

(2019) 09 CAL CK 0365

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 5357, 5367, 5369, 5371, 5373, 5376, 5385
(W) Of 2015, Contempt Application (CPAN) No. 1470 Of 2017

Shikshak Chhatra Oikya Sangram Manch

APPELLANT

Vs

Prof. Nabanita Chatterjee & Ors

RESPONDENT

Date of Decision : 27-09-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 09 CAL CK 0365

Hon'ble Judges : I. P. Mukerji, J

Bench : Single Bench

Advocate : P. K. Das, D. P. Adhikari, Usha Maiti, Sabyasachi Chatterjee, L. K. Gupta, Dr. Sutanu Patra, Supriya Debey, T.M. Siddiqui

Final Decision : Dismissed

Judgement

I. P. Mukerji, J

This contempt application alleges violation of the order dated 11th September, 2017 passed by this court in the connected application (CAN 10235 of 2016) in connection with the writ application [WP 5385(W) of 2015] (Shikshak Chhatra Oikya Sangram Manch Vs. The State of West Bengal & Ors.)

The said order is as follows:-

"W.P. No. 5385 (W) of 2015

Shikshak Chhatra Oikya Sangram Manch

Vs.

The State of West Bengal & Ors.

Mr. P.K. Das

Mr. D.P. Adhikari

Mrs. Usha Maiti

Mr. Sabyasachi Chatterjee

...for the petitioners

Md. T.M. Siddiqui

...for the State respondents

Re.: CAN No. 10235 of 2016

This application (CAN No. 10235 of 2016) is treated as on the day's list.

Mr. Siddiqui learned counsel for the respondents submits that the following applications were dismissed by Mr. Justice Dipankar Datta on 11th January, 2016:-

W.P. No. 5357(W) of 2015

Debabrata Mishra & Ors.

Vs.

Union of India & Ors.

With

W.P. No. 5367(W) of 2015

Babu Sankar Mandal

Vs.

West Bengal Board of Primary Education & Ors.

With

W.P. No. 5369(W) of 2015

Payel Bag & Ors.

Vs.

Union of India & Ors.

With

W.P. No. 5371(W) of 2015

Arindam Dey & Ors.

Vs.

Union of India & Ors.

With

W.P. No. 5373(W) of 2015

Moumita Paul & Ors.

Vs.

Union of India & Ors.

With

W.P. No. 5376(W) of 2015

Susmita Rani Maity

Vs.

Union of India & Ors.

The above applications did not include the instant one, a similar writ application preferred by the writ petitioners which along with other matters were remanded to this court by the Supreme Court of India by its order dated 4th December, 2014 in Writ Petition (Civil) No. 39 of 2013, Debabrata Misra & Ors. Vs. Union of India & Ors.

While disposing of these writ petitions the Supreme Court said that the interim order dated 7th November, 2013 passed by this court in writ petition W.P. No. 1019 (W) of 2013 would continue.

Now, Mr. Justice Datta by his judgment and order dated 11th January, 2016 has discharged all the interim orders. But technically speaking since this writ application (W.P. No. 5385(W) of 2015) was not his lordship's list, it cannot be said that this application stands dismissed.

It follows that the protection of the said Supreme Court's order as far as the writ petitioners here are concerned continues.

The State respondents are directed to take appropriate steps in the matter.

The application (CAN No. 10235 of 2016) is, accordingly, disposed of.

Urgent certified photo copy of this order, if applied for, be given to learned advocates for the parties upon compliance of all requisite formalities."

As is obvious this was an interim order in the writ.

The alleged act of contempt complained of is that in violation of the said order the alleged contemnors had issued a notification to give appointments to the candidates who were not the empanelled candidates in the final merit list of the School Service Commission in the 12th RLST (AT) 2011 and by publishing the result of a test carried out further to the said notification. It was alleged that they violated the said order of this court by not giving appointment to the petitioners according to the merit list referred to in the petition.

Now, what was the interim order dated 7th February, 2013? It was made in a writ application [WP 1019(W) of 2013] (Tania Ghosh & Ors. Vs. State & Ors.). The operative part of the said order is as follows:-

"The respondent No. 8 is, therefore, directed to make arrangements for identification of the names of the selected candidates possessing minimum qualifications specified in NCTE's notification dated August 25, 2010 in the merit list. The respondent No. 8 is further directed to recommend first the names of those selected candidates from the merit/select list who possess minimum qualifications as prescribed in NCTE's Notification dated August 25, 2010 and only thereafter to recommend the names of candidates who do not possess the minimum qualifications in terms of the above Notification dated August 25, 2010, if the vacancies remain. Leave is granted to the concerned authorities to issue letters of appointment to the selected candidates on the basis of the above recommendations without prejudice to the rights and contentions of the parties to this proceeding."

