According to the report of block development and panchayat officer, Guhla vide No. 588, 589 dated 15.4.2002 and assessment report of the development work done by the Executive Engineer vide No. 897 dated 7.11.2002, Smt. Channo Devi Sarpanch Gram Panchayat, Ferozepur Block Guhla is found guilty of the serious allegation therefore, vide this office letter Nos. 1828 dated 6.5.2002 and 5236 dated 4.12.2002 a show-cause notice was issued for giving a reply. Smt. Channo Devi submitted her reply on 4.6.2002 and 11.12.2002 which was not found satisfactory on perusal. Thereafter, the Sarpanch was given an opportunity of personal hearing on 18.7.2002 and 12.12.2002 to appear along with her evidence. The Sarpanch came present and pleaded that the reply submitted by her be treated as her evidence. The sarpanch in her reply has stated that all the works executed by her were done after panchayat passed resolution by majority and in accordance with the measurement book but as per the assessment done by the executive Engineer, the sarpanch has shown excess amount spent on the works and per the record for the year 2001-2002. She has misused the panchayat fund in an illegal manner by spending the amount of Rs. 2,17,000 directly out of the lease money of Shamlat land. Considering the seriousness of charges, vide letter No. 5496-5500 dated 19.12.2002, by charge-sheeting her, regular enquiry has been ordered. Therefore, in these circumstances it is not in the public interest for the sarpanch to continue on the post of sarpanch. Therefore, I Anurag Aggarwal IAS Deputy Commissioner Kaithal, exercising the powers u/s 51(1) of the Haryana Panchayati Raj Act, 1994, suspend Smt. Chhanno Devi sarpanch Gram Panchayat Ferozepur Block Guhla during the pendency of the enquiry and ordered that she will not participate in any meeting of the proceeding of the panchayat in future and will hand over the charge of movable/immovable property of the panchayat to a panch having majority. This order will be implemented immediately.

Deputy Commissioner Kaithal (Respondent No. 1)

Against the aforementioned order, the Sarpanch filed an appeal before the Financial Commissioner and Secretary to Government, Haryana Panchayat Department, Chandigarh. The appeal, which was registered at No. 282 of 2002, was dismissed on 20.1.2003. The operative part of the order passed by the Financial Commissioner-cum-Secretary, dismissing the appeal, reads as under:

..... Study of the record, available on the file reveals that during the course of enquiry statement of the Appellant as well was recorded four times. Thereafter, before passing the impugned order Respondent No. 1 served show- cause notice upon the Appellant to which admittedly she submitted her written reply with the Respondent No. 1 and thereafter the Respondent No. 1 heard the Appellant in

person as well before passing the impugned order but the Appellant neither in her written reply to the show cause notice nor during the course of her personal hearing by the Respondent No. 1 raised the objection to the effect that Appellant was not afforded effective opportunity to lead evidence. Therefore, this objection for the first time at this state (stage ?) is devoid of any merit. Moreover, recording of Appellant's statement four times, available on the record, clearly shows that the argument to the effect that no effective opportunity was afforded to the Appellant to lead evidence amounts to suppression of material fact. Therefore, this appeal deserves dismissal on this ground alone vide Full Bench Authority cited as 1978 PLJ 373. The assessment report of the development works was prepared by the Executive Engineer, on the basis of which impugned order has been passed, after inspecting the works on the spot in presence of inter alia the Appellant herself. The said assessment report is very much available on the record and the said Executive Engineer recorded the statement of the Appellant as well and the said statement recorded by the Executive Engineer has been appended by the signature of the Appellant herself. Therefore, the argument to the effect that no proper assessment of the work done by the Gram Panchayat has been made and even the spot inspection was not carried out are absolutely against the record and amount to suppression of material facts. Therefore again vide Full Bench Authority cited as 1978 PLJ 373 this appeal deserves dismissal on this very ground. A bare perusal of the impugned order clearly reveals that it contains the contents of the defence taken by the Appellant during the course of her personal hearing by the Respondent No. 1 and also contents of the reply of the Appellant to the show cause notice and the impugned order contains reasons as well for not agreeing to the said reply submitted by the Appellant. Therefore, the argument to the effect that points raised by the Appellant in her reply were neither considered nor discussed in the impugned order is devoid of any merit. Moreover, vide ruling date 5.4.2002 of the Hon'ble Supreme Court in civil appeal No. 2477 of 2002, while passing interim order prima facie charges are to be considered and detailed reasons are not required to be recorded otherwise it may affect pending enquiry. For ready reference the said ruling is reproduced below:

While passing interim order prima facie charges are to be considered and detailed reasons are not required to be recorded otherwise it may effect pending enquiry.

