

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE JUSTICE SRI RAKESH THAPLIYAL.

Reserved on: 03.06.2026

Delivered on: 15.07.2026

Contempt Petition No. 213 of 2026

M/s Ram Krishna Jayara

.....Petitioner

Vs.

Sri Sanjay Kumar Pathak and others

.....Respondents.

Counsel for the Petitioner:

Mr. Jitendra Chaudhary, learned counsel.

Counsel for the Respondent:

Mr. R.K. Raizada, learned Senior Advocate assisted by Mr. S.S. Chauhan, learned counsel.

(Sri Rakesh Thapliyal, J.)

1. The instant contempt petition has been moved by the petitioner for initiation of proceeding against the respondent/contemnor under the Contempt of Courts Act 1971 for wilful disobedience of the judgment and order passed by the Writ Court dated 26.02.2026 in WPMB No. 534 of 2024, M/s Ram Krishna Jayara vs. State of Uttarakhand & others.

2. The brief facts of the case are that the petitioner participated in a tender process flouted by the department, in which the petitioner was disqualified in the technical evaluation round. Aggrieved by the exclusion, the petitioner approached the Writ Court and preferred WPMB No. 534 of 2024. The writ petition was remained pending for one and half year and during this period the entire bidding process was put on hold and subsequently the Writ Court allowed the writ petition on 26.02.2026 and respondents were directed to include the bid of the petitioner's firm in the financial round and proceed in accordance with law. On close scrutiny of the judgment passed by the Writ Court, the Writ Court was of the view that the petitioner was illegally disqualified.

3. Thereafter, instant contempt petition is moved for non-compliance of the direction of the Writ Court, since, the respondent again put on hold the entire bidding process on the ground that some of the bidders are not agreeable to extend their bid validity period.

4. On 12.05.2026, the respondent/contemnor –the Chief Engineer was directed