The Supreme Court of India while hearing the writ petition (Civil) No. 39 of 2013 (Debabrata Misra & Ors. Vs. Union of India & Ors.) along with connected writ petitions: [Writ Petition (Civil) No.3 of 2014, Writ Petition (Civil) No.51 of 2014, Writ Petition (Civil) No.257 of 2014, Writ Petition (Civil) No.258 of 2014, Writ Petition (Civil) No.206 of 2014, Writ Petition (Civil) No.94 of 2012, Writ Petition (Civil) No.294 of 2012, Writ Petition (Civil) No.824 of 2014 inter alia on 4th December, 2014 ordered:-

"4. In our opinion, this matter can be decided by the High Court under its jurisdiction under Article 226 of the Constitution of India. Therefore, we transfer this matter before the Calcutta High Court for its consideration and early disposal after affording opportunity of hearing to both the parties.

5. Interim order dated 7th November, 2013 passed by the High Court of Calcutta in Writ Petition No.1019 of 2013, which is pending consideration before the Calcutta High Court, shall continue in this writ petition as well till the final disposal of the matter by the High Court.

6. This order has been passed in respect of State of West Bengal only.

7. The writ petition is disposed of accordingly."

On 10th December, 2014 the Supreme Court passed a further order to the following effect:-

"In continuation of the signed order dated December 04, 2014, the following may be read as part of the order :

"Interim order dated 26.03.2014 in W.P. (C) No. 258/2014 and interim order dated 23.04.2014 in W.P. (C)No. 51/2014 shall continue".

Ordered accordingly."

The order dated 26th March, 2014 was passed in writ petition (Civil) No. 258 of 2014 (Moumita Paul & Ors. Vs. Union of India & Ors.). It was in the following terms:-

"Taken on board.

Issue notice.

In the meantime, the test can be held. However, the result of the test shall not be declared, but it shall be produced in this Court under sealed cover.

Mr. Kunal Chatterji, learned counsel accepts notice on behalf of respondent No.3-Board and seeks time to file reply to the petition. Let reply on behalf of the said respondent be filed within six weeks. Rejoinder affidavit, if any, may be filed within four weeks thereafter.

List the matter on 4th July, 2014."

On the basis of this order Mr. Das, learned senior advocate for the petitioner contended that the selection test result could not be declared by the alleged contemnors.

On 11th January, 2016 a learned single judge of this court dismissed a batch of similar writ applications including WP No. 5357(W) of 2015 (Debabrata Misra and Ors. Vs. Union of India and Ors.).

The respondents in the writ say that due to inadvertence the instant writ application (WP 5385(W) of 2014) was not disposed of by this common judgment and order. The said interim orders of the Supreme Court continued to be operative. Indeed this was observed by this court in the order dated 11th September, 2017, of which contempt is alleged. This application is founded on the basis of a direction in the said order to the following effect:-

"It follows that the protection of the said Supreme Court's order as far as the writ petitioners here are concerned continues.

The State respondents are directed to take appropriate steps in the matter.

The application (CAN No. 10235 of 2016) is, accordingly, disposed of."

The only submission of Mr. L.K. Gupta, learned senior advocate for the alleged contemnors which turned the table against the petitioners was the order dated 26th March, 2014. It was passed in a proceeding writ petition (Civil) No. 258 of 2014 (Moumita Paul & Ors. Vs. Union of India & Ors.) relating to the primary board and had nothing to do with the petitioners. That interim order in Moumita Paul's writ was directed to continue. This submission could not be controverted by the petitioners.

Therefore, at the material time there was no interim order restraining the alleged contemnors from taking the action complained of.

There was no disobedience of the order dated 11th September, 2017. The petitioners have been ill advised to take fullest advantage of the inadvertent mistake of the petitioner's writ not being clubbed together with the identical writs disposed of on 11th January, 2016, in my view.

There is no merit in this contempt application. It is hereby dismissed without initiating any proceeding. No order as to costs.

Certified photocopy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.