

(2018) 09 RAJ CK 0103

In the Rajasthan High Court

Case No : Civil Contempt Petition No.1683, 1319, 1631, 1630, 1508, 1669, 1670, 1671, 1672, 1680, 1681, 1684, 1679 of 2017

Shri Rajveer @APPELLANT@Hash Shri Moti Chand maloo

Date of Decision : 11-09-2018

Acts Referred:

Rajasthan Non Government Educational Institutions Act, 1989 — Section 27A

Citation : (2018) 09 RAJ CK 0103

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Advocate : Rajvir Sharma, S.K. Gupta, Y.S. Jadaun, Vivek Dangi

Final Decision : Disposed Off

Judgement

Non compliance with the order dated 20-7-2016 in SBCWP No.6618/2016 and other connected writ petitions has been alleged in these contempt petitions.

The facts of the case are that this court while disposing of the writ petitions filed by the respondents against the order dated 11-12-2016 passed by the

Rajasthan Non Government Educational Institutions Tribunal, Jaipur (hereafter 'the Tribunal') directed as under:-

â??(1) The petitioner institutions will draw a statement of account showing as to what amount is payable to the employees on account of direction given by the Tribunal.

(2) Further statement of account would be submitted by the petitioner institutions showing that out of due amount to the employees, how much amount

has been paid by them against their own share and if payment has been made against the share towards grant-in-aid then to indicate it to claim

reimbursement. It would obviously be with the supporting documents regarding payment to the employees to claim reimbursement to the extent of

grant-in-aid.

(3) On receipt of statement of account, as directed above, the State Government would make scrutiny and verification of the statement and for which

they would be at liberty to make inspection of the account of the petitioner institutions or to call for the information. If it indeed for support of the

statements. On getting verification of account, as stated above, the State Government would reimburse the due amount to the extent of grant-in-aid.

(4) The reimbursement of amount would be made in two different phases. In first phase, the reimbursement would be made to the institutions to the

extent it is due in their favour on account of payment of due amount to the employees out of the share of grant-in-aid. In second phase, which would

be simultaneous to the first phase, the payment would be made directly to the employees, involved in these writ petitions, to the extent of share of

grant-in-aid admissible to them. If, over and above share of grant-in-aid, anything remains payable to the employees, more specifically, against share

of the institutions, it would be paid by the institutions itself.

(5) The exercise aforesaid would be completed within a period of four months from the date of receipt of this in the following manner:

(i) The statement of account, as directed in para 1 and 2 would be submitted by the petitioner institutions along with supporting documents within a

period of one month from today.

(ii) On getting statement of account, as directed above, the State Government would make verification of statement of account within a period of two

months from the date of its receipt.

(iii) On verification of account, payment would be released by the State Government in favour of the institutions/ employees, as directed above, within

a period of one month thereupon.

(iv) The directions aforesaid have been given on agreed terms and otherwise, it is in light of the judgment of Division Bench in the case of

Management Committee, Sh. Bhagwan Das Todi College (supra).

(v) The petitioner institutions would pay its share to the employees, if any, within a period of four months from the date of receipt of copy of this order.

With the aforesaid, all these writ petitions are disposed of so as the stay applications.â??

The case of the petitioners in these contempt petitions is that the judgment of the Tribunal, which was neither modified nor quashed by the High

Court, was to be complied with in the manner directed by this court in its order dated 20-7-2016. Thereunder the respondents aside of payment of

due amounts were to pay interest @ 6% for the period of delay in the payment. The interest has not been paid and that constitutes contempt of the

court's order for which the respondents be punished.

Reply to contempt petitions has been filed by the respondent institution. It has been submitted that all amounts due towards gratuity and other heads

have been paid. Mr. S.K. Gupta AAG appearing for the Commissioner Secondary Education has submitted that amounts due to the petitioners

calculated as per the due drawn statement of the Management Committee of the Panabai Ramnath Poddar Senior Secondary School and the

directions of this court (to the extent of sanctioned grant-in-aid) have been paid. No amounts due and owing to the petitioners remain unpaid. No

contempt against the Commissioner Secondary Education can be made out.

