

Contempt
Present : The Hon'ble Mr Justice Jayanta Kumar Biswas

Judgment on : March 17, 2010

W.P.No.3686 (W) of 2002

Sri Jugal Chandra Das & Ors.

-vs-

Sri Amit Sahai

POINTS:

Contempt of court ----Order passed in 2004 directing the Chairman, Cycle Corporation of India Ltd. to give a decision within six weeks ----Limitation ----Section 20, Contempt of Courts Act, 1971.

FACTS:

By the Order dated May 14, 2004 , W.P.No.3686(W) of 2002, brought by the petitioners under Article 226 ,was disposed of directing the Chairman, Cycle Corporation of India Limited to give a decision regarding grievances of the petitioners within a period of six weeks from the date of receipt of a copy of the Order. It has been alleged that though a copy of the Order was communicated to the Chairman of the Corporation by a covering letter dated June 16, 2004, Annexure C2 at page 86, the Chairman did not give the decision in compliance with the Order.

The reason to allege deliberate and willful violation of the Order of this Court arose only after the Central Government failed to carry out the Order dated May 14, 2004, in compliance with the Order of this Court dated July 18, 2008. The question that cropped up for consideration was whether this application for contempt was barred by limitation.

HELD:

It is evident that this Court did not, as it could not, direct the Central Government to carry out the Order dated May 14, 2004. In the Order only submissions of counsel were recorded that the Corporation was no longer in existence, and in the process it was observed that the question of initiating contempt proceedings might arise only if the Central Government that had taken over the Corporation refused to carry out the directions. The question of maintainability of a future Contempt Application was not, and could not be, decided by the Order. The question is to be decided now.

PARA --5

The application is out of time by years. The date on which the contempt is alleged to have been committed is the date on which the period fixed in the Order dated May 14, 2004, expired. The period was not extended by any subsequent Order. Besides the allegation of disobedience is not against the Chairman of the erstwhile Corporation. It is against an officer of the Central Government. By the Order dated May 14, 2004, the Central Government was not directed to do anything. Whether the Central Government is bound by the Order is not to be decided in the Contempt Application. Hence proceedings for contempt cannot be initiated on the basis of the application.

PARA --6

Mr. R.N. Dutta and Mr. Hare Krishna Halder, for the petitioners.
None for the contemner.

The Court:

1.This contempt application dated April 1, 2009 has been filed alleging that the contemnor has wilfully and deliberately violated the order of this court dated May 14, 2004, Annexure C1 at p.84.

2.By the order dated May 14, 2004 W.P.No.3686(W) of 2002 brought by the petitioners under art.226 was disposed of directing the Chairman, Cycle Corporation of India Limited to give a decision regarding grievances of the petitioners within a period of six weeks from the date of receipt of a copy of the order. It has been alleged that though a copy of the order was communicated to the chairman of the corporation by a covering letter dated June 16, 2004, Annexure C2 at p.86, the chairman did not give the decision in compliance with the order.

3.Counsel submits that the petitioners' previous contempt application (CPAN No.1451 of 2005) was disposed of by an order dated July 18, 2008, Annexure C3 at p.87, directing the central government to give the decision in compliance with the order disposing of the art.226 petition. According to him, the reason to allege deliberate and willful violation of the order of this court arose only after the central government failed to carry out the order dated May 14, 2004 in compliance with the order of this court dated July 18, 2008.

4.The question is whether the contempt application is within the period mentioned in s.20 of the Contempt of Courts Act, 1971. Section 20 of the Contempt of Courts Act, 1971 provides as follows:

“20. Limitation for actions for contempt.– No court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.”

5.It is evident from the order dated July 18, 2008 that thereby this court did not, as it could not, direct the central government to carry out the order dated May 14, 2004. In the order only submissions of counsel were recorded that the corporation was no longer in existence, and in the process it was observed that the question of initiating contempt proceedings might arise only if the central government that had taken over the corporation refused to carry out the directions. The question of maintainability of a future contempt application was not, and could not be, decided by the order. The question is to be decided now.

6.In my opinion, the application is out of time by years. The date on which the contempt is alleged to have been committed is the date on which the period fixed in the order dated May 14, 2004 expired. The period was not extended by any subsequent order. Besides the allegation of disobedience is not against the chairman of the erstwhile corporation. It is against an officer of the central government. By the order dated May 14, 2004 the central government was not directed to do anything. Whether the central government is bound by the order is not to be

decided in the contempt application. Hence proceedings for contempt cannot be initiated on the basis of the application.

For these reasons, the contempt application is dismissed. No costs. Certified Xerox according to law.

(Jayanta Kumar Biswas, J