
(2003) 09 DEL CK 0153
In the Delhi High Court
Case No : CCP No. 461 of 2000

Smt. Shakuntla Mittal

APPELLANT

Vs

Green Field Public School and Others

RESPONDENT

Date of Decision : 16-09-2003

Acts Referred:

Delhi School Education Act, 1973 — Section 12

Citation : (2003) 6 AD 549 : (2003) 107 DLT 548 : (2003) 71 DRJ 118 : (2004) 2 SLJ 303

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : L.D. Adhlakha and Avnish Ahlawat, for the Appellant; N.K. Kaul and V.R. Datar, Respondent No. 1 and G.S. Sistani, for the Respondent

Final Decision : Dismissed

Judgement

Vikramajit Sen, J.—The Petitioner's complaint is the alleged disobedience of the Respondents towards the Order dated 10.6.1999 of the Presiding Officer, Delhi School Tribunal, in Appeal No.3 of 1980, the operative part of which reads thus:

"The services of the appellant have been dispensed with in a summary manner and without recourse to the provisions of the Delhi School Education Act, 1973 and the rules made there. Hence, all the principles of natural justice have been grossly violated. This is being so, I hold the removal of the services of the appellant with effect from 24.1.1980 as illegal.

Hence, accepting the appeal I do hereby set aside the impugned order. Consequently the appellant is entitled to be reinstated with all the consequential benefits."

2. In their response, the Respondents have taken the stand that they have always been desirous and willing to implement the Orders dated 10.6.1999 and pay unto the Petitioner her legitimate and due entitlement in terms of the said Order on the basis of wages and salaries paid to other similarly situated

untrained and unqualified teachers.

"It is submitted that the entitlement of the Petitioner of consequential benefits due to her from 1.1.1980 to 16.12.1998 based on the Government of National Capital Territory of Delhi notifications, w.e.f. 1.1.80 to 1.2.2000 as applicable to her, which are detailed herein below as follows:-

Designation: Untrained and Unqualified Harmonium Player in Nursery Department.

Last Pay drawn as on 10.1.1980 : Rs.506.25 (For.Dec.1979).

From To Total Salary Total Month Per month Salary

1/1980	9/85	69	506-25	34931.25	10/85	4/87	19	552.00	10488.00	5/87	2/88
10	651.00	6510.00	3/88	4/89	14	748.00	10483.20	5/89	7/90	15	1000.00
15000.00	8/90	1/91	06	1043.000	6258.00	2/91	7/91	06	1141.00	6846.00	
8/91	1/92	06	1208.00	7248.00	2/92	7/92	06	1259.00	7554.00	8/92	1/93
06	1325.00	7950.00	2/93	7/93	06	1369.00	8214.00	8/93	1/94	06	1806.00
10836.00	2/94	7/94	06	1844.00	11064.00	8/94	1/95	06	1881.00	11286.00	
2/95	1/96	06	1969.00	11814.00	8/95	1/97	06	2101.00	12606.00	2/96	1/98
06	2208.00	13248.00	2/97	12/98	11	(Retired)	2361.00	25971.00			

Total 224,931.45 2361x 15 x 24 Gratuity:----- 32,691.00 26 Rs.257,622.45"

3. It has further been submitted that despite the fact that the Respondents have paid all the dues as per their understanding of the Order dated 10.6.1999, they had nevertheless agreed to make a further and final payment of Rs.2.72 Lakhs before the Lok Adalat. It has also been emphasized that this Order was made by the Respondents voluntarily, on humanitarian grounds, and to put an end to the entire dispute. This is obvious from the fact that it was not made subsequent to the filing of the Contempt Petition. Mr. Kaul, learned counsel for the Respondent has made an oral prayer for summoning the records of the Lok Adalat to make good his contention that this offer of Rs. 2.72 Lakhs in the duration was of the proceedings of the Lok Adalat. It is his submission that the Petitioner is abusing the Respondents' ex gratia offer of Rs.2.72 Lakhs in order to pressurise it into making further payment under Democles sword of Contempt. The Petitioner, however, states that she is neither an untrained, nor an unqualified teacher and that she is entitled to annual increments and HRA, CCA/DA etc. in accordance with the IVth Pay Commission.

