

(2005) 07 MP CK 0073

In the Madhya Pradesh High Court

Case No : Contempt Petition No. 1138 of 2005

Smt. Lalita Devi Mishra

APPELLANT

Vs

Priyanshu Kamal and Others

RESPONDENT

Date of Decision : 26-07-2005

Acts Referred:

Constitution of India, 1950 — Article 215
Contempt of Courts Act, 1971 — Section 12

Citation : (2005) 4 MPHT 376

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : Atulanand Awasthy, S. Chaturvedi and A. Highwasiya, for the Appellant;

Judgement

Dipak Misra, J.—The present application preferred u/s 12 of the Contempt of Courts Act, 1971 (for brevity "the Act") read with Article 215 of the Constitution of India, the most compassionate as well as an organic and living one, depicts a picture and frescoes a scenario which compels one to ask certain elementary questions "Have the authorities in the case at hand, namely, Secretary, Tribal Development Department, Bhopal, Commissioner, Tribal Development Department, Bhopal and Block Development Officer, Kotma, District Shahdol, lost their sensitivity to the miseries of helpless, hapless and agonized persons and decisively taken a decision to remain in a constant slumber ? Have they forgotten the age-old saying, if one is lazy, the nectar turns into poison ? Have they absolutely forgotten that one day they would also retire and would be in need of retiral benefits ?" Be it noted when the bad time abounds it can affect one and all. But, as it appears, the authorities, like the present contemnors, treat all the persons in difficulty, like the widow of Late Gopika Prasad Mishra, as unpersons, possibly harbouring an idea that when they are in spring they are not to bother about the winter of others. Despite constant reminders by this Court to deal with and dwell upon the matter of retiral benefits in quite promptitude and carry out the orders passed in the cases of this nature with utmost immediacy, it appears

that there has been no change whatsoever in their temperament, as if they are determined to nurture their nature to such an extent where one would be compelled and constrained to state that the authorities at seven are also the same at seventy. Their stagnation, their mind set, their perception, their uncared and unbending attitude, their insensitivity and carelessness, as if, have been clearly crystallized.

2. The factual matrix as has been adumbrated is that the petitioner had initially approached the Madhya Pradesh Administrative Tribunal (in short "the Tribunal") in Original Application No. 2844/2001 for issue of appropriate direction to the respondents to make full and final payment of the entire amount which were due to her late husband and grant of interest. After abolition of the Tribunal the matter stood transferred to this Court. This Court expressed the view as under :--

"5. The grant of retiral benefits is an extremely sensitive matter, more so, for the low paid employees. It requires immediate and prompt attention when the employee dies in harness. There cannot be a compromise with regard to time factor. But, an omnibus one, there was not action from the respondent Nos. 1 to 4 and there has been no action till today. Possibly the respondent Nos. 1 to 4 have harboured a feeling of certitude that they are in such a dimension where time has stopped or trickles as per desire. Unfortunately, the time does not stop for mortals and definitely the respondent Nos. 1 to 4 are not beyond mortals. An appropriate and quick action was warranted. I am disposed to think the present observations would usher in a sense of compassion, bring in prudence and sagacity and arouse their sensitivity and they will not think that there has death of time.

6. In view of the aforesaid, without waiting for the return of the respondent Nos. 1 to 4, it is directed that the respondent No. 1 shall personally see that all retiral dues of the petitioner are finalised within a period of four weeks from the date of receipt of the order passed today. If any sum is found to be due, interest shall be computed at the rate of 9% be paid to him during that period."

3. It is asseverated in the petition that despite the aforesaid order and inspite of the expiration of the time and further issuance of the direction by the Senior Deputy Accountant General that the matter is to be finalized the respondents whose names find mention earlier have not taken any steps whatsoever. They have adhered to the stance of motionlessness and immobility. In a welfare State the people who are holding public offices have to treat themselves to be accountable and are required to have the conception of serviceability. They cannot afford to feel more important than the citizens. They must bear in mind that every person has a tolerance limit. When the latitude of tolerance gets insufferable, the people like the respondents should realize how small they are. It is always wise to be aware about the still water. Obedience of the Court's order with sanguinity would ostracize the proclivity of laxness. They would cease to be languid and apathetic. But, a fruitful one, if they choose not to act upon the orders passed by the Court they will invite the severity and ire of majesty of law.

