

(2013) 07 RAJ CK 0194

In the Rajasthan High Court

Case No : Civil Contempt Petition No. 615 of 2013 in Civil Writ Petition No. 7363 of 2013

Surendra Kumar Sharma

APPELLANT

Vs

Ms. Aparna Arora and Others

RESPONDENT

Date of Decision : 24-07-2013

Acts Referred:

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

Citation : (2013) 07 RAJ CK 0194

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Advocate : Mahendra Singh Yadav, for the Appellant;

Final Decision : Dismissed

Judgement

Bela M. Trivedi, J.—The present contempt petition has been filed u/s 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India, for the alleged non-compliance of the order dated 13.05.2013 passed by the learned Single Judge in S.B.C.W.P. No. 7363/2013. It has been submitted by the learned counsel for the petitioner that writ petition was disposed of by the learned Single Judge on the basis of the order dated 02.04.2013 passed by the learned Single Judge in case of Rakesh Kumar Gupta & Ors. Versus State of Rajasthan & Ors. in S.B.C.W.P. No. 3313/2013. According to him, the respondents have not issued the experience certificate, though directed by the Court.

2. Now, if the order passed in the case of Rakesh Kumar Gupta & Ors. is perused, the Court had disposed of the said petitions by observing as under:-

In view of above, the issue raised by the petitioners is decided against them. Accordingly, a candidate not working on the post mentioned in the amended rules and otherwise not working under MNREGA or any of the schemes of the Department, would not be entitled for experience certificate. It will, however, not

preclude the petitioners to challenge the validity of rules, if they so choose. This judgment will not come in their way for the aforesaid.

Before parting with the judgment, it is necessary to comment that if any of the petitioners were terminated other than on account of allegation, would be entitled for the experience certificate as agreed by the Additional Advocate General but on the condition that their engagement should be on direct contract basis on any of the posts under MNREGA or any of the schemes of Department and termination was not on account of allegation. Their engagement should not be through placement agency. For illustration, if somebody was discontinued with efflux of period of agreement or resigned apart from such similar reasons where no allegation exists against the employee then he/she would be entitled to experience certificate for the period work has been undertaken. It would be as per the corrigendum issued for issuance of experience certificate and subject to rules. It should be for the period of actual working without a cut off date.

3. From the said order, it clearly transpires that the issue raised by the petitioners of the said petitions was decided against them and it was specifically held that the candidate not working on the post mentioned in the amended rules and otherwise not working under MNREGA and any of the schemes of the department, would not be entitled for experience certificate. However, the court before parting with the judgment, had made the comment that if any of the petitioners were terminated other than on account of allegation, would be entitled for the experience certificate as agreed by the Additional Advocate General but on the condition that their engagement should be on direct contract basis on any of the posts under MNREGA or any of the schemes of Department and termination was not on account of allegation. From the said observations made by the Court, it clearly transpires that the Court had passed only a comment and there was no specific direction given to the respondents, while disposing of the said petitions. Under the circumstances, in absence of any specific directions, it could not be said that there was non-compliance of the order passed by the learned Single Judge at the instance of the respondents. In that view of the matter, no case for contempt having been made out, the petition deserves to be dismissed and is accordingly dismissed.