

(2001) 09 AHC CK 0007

In the Allahabad High Court

Case No : Civil Miscellaneous Contempt Petition No. 3121 of 1999

U.P. Urdu Development Organisation and Another

APPELLANT

Vs

Dr. Sanjay Bhosh Reddy and Others

RESPONDENT

Date of Decision : 11-09-2001

Acts Referred:

Contempt of Courts Act, 1971 — Section 2

Citation : (2001) 3 UPLBEC 2363

Hon'ble Judges : Sunil Ambwani, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sunil Ambwani, J.—This contempt petition has been filed for taking action against the opposite parties for the willful disobedience of the direction of this Court dated 21.1.1999 in writ petition No. 21260 of 1998 for deciding applicants representation regarding their grievance to the authority concerned who was required to decide the same within two months of the production of certified copy of the order in accordance with law.

2. The applicant, U.P. Urdu Development Organisation through its Secretary Dr. Parwaz Ulum filed writ petition with the prayer to grant a writ of general mandamus commanding the respondents to issue all Government advertisements in Urdu Newspapers also. The petitioner also prayed for a writ of certiorari quashing the advertisement dated 12.6.1998 published in "Rastriya Sahara", and a writ of mandamus commanding the Chairman/District Rural Development Agency to readvertise in the Urdu Newspaper according to Government order dated 14.4.1988 and Notification dated 7.10.1989 and Government Order dated 19.11.1990.

3. Notices were issued on 14.9.1999 to comply with the order dated 21.1.1999 in Writ Petition No. 21260 of 1998 within one month or to show cause by filing counter affidavit as to why opposite party be not punished for non-compliance of

the order. In response to the notice, appearance was put on behalf of the District Magistrate and that after seeking on adjournment on 20.9.1999, the counter affidavit of Sri Alok Tandon, District Magistrate, Allahabad dated 12.1.2000 was filed in which he stated in paragraph 7 that he is not competent authority to decide representation of the petitioner. He further stated that the representation moved by the applicant pertains to policy matter formulated by the State Government, therefore, the power of any checking in the aforesaid policy matter vests with the State Government i.e., the Secretary of the concerned department. A counter affidavit of Sri Faujdar Mali, Deputy Director of Information, Allahabad was also filed in which it was stated that the orders passed by the Additional Director Information, U.P., Lucknow dated 17.4.1999, on the representation of the applicants in compliance of the order of the Court, has been communicated to him. The said order has been annexed as Annexure CA-1 to his affidavit. A perusal of this order issued by the Additional Director Information shows that the representation dated 19.2.1999 which was received in the Information department on 26.2.1999, has been decided by a reasoned order dated 17.4.999. In this Office Memorandum it has been stated in paragraph 7 that in accordance with notification dated 7.10.1989 and Government Order dated 19.11.1990 issued under the Official Language (Amendment) Act, 1989, in which it has been provided that all the Government Rules, Regulations, Notifications and Government Orders, relating to public policy, documents and important Government decisions shall also be published in Urdu Language. In G.O. dated 14.8.1988 it has been provided that all the departments, Local and Autonomous Bodies shall issue all their advertisements after verification from the Information department and the concerned vouchers shall be paid accordingly. But subsequently by order dated 24.1.1991 the said G.Os. were amended and that Local Bodies and Autonomous Institutions were exempted from the G.O. dated 14.4.1988. After the said amendment by G.O. dated 24.1.1991, the Local Bodies and Autonomous Institutions are not concerned with the Information department of the State Government, for issuing any advertisement and that appropriate relief with regard to said Institutions can be obtained directly from them. With regard to the second contention raised, it was provided in the Office Memorandum that the State Government has decided a policy in September, 1984 by Government Order to issue advertisements to the extent that 70% of the budget was to be utilized for Hindi, 20% or English and 10% for Urdu for issuing advertisement, according to which the advertisements are issued by the Information department and apart from this the newspapers in Urdu language are also give deposited and classified advertisement, according to requirement. For the last contention, of the applicants, the Office Memorandum provided that since the rules relating to policy decisions and advertisement of 1999 are not related to general public, and were concerned only with the newspapers, of which the editors have full knowledge of Hindi language, these were not published in Urdu, and so far as giving advertisement to Hindi/Urdu newspaper in the ratio of 2 : 1, the policy can only be decided by the State Government.