The authorities should not forget that they have the solemn duty to discharge. Carrying out the order of the Court is a sacrosanct duty. Carelessness and laxity in a case of this nature the family is likely to pave the path of ruination. No authority can afford to have imperfect, brute and impermissible reason. He must understand the order in proper perspective and be guided by the light of reason. In this context I may profitably refer to the saying of Cicero "Law is nothing else but right reason, calling us imperiously to our duty, and prohibiting every violation of it." This was said almost 2500 years back.

4. The inaction on the part of the respondents compels this Court to state that the respondents have no choice but to act. To uphold the dignity of law it is imperative to observe that the authorities cannot be allowed to make the order ineffective. In a civilized society the law has to be upheld and the orders are to be executed. The officers of the State who are supposed to do their duty have to act on the orders of the Court and cannot afford to take recourse to the subterfuge that correspondence is going on and the documents are being searched. There has to be a limit to it. A stage should not come when one would be compelled to say that even time feels ashamed by procrastination. The fundamental doctrine is that delay and laches on the part of the respondents annihilate their serviceability, which in the ultimate eventuate tantamounts to articulated arbitrariness which indubitably is not praise worthy. It generates a sense of loss of hope. In this regard I may profitably refer to a passage of the Speech delivered by William. T. Gossett in the year 1969 "If respect for the courts and their judicial process is gone or steadily weakened, no law can save us as a society. Lawyers whatever their view on controversial decisions, must inspire respect for the judiciary". This Court hopes and trusts that the respondents would wake up and able to say themselves "Arise and Act". Playing truant with the law is not an appreciable propensity. They must endow pregnant conviction to themselves that they have to carry out the orders within the time frame.

5. In this context, I may profitably refer to the decision rendered in the case of Delhi Development Authority Vs. Skipper Construction and Another, , wherein the Apex Court has held as under :--

"43. ... Thus, any wilful disobedience to the order of the Court to do or abstain from doing any act is prima facie a civil contempt. Civil Contempt arises where the power of the Court is invoked and exercised to enforce obedience to orders of the Court."

6. I am conscious that power under Contempt of Courts Act, 1971 should be exercised with utmost care and caution and that too rather sparingly. In this regard I may fruitfully refer to the decision rendered in the case of Commissioner, Agra and Ors. v. Rohtas Singh and Ors. AIR 1998 SC 685, wherein Their Lordships have expressed the views that where the conduct of the Government functionary is contemptuous the Court can direct to pay the cost personally.

7. While speaking about the contempt jurisdiction, the role of the Court and requirement exercise of said jurisdiction the Apex Court in the case of Anil Ratan Sarkar and Others Vs. Hirak Ghosh and Others, expressed thus :--

"13. ... The Contempt of Courts Act, 1971 has been introduced in the statute-book for the proposes of securing a feeling of confidence of the people in general and for due and proper administration of justice in the country-undoubtedly a powerful weapon in the hands of the Law Courts but that by itself operates as a string of caution and unless thus otherwise satisfied beyond doubt, it would neither be fair nor reasonable for the Law Courts to exercise jurisdiction under the statute...."

In the said case, it has been further held that power under the Contempt of Courts Act should be exercised with utmost care and caution and that too rather sparingly and in the larger interest of the society and for proper administration of the justice delivery system in the country.

8. It would not be out of place to remind oneself about the law laid down in the case of Suresh Chandra Poddar Vs. Dhani Ram and Others, , wherein Their Lordships have expressed the view that contempt jurisdiction is not to be exercised casually but only sparingly and in very deserving cases. It is appropriate to hear in mind the adage. "It is good to have the power of giant, hut not good to use it always".

9. The purpose of referring to the aforesaid judgments is to highlight that the contempt jurisdiction has to he used sparingly, for the power of giant is not he used always. The authorities who have been directed by the Court must simultaneously remind themselves that they have to abide by the orders in letter and spirit without any kind of deviancy. As the Court is required to apply restraint while exercising the said jurisdiction the authorities who are to act on the orders of the Court should not act in any such a manner by which the said jurisdiction would he invited to he exercised.

10. Keeping in view the totality of circumstances, I am inclined to direct the Chief Secretary of the Slate to issue directions to all the Head of the Departments, who in their turn, direct their subordinate to comply with the orders passed by this Court within the time frame failing which the sword of majesty of law would fall on them and that day would be the dooms day and there shall he no excuse or apology, however, profoundly stated or unconditionally put-forth. As far as the present case is concerned the order of this Court shall he complied with by end of September, 2005. The Additional Registrar (Judicial) is directed to send a copy of the order to the Chief Secretary of the State and to all the Respondents within a period of seven days hence.

11. With the aforesaid direction the application for contempt stands disposed of.