3. The Sarpanch then filed C.W.P. No. 3208 of 2003, against the orders dated 19.12.2002 and 20.1.2003, passed by the Deputy Commissioner and the Financial Commissioner respectively. The writ petition came up before a Division Bench and was dismissed as withdrawn on 27.2.2003.

4. The Petitioner filed C.W.P. No. 11144 of 2003, after giving detailed facts as mentioned in the preceding para of this order. The Petitioner had alleged that Shri Chand Ram, Respondent No. 2, initiated the process of regular enquiry and examined several witnesses including the complainant, who had filed a complaint

against the Sarpanch. It was further alleged in para No. 4 that the Sarpanch had influenced Chand Ram, and as a consequence Chand Ram was not conducting the regular enquiry by giving proper opportunity to the Petitioner and other witnesses, who were to prove allegations against the Sarpanch. The allegation then is that the Petitioner along with other inhabitants of the village, who were affected with the misdeed of the Sarpanch, had approached Respondent No. 1, the then Deputy Commissioner, Kaithal, who had also given false assurance to them. A complaint was also claimed to have been filed before the Deputy Commissioner against Shri Chand Ram, District Development and Panchayat Officer, Respondent No. 2. A request was made for transferring the Enquiry Officer Chand Ram and entrusting the enquiry to some other officer. In para 5, it was alleged that the son of the Sarpanch was an active participant in the then Government belonging to INDL Party, who was putting pressure on Shri Anurag Aggarwal, Deputy Commissioner, Respondent No. 1, as well as Shri Chand Ram, Respondent No. 2, and they were favouring the Sarpanch. In para 6 it was alleged that the Petitioner along with other inhabitants of the village were likely to suffer in the regular enquiry, which was being conducted by Shri Chand Ram, Respondent No. 2, as the witnesses were not being examined and that Shri Chand Ram was giving the Petitioner as well as other witnesses filthy abuses and was putting pressure on the witnesses for making a statement in favour of Sarpanch. An apprehension was expressed that on account of the conduct of Respondent No. 2 Chand Ram, the allegations against Sarpanch may not be proved. It is appropriate to mention that Chand Ram, Respondent No. 2, was impleaded by name in the Amended Civil Writ Petition No. 11144 of 2003, besides Channo Devi, Sarpanch, Amar Singh, M.L.A., Bagh Singh, M.L.A. The petition also disclosed in para 10, mis-utilisation of funds belonging to the Panchayat at the hands of the Sarpanch. It was alleged that despite the suspension order, which was upheld by the Financial Commissioner-cum-Secretary and by this Court, she had withdrawn a sum of Rs. 7 lacs, which have been mis-utilized by her and no development work had been done. The Sarpanch is alleged to have obtained thumb mark (LTI) of one Panch Member on the resolution for withdrawing the amount of Rs. 7 lacs by representing that he was to get the old age pension. Allegation is that after suspension the Sarpanch did not have any right to withdraw an amount of Rs. 7 lacs. Copies of the bank statements had been attached with the Plaintiff, which were marked as Annexures P-9 and P-10. A perusal of the Saving Bank Account No. 9616 (P-10) shows that on 3.2.2003, an amount of Rs. 10,000/- + Rs. 10,000/- = Rs. 20,000/-, was withdrawn by self cheque Nos. 45 and 46. On 18.2.2003, an amount of Rs. 70,000/- had been withdrawn. Specific allegations were levelled in para 15 against two ML As Amar Singh and Bagh Singh, who were impleaded in the amended civil writ petition, for exerting undue pressure on the Enquiry Officer Chand Ram. Those allegations make interesting reading, which are as under:

15. That the Petitioner as well as the other complainants has no faith in the

Respondent No. 4 because a fair and proper inquiry is not going to be conducted, if the same position will go/run the fair justice will not be given to the Petitioner as well as other inhabitants of the village. Thus, the Petitioner even approached the Respondent No. 1 for supporting them so that fair and proper inquiry may be conducted, by the Respondent No. 1 also has shown his inability in the fair and proper inquiries because the son of the Respondent No. 5 is very close to the Halqa M.L.A. Sh. Amar Singh and Bagh Singh M.L.A. from Uchana Constituency. Thus, the Amar Singh and Bagh Singh who are Respondent No. 6 and 7 are putting a political pressures on the Petitioner as well as the official Respondents so that official Respondents can support to the Respondent No. 5. Thus, the Respondent No. 5 is daring upto the extent that even after giving so much letters regarding tendering the charge to the acting sarpanch but of no effect and in context to that she is putting the pressures. So that fair and proper inquiry may not be conducted.

5. The allegations were also made that the suspended Sarpanch was not handing over charge to anyone else for smooth running of the Panchayat and development works in the village. Obviously, the defiant conduct of the Sarpanch was on account of the influence exerted by the local ML As who belonged to I.N.D.L. Government of the day.

6. The writ petition was filed on 21.7.2003 when prayer was made for amendment of the petition. Subsequently amended petition was filed on 4.8.2003, which came up for hearing on 5.8.2003. On that day itself Senior Deputy Advocate General, Haryana, Shri Randhir Singh, after seeking instructions made a statement before the Division Bench and the same reads as under:

The Petitioner is given liberty to lead whatever evidence he considers appropriate in regard to the findings recorded during the preliminary enquiry.

The writ petition stands disposed of accordingly.

Let a copy of this order be handed over to Mr. Randhir Singh, learned Senior Deputy Advocate General, Haryana by tomorrow for onward transmission and a follow up action by the authorities concerned.

Sd/- (BINOD KUMAR ROY) (CHIEF JUSTICE) Sd/- (JUSTICE J.S. NARANG)
August 5, 2003

7. On 22.10.2003, the Petitioner filed the instant contempt petition alleging that after getting the petition dismissed on 5.8.2003, nothing in fact was done and the Sarpanch had been reinstated already vide an order dated 4.8.2003 and endorsement has been shown to be made on 7.8.2003. The aforementioned order flagrantly went against the undertaking given before the Division Bench wherein it was stated that an enquiry was to be completed expeditiously, un-influenced by any interference and strictly on the basis of the material to be brought on record either by the Petitioner or anyone else. The Petitioner along

with others was given liberty to adduce evidence as considered appropriate by him.

8. In reply to the show cause notice, Respondent No. 1 Shri Anurag Aggarwal, Deputy Commissioner, Kaithal, had stated that the orders of the Division Bench stood complied with and Sarpanch was reinstated on 4.8.2003 after following due process of law. A copy of the enquiry report has been placed on record as Annexure R-1. In para 2 of the preliminary objections, Shri Aggarwal has made the following statement of affidavit:

2. It is further submitted that orders dated 5.8.2003 passed by Hon"ble High Court in C.W.P. No. 11144 of 2003 were communicated by the Advocate General, Haryana, Chandigarh vide his letter No. 31767 dated 7.8.2003 and received in the office of Respondent No. 1 on dated 11.8.2003 whereas the orders of reinstatement of Sarpanch, Gram Panchayat, Ferozepur were passed by Respondent No. 1 on 4.8.2003 after following due procedure of law. It is further submitted that as per directions of Hon"ble High Court given in its order dated 5.8.2003, the copy of enquiry report conducted by Respondent No. 2 has been submitted by way of an affidavit to the Registrar (General), High Court of Punjab and Haryana vide registered letter No. 5477-78 dated 9.9.2003. Hence no violation of the orders of Hon"ble High Court has been made by the Respondents. A copy of the said letter is attached as Annexure R-1.

(Emphasis added)

9. A para 1 of the reply it was admitted that the orders dated 5.8.2003 passed by the Division Bench had already been complied with on 25.7.2003 when Chand Ram, Respondent No. 2 completed the enquiry and the final orders were passed by Respondent No. 1 Shri Aggarwal on 4.8.2003. It is also stated that a copy of the enquiry report was sent to the Registrar General of this Court vide Registered letter dated 9.9.2003 (R-1). In para 4, it is claimed that after the submission of enquiry report on 25.7.2003, by Chand Ram, Respondent No. 2, a show cause notice was issued to the Sarpanch on 28.7.2003 and Sarpanch was called for personal hearing on 4.8.2003. The Sarpanch was reinstated on 4.8.2003 after hearing with the direction that penal interest @ 21% on the amount kept as cash-in-hand be recovered from the Sarpanch by following the due process of law as envisaged by Section 53(2) of the Haryana Panchayati Raj Act, 1994. An amount of Rs. 98,395/-, misappropriated by the Sarpanch, was to be deposited in the account of Gram Panchayat, immediately. The Sarpanch was directed to spend the Gram Panchayat fund as per financial rules in future. It is claimed that the Sarpanch deposited the amount of Rs. 98,395/- in the bank account of the Gram Panchayat on 4.8.2003 itself. These are the materials averments, which have been more or less repeated in other paras. Another affidavit was filed by Shri Aggarwal on 19.8.2005, stating that some legal opinion was obtained from the District Attorney, Kaithal, in the wake of the order dated 5.8.2003 passed by this Court in C.W.P. No. 11144 of 2003. It was opined by the District Attorney that no further action was called for since the enquiry report had already been submitted

to the Registrar of this Court on 9.9.2003. It is claimed in para 5 that no communication from Advocate General's office or any other quarter was received by Shri Aggarwal on 5.8.2003 with regard to C.W.P. No. 11144 of 2003. It is claimed that the disciplinary action would be initiated against any official who had furnished wrong information to the Senior Deputy Advocate General, Haryana, after identifying him. The reply filed by Respondent No. 2 Chand Ram is almost similar to that Shri Aggarwal, except for some details with regard to the opportunity given to the Petitioner and others in the enquiry held.

10. On 5.8.2005, when the matter came up before this Court, a prima facie view was expressed after hearing learned Counsel for the parties that there was a gross contempt committed by the Respondents. The view of this Court as expressed in the order dated 5.8.2005, read as under:

After hearing the learned Counsel for the parties at considerable length, I am of the considered view that there is gross contempt of the orders by this Court on 5.8.2003. It was stated before a Division Bench of this Court that the apprehensions of the Petitioner expressed in the writ petition are wholly unfounded and all attempts were to be made by the Respondents to conclude the enquiry expeditiously, uninfluenced by any interference and strictly on materials brought on record by the Petitioner or any other person in respect the preliminary findings. It was further observed by the Hon"ble Division Bench that the Petitioner was given liberty to lead whatever evidence he considered appropriate in regard to the findings recorded during the preliminary enquiry. It is patent from record that nothing has been done after 5.8.2003 and in fact the order reinstating the Sarpanch has been passed on 4.8.2003. Many questions would arise by comparing the statement made before the Division Bench and the stand taken by Respondent No. 1 in para No. 3 of his affidavit. The affidavit states that the Sarpanch has been reinstated on the basis of the enquiry on 4.8.2003. If that was so, there was no occasion for the Respondents to make a statement before the Division Bench that the enquiry would be held uninfluenced by any interference and strictly on material placed on record by the Petitioner or any other person. Further, there was no opportunity for the Respondents to state before the Division Bench that the Petitioner was to be given liberty to lead whatever evidence he considered appropriate in that regard before the Enquiry Officer. The aforementioned situation does not prima facie bring out any solution by reconciliation because had the order been passed reinstating the Sarpanch on 4.8.2003, there was necessity for the learned State Counsel to make such a statement before the Division Bench, which was made after obtaining instructions from the Respondents. Therefore, I am prima facie of the view that the Respondents are guilty of contempt and their conduct is contumacious. It calls for some correctional method.

It was after the passing of the order dated 5.8.2005 that the additional affidavits were filed by Shri Aggarwal and Shri Chand Ram, Respondent Nos. 1 and 2 respectively. However, the filing of those affidavits did not bring any

improvement.

11. Mr. Madan Pal, learned Counsel for the Petitioner has argued that an undertaking given by Senior Deputy Advocate General, Haryana, is admittedly misleading and has been proved to be false. According to the learned Counsel the aforementioned factual position has not been controverted by the Respondents. He has maintained that in such a situation the requirement of Section 2(b) and Section 2(c) of the Act, defining 'Civil Contempt' and 'Criminal Contempt' respectively have been fulfilled. In support of his submission learned Counsel has placed reliance on a judgment of Supreme Court in the case of Mohd. Aslam alias Bhure v. Union of India, 1995 (1) RCR 29, which pertains to the demolition of structure of 'Ram Janam Bhoomi-Babri Masjid' in Ayodhya. He emphasized that on the basis of undertaking given by the Chief Minister personally as also on behalf of the Government of Uttar Pradesh, orders were passed by the Supreme Court in terms of the undertaking, which were willfully disobeyed. Learned Counsel has also placed reliance on another judgment of the Supreme Court in the case of David Judge v. Hannah Grace Judge, 2003 (4) RCR (Cri) 157, where again the undertaking given to the Court constituting the basis of the order was violated and the Supreme Court had convicted the contemnor. He has also placed reliance on judgment of this Court in the case of Laxmi Narain v. R.N. Prasher and others, 2002 (4) RSJ 486.

12. Mr. Hawa Singh Hooda, learned Advocate General, Haryana, has appeared for the Respondents and argued that the order dated 4.8.2003 passed by Shri Aggarwal reinstating the Sarpanch was challenged by the Petitioner in appeal. The orders have been upheld and, therefore, the Petitioner is not entitled to make the grievance with regard to the undertaking given before the Division Bench on 5.8.2003. A copy of the appeal filed by the Petitioner before the Financial Commissioner and Secretary, being appeal No. 209 of 2003, has been placed on record as Annexure R-4. He has further argued that Shri Aggarwal, who is not posted as Administrator, Haryana Urban Development Authority at Gurgaon, has already requested the present Deputy Commissioner, Kaithal, to initiate enquiry and identify the person, who might have instructed the Senior Deputy Advocate General, Haryana, on 5.8.2003 to make the statement on behalf of the Respondents. According to the Advocate General in such situation no intention could be imputed to the Respondents, especially when records show that the Sarpanch had deposited a sum of Rs. 98,395/- on 4.8.2003 and the enquiry was completed on 25.7.2003.

13. On repeated queries made by the Court, learned Advocate General has not been able to point out any remedy to undo the obstruction caused to the Administration of Justice by getting the writ petition dismissed on the basis of the statement made by Respondent Nos. 1 and 2 through the Senior Deputy Advocate General Haryana. Learned Advocate General was repeatedly confronted with the query as to what would happen to the writ petition, which was dismissed at the threshold on the basis of the statement made by Respondent Nos. 1 and 2

through Senior Deputy Advocate General. However, he has not been able to give any answer to this query except stating that the orders passed on 25.7.2003 or 4.8.2003 and subsequently upheld by the authorities could be again challenged by the Petitioner by filing another petition.

14. After hearing learned Counsel for the parties and bestowing my thoughtful consideration, I am of the view that this case is a classical illustration of obstructing the Administration of Justice. The amended writ petition was filed on 4.8.2003, which came up for consideration on 5.8.2003. Taking into account the urgency of the matter, the Division Bench had issued notice to the Advocate General. When the matter was taken up, the petition was got dismissed by making a statement that the Petitioner was to be given full opportunity in the enquiry and all his apprehensions of mala fide and biased were unfounded. Accordingly, the writ petition was disposed of by giving liberty to the Petitioner to adduce whatever evidence he considered appropriate in regard to the findings recorded during the preliminary enquiry, which were obviously against the Sarpanch. However, it has been conceded that before making the statement as recorded in the order dated 5.8.2003 by the Division Bench, the order of reinstatement of Sarpanch had already been passed and she had deposited an amount of Rs. 95,395/- with penal interest on 4.8.2003 itself. It is further conceded that the enquiry was completed on 25.7.2003. It is, thus, obvious that despite the completion of enquiry on 25.7.2003 and passing of reinstatement order of Sarpanch on 4.8.2003, Shri Aggarwal and Shri Chand Ram, Respondent Nos. 1 and 2 have appeared before the Court through Senior Deputy Advocate General Shri Randhir Singh on 5.8.2003 and made a statement, which is not borne out from record. Apart from the fact that undertaking given to the Court on 5.8.2003, has been flagrantly violated and constitutes civil contempt within the meaning of Section 2(b) of the Act, false statement made by the Respondents borders on obstructing the Administration of Justice. Section 2(b) and 2(c) of the Act reads as under:

2. Definition of Contempt.

(b) `Civil Contempt" means willful disobedience to any judgment, decree, direction, order, writ, or other process of a Court or willful breach of an undertaking given to a Court;

(c) `Criminal Contempt" means the publication (whether by words, spoken or written or by signs or by visible representations or otherwise) of any matter or the doing of any other act, whatsoever which -

(i) scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any Court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the

administration of justice in any other manner.