4. After perusal of the aforesaid affidavits this Court passed by order dated 16.3.2001, after came to a conclusion that the Director of Information could not travel outside the policy fixed by the Government and that he cannot be said to be the concerned authority. The Court thereafter examined the contention of the petitioner that certain sections of the population of country is Urdu speaking who reads only Urdu newspaper, and thus prima facie, it appears desirable that as those persons as possible should be covered in the fold of such information and for the said purpose it is necessary to have statistics of population which reads only Urdu newspapers. The Court thereafter found that the matter required application of mind of the Secretary, Information Department who has not filed any counter affidavit and granted a time to enable the Secretary, Information to pass appropriate orders and communicate the same to this Court along with counter affidavit.

5. In response to the aforesaid order and after seeking an adjournment on 22.7.2001, an affidavit of Sri Alok Ranjan, Secretary Information was filed on 30.8.2001. By this affidavit, he informed the Court, that the applicants representation has been decided by him by order dated 18.8.2001, and thus the orders of the Court dated 16.3.2001 have been complied with. He has enclosed a copy of the Office Memorandum dated 18.8.2001 issued under his signatures, by which the State Government has taken a decision that there is no need to change the policy regarding distribution of advertisement dated 21.2.1991. In paragraph 3 of this Office Memorandum which reiterates policy decision of the State Government, it is stated that the purpose of advertisement is to give full and adequate publicity of the decisions of the Government and not to provide any commercial advantage to any particular class. In case there is any prominent newspaper in Urdu language in the concerned district with wide circulation the advertisement is given to such newspaper at the district level, and if there is no such Urdu newspaper at the district level, the advertisements are given to the weekly newspapers published in Urdu language.

6. From the aforesaid facts and decisions on the representation made by the applicant brought on record vide counter affidavits of Faujdar Mali and Sri Alok Ranjan, the Court finds that the orders of this Court dated 21.1.1999 in writ petition No. 21260 of 1998 to decide the applicants representation was complied with by firstly deciding the issue by the Additional Director Information, by his Office Memorandum dated 17.4.1999, and thereafter the order passed in this contempt proceedings dated 16.3.2001, was complied with by Sri Alok Ranjan by Office Memorandum dated 18.8.2001 which is annexed as Annexure CA-1 to his affidavit filed on 30.8.2001 in which the State Government has not found any justification to revise its earlier policy. The Court, therefore, finds that the orders were substantially complied with. It was submitted by Dr. Parwez Uloom appearing in person that the order of this Court dated 16.3.2001 passed in this contempt proceedings to the effect that the State Government must take into account the statistics of the population which reads only Urdu papers by collecting information of various newspapers as well as other information which may be

available to the Government and thereafter to pass appropriate orders, has not been complied with. The decision of the State Government to publish the advertisements in any newspaper published in different newspapers is a policy decision. The manner and method of taking policy decision is not a domain of this Court. The State Government is well within its rights to consider such material which it may find appropriate to arrive at a conclusion which can be challenged by the petitioner in case it is found arbitrary and with mala fide intention. The contempt Court cannot enter into the judicial review of the decision taken by the State Government, on policy matters. It is not denied by the applicant that the advertisement are also given and published, in Urdu newspaper and that the Official Language Act and the Government Orders are being followed. The question about the ratio of giving these advertisements to the Urdu Newspaper and the availability of such Urdu newspapers and their reach to the common people, cannot be a subject matter of consideration by this Court in contempt jurisdiction.

7. In the aforesaid circumstances, the Court finds that the orders of this Court as aforesaid have been complied with, and as such the contempt petition is dismissed. The notices issued by this Court to the opposite parties are discharged.