4. It is trite to state that for a person to be held punishable under the Contempt of Courts Act, the Order of which disobedience is alleged should be explicit and unambiguous. If two opinions are possible, and the one adhered to and complied with by the Respondents is a plausible one, the Court should eschew the exercise of its powers of committing for Contempt. It is also well established that the powers of Contempt cannot be invoked as a substitute for execution proceedings.

5. In *J.S. Parihar Versus Ganpat Duggar and Others*, (1996) 6 Supreme Court Cases 291, it had been ordered that a seniority list be prepared which was so done. However, this was on the ground that it was not correctly prepared and violated the concerned Order. The Hon^{ble} Supreme Court made the following pronouncement:

"It is seen that once there is any order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be the willful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the learned Single Judge cannot be given to redraw the seniority list. In other words, the learned Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible u/s 12 of the Act. Therefore, the Division Bench has exercised the power u/s 18 of the Rajasthan High Court Ordinance being a judgment or order of the Single Judge; the division Bench corrected the mistake committed by the learned single Judge. Therefore, it may not be necessary for the State to file an appeal in this Court against the judgment of the learned single Judge when the matter was already seized of the Division Bench.

The appeals are accordingly dismissed. It may be open to the aggrieved party to assail the correctness of the seniority list prepared by the State Government, if it is not in conformity with the directions issued by the High Court, if they so advised, in an appropriate forum. No costs".

6. In *Jharieswar Prasad Paul and Another Vs. Tarak Nath Ganguly and Others*, opined as extracted below:

"The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law, since the respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen and the democratic fabric of society will suffer if respect for the judiciary is undermined. The Contempt of Courts Act, 1971 has been introduced under the statute for the purpose of securing the feeling of confidence of the people in general for true and proper administration of justice in the country. The power to punish for contempt of court is a special power vested under the Constitution in the courts of record and also under the statute. The power is special and needs to be exercised with care and caution. It should be used sparingly by the courts on being satisfied regarding the true effect of contemptuous conduct. It is to be kept in mind that the court exercising the appellate court for determination of the disputes between the parties. The contempt jurisdiction should be confined to the question whether there has been any deliberate disobedience of the order of the court and if the conduct of the party who is alleged to have committed such disobedience is contumacious. The court exercising contempt jurisdiction is not

entitled to enter into questions which have not been dealt with and decided in the judgment or order, violation of which is alleged by the applicant. The court has to consider the direction issued in the judgment or order and not to consider the question as to what the judgment or order should have contained. At the cost of repetition, be it stated here that the court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party, which is alleged to have committed deliberate default in complying with the directions in the judgment or order. If the judgment order does not contain any specific direction regarding a matter or if there is any ambiguity in the directions issued therein then it will be better to direct the parties to approach the court which disposed of the matter for clarification of the order instead of the court exercising contempt jurisdiction taking upon itself the power to decide the original proceeding in a manner not dealt with by the court passing the judgment or order. If this limitation is borne in mind then criticisms which are sometimes leveled against the courts exercising contempt of court jurisdiction "that it has exceeded its powers in granting substantive relief and issuing a direction regarding the same without proper adjudication of the dispute" in its entirety can be avoided. This will also avoid multiplicity of proceedings because the party which is prejudicially affected by the judgment or order passed in the contempt proceeding and granting relief and issuing fresh directions is likely to challenge that order and that may give rise to another round of litigation arising from a proceeding which is intended to maintain the majesty and image of courts".

7. For these reasons, I do not consider it appropriate to proceed in this Petition. Notices of Contempt are recalled and the Petition is dismissed.