Mr. Vivek Dangi, appearing for the other contemnors has submitted that the Management's share of amounts due to the petitioners in terms of the

Tribunal's order dated 11-1-2016 as modified by this court on 20-7-2016 in SBCWP No.6618/2016 have been paid. It was submitted that in fact

amounts of gratuity and leave encashment which were to be paid to the petitioners only on their superannuation and not on their being absorbed into

the Rajasthan Voluntary Rural Education Service have been overpaid. It has been submitted that the court's order dated 20-7-2016 in SBCWP

No.6618/2016 stands complied with and no contempt is made out.

Counsel for the petitioners submitted what has since been reiterated in written submission that the respondents are deliberately misinterpreting the

order dated 20-7-2016 in SBCWP No.6618/2016 & other connected matters and on that mischief not paying the interest @ 6% on the amount due to

be paid to the petitioners and belatedly paid. He submitted that the Tribunal had clearly directed to pay interest @ 6% on the due amount, and that

direction was neither modified nor set aside by the High Court in its order dated 20-7-2016. Instead this court in its order dated 20-7-2016 only further

provided a time frame and manner in which payment of due amounts along with interest as directed by the Tribunal was to be made. Mr. Rajvir

Sharma submitted that petitioners are entitled for interest on the amounts due under various heads such as gratuity, leave encashment, selection scale

and DA etc. belatedly paid as has been directed by the Tribunal.

Heard. Considered.

The order dated 20-7-2016 passed by this court only providedÂ for the manner of sharing of the amounts due to the petitioners inclusive of interest as

found by the Tribunal, from the Management Committee of the Panabai Ramnath Poddar Senior Secondary School from its own account on the one

hand, and from the State Government to the extent of sanctioned grant-in-aid on the post held by the petitioners, on the other. As rightly submitted by

Mr. Rajvir Sharma, this court did not modify the Tribunal's directions in its order dated 11-1-2016 that the petitioners were entitled to 6% interest p.a.

for the period of delay i.e. from the date due to the date of payment of due amounts. Interest on the due amounts to the petitioners was/ is thus

definitely payable. Interest stood as the liability of the Management Committee alone. No statutory rule, no precedent i.e. decided case can make the

Commissioner Secondary School liable for interest on delayed payment of due amount as admittedly the liability to pay the dues of its employees was

at all times on the Management Committee of the School with which the petitioners had privity of contract as its employees. But the question whether

interest @ 6% on due amounts as directed by the Tribunal in its order dated 11-1-2016 has not been paid to the petitioners is a matter of accounting.

While the petitioners claim that interest as directed by the Tribunal has not been paid, the Management Committee states that the petitioners in fact

have been overpaid even amounts towards gratuity/ leave encashment before their superannuation and are liable to account therefor.

The Rajasthan Non Government Educational Institutions Act, 1989 provides for a mechanism for execution of the final order of the Tribunal. The

amounts determined constituted an executable decree of a court, See Section 27A thereof. The petitioners have that remedy to seek execution of the

Tribunal's final order in their favour. It is well settled that where an alternative remedy obtains, contempt proceedings should eschewed, as has been

held by this court in Rajasthan Roadway Workers Union Vs. Kuldeep Ranka, SBCCP No.1373/2017 decided on 18-8-2018, Allahabad High in the

case of Parmendar Kaur Vs. Shri Akhilesh Yadav, Contempt No.11582/017,

decided on 22-6-2017, as also Madras High Court in the case of R.

Jeyaraman Vs. Mrs. Senthil Kumari, Contempt Petition No.724/2015, decided on 15-6-2015.

I would therefore dispose of these contempt petitions with liberty to the petitioners to approach the competent court for execution of the Tribunal's

judgment dated 11-1-2016 as affirmed by this court's order dated 20-7-2016 in SBCWP No.6618/2016.

The Contempt petitions stand disposed of accordingly.