

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

MISCELLANEOUS APPLICATION Diary No(s). 13431/2023 in Contempt
Petition (Civil) D. No. 6078 of 2023

SUSHIL KUMAR YADAV & ORS.

Petitioner(s)

VERSUS

DEEPAK KUMAR & ORS.

Respondent(s)

(Office report for direction to be listed.
IA No. 66380/2023 - APPEAL AGAINST REGISTRARS ORDER XV RULE 5)

Date : 30-10-2023 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.V. VISWANATHAN
[IN CHAMBER]

For Petitioner(s) Ms. Parul Shukla, AOR
Mr. Uday Aditya Banerjee, Adv.
Ms. Shreya Bhojnagarwala, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay in curing the defects is condoned.

Learned counsel for the applicants contends that the order of the Registrar dated 14.03.2023 declining to receive the Contempt Petition is erroneous and untenable. The Registrar has relied upon the last paragraph of order dated 07.12.2021 of the Court passed in Miscellaneous Application No. 818 of 2021 in Civil Appeal No. 8300 of 2016 to decline to receive the Contempt Petition. Last paragraph reads as under:

"We make it clear that this puts a quietus to the complete issue and no further proceedings before us or before the High Court are to be entertained."

The Registrar has also in the penultimate paragraph noticed the averment in the Contempt Petition that the petitioners are indisputably form the list of 126 candidates who are appointed as per the prescribed procedure. He also noticed the averment that the petitioners have not been paid salaries for the period they have worked in the concerned institution as per the judgment and order dated 07.12.2021.

Order XV Rule 5 of the Supreme Court Rules provides as follows:

"The Registrar may refuse to receive a petition on the ground that it discloses no reasonable cause or is frivolous or contains scandalous matter but the petitioner may within fifteen days of the making of such order, appeal by way of motion, from such refusal to the Court."

Prima facie none of the ingredients of Order XV Rule 5 are attracted. In a case where Order XV Rule 5 is attracted, appeal will lie to the Court. The powers of the Judge-in-Chambers are also circumscribed under Order V Rule 2. None of the 41 sub-clauses are attracted giving the Judge-in-Chambers power to hear this appeal against the order of the Registrar. Order V sub-rule 3 only provides an appeal to the Judge-in-Chambers against the order made by the Registrar under Order V Rule 1. The impugned order dated 14.03.2023 of the Registrar is not covered under any of the 30 sub-clauses of Order V Rule 1. Applying the principle analogous to Order XV Rule 5 and considering that the mater involves the interpretation of the order of the Court, it is only proper that Miscellaneous Application Diary No(s). 13431/2023 be placed before

the Hon'ble Court subject to the orders of the competent authority.

(KAPIL TANDON)
COURT MASTER (SH)

(RAM SUBHAG SINGH)
COURT MASTER (NSH)