A perusal of the aforementioned provisions would show that civil contempt is constituted by willful breach of undertaking given to a Court and criminal contempt would comprise of any matter of doing of any other act whatsoever, which, inter alia, interferes or tends to interfere with or obstruct or tends to obstruct the Administration of Justice.

15. It is obvious that the time cannot be rolled back to 5.8.2003 by contemplating orders, which might have been passed by the Division Bench in the absence of statement made by Shri Aggarwal, Respondent No. 1, and Shri Chand Ram, Respondent No. 2, through Senior Deputy Advocate General. There can be myriad possibility and any endeavour at this stage to postulate or anticipate such order would be futile. However, one thing is proved beyond doubt that the writ petition filed by the Petitioner was got disposed of by making a statement, which was false.

16. The stand of the Respondents that no statement was made cannot be accepted for the reason that the Courts cannot go behind the statements made by the Advocate General or any other State counsel in the Court. Those statements have to be accepted as correct on the face of it because if those statements are doubted then the machinery of justice would crumble and fail. Therefore, I do not find any substance in the stand taken by the Respondents.

17. It is equally proved that statements were made on behalf of Respondent No. 1 Shri Anurag Aggarwal and Respondent No. 2 Shri Chand Ram, who are the Deputy Commissioner and Block Development and Panchayat Officer, Guhla. It is well settled that the statement made by the Advocate General or any other category of State counsel has to be considered as truthful because any other view would result into disastrous results. In large number of cases every day learned State counsel make statements, which are accepted as truthful. Any other contrary view would lead to the result that no statement made by the Advocate General or any State Counsel be regarded as truthful, which is impossible proposition to accept. This Court in the case of Hardev Singh v. Rajesh Kumar Sharma, 1994 (2) RSJ 191, has found that on the basis of the misleading stand taken in the written statement, the writ petition was dismissed and the same stand was taken before the Contempt Court when this Court pronounced the contemner as guilty of contempt. In that case it was claimed by one Hardev Singh that the experience certificate was being treated as an order of dismissal. The aforementioned assertion was controverted in the written statement asserting that Hardev Singh had never been dismissed. It was on the basis of the statement made in the written statement as well as the oral statement made before the Court that the writ petition was dismissed. In the aforementioned circumstances, this Court held as under:

..... The question now arises is whether this attempt on the part of the Respondent to mis-lead this Court resulting in the dismissal of the writ petition,

amounted to civil contempt or not. Civil contempt means not only willful disobedience of the order, judgment, decree, direction, writ or other process of the Court, but also willful breach of undertaking given to the Court. In my view, the order dated November 19, 1981 was infact, a direction or order given by this Court on the statement made by the Respondent and it was on that basis that the writ petition was dismissed as infructuous. It is, therefore, apparent that the Respondent is guilty of having committed Civil Contempt of this Court.

The observations made by this Court are fully applicable to the facts of the present case because in that case also after getting the petition dismissed, Respondent had started claiming that the Petitioner had absented himself from duty and, therefore, he could not be taken back in service, whereas before the Court contrary stand was taken. In the present case also, the writ petition was dismissed on the statement made by the Respondents assuring holding of fair and impartial enquiry against the Sarpanch and the writ petition was disposed of. In the order dated 5.8.2005, I have expressed in unequivocal terms that Respondents were guilty of contempt and their conduct was contemptuous. No steps were taken by the Respondents to purge the contempt. On the contrary, an effort has been made by both the Respondents to justify their action of shifting the responsibility on a mysterious and unknown official by taking the stand that he must have given wrong instructions to this Court, which had led to the disposal of the writ petition. Such a mysterious person is non-existent. Therefore, I pronounce both the Respondents guilty of civil contempt as envisaged by Section 2(b) of the Act. Let a notice be issued to both the Respondents for 26.9.2005, so as to afford them an opportunity of hearing on the quantum of sentence.

Petition allowed.