
(1998) 12 AHC CK 0037
In the Allahabad High Court
Case No : C.M.W.P. No. 37666 of 1998

Sharda Prasad

APPELLANT

Vs

Director, Printing and Stationery, Allahabad and others

RESPONDENT

Date of Decision : 15-12-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 2 AWC 1129 : (1999) 81 FLR 706

Hon'ble Judges : D.K. Seth, J

Bench : Single Bench

Advocate : A.C. Tiwari, for the Appellant; K.R. Singh and S.C., for the Respondent

Judgement

D.K. Seth, J.—Mr. A. C. Tiwari, learned counsel for the petitioner submits that the petitioner on earlier occasion had moved a writ petition being Writ Petition No. 29789 of 1995. The said writ petition was disposed of in favour of the petitioner on 15.4.1998. A copy of the said order is Annexure-2 to the writ petition. Mr. Tiwari further submits that a special appeal against the said judgment and order dated 15.4.1998 passed in W.P. No. 29789 of 1995 is pending. However, no interim order has been" obtained in the said appeal. Since the respondents were not complying with the order dated 15.4.1998, the petitioner has filed Contempt Petition No. 2044 of 1998. In which the respondents have filed a simple application and obtained one month's time and thereafter disappeared. Therefore, the order has not been complied with. He submits that the said contempt petition is still pending. In such circumstances, according to him, there is no alternative but to file this writ petition seeking a direction in the nature of mandamus directing the respondents to comply with the judgment and order dated 15.4.1998 aforesaid contained in Annexure-2 to the writ petition. It is submitted by Mr. Tiwari that the respondents are not permitting the petitioner to resume his duties in terms of the said order.

2. Mr. K. R. Singh, learned standing counsel, on the other hand contends that the

present writ petition seems to be an application for execution and as such cannot be maintained. He further contends that since the special appeal is pending and the question of compliance of the said order dated 15.4.1998 is the subject-matter in the contempt petition, this writ petition should be dismissed on the ground of multiplicity of the proceedings.

3. I have heard both Mr. Tiwari and Mr. K. R. Singh at length.

4. The judgment, of which compliance is being sought for by means of this writ petition, is the subject-matter of the contempt petition filed by the petitioner whereby compliance was sought to be enforced, in fact, civil contempts are in the nature of execution. Thus, the present writ petition is in effect alternative or parallel proceeding seeking execution of the order dated 15.4.1998 contained in Annexure-2 to the writ petition, which is also subject-matter of the pending special appeal. Thus, in view of pendency of the special appeal as well as contempt proceedings, it would be beyond judicial propriety to entertain such a writ petition since the question of compliance as well as validity of the order, are subject-matter of the contempt proceedings and special appeal, the decision whereof is to be awaited, in this proceeding.

5. The present writ petition appears to be wholly misconceived and as such is accordingly dismissed. There will, however, be no order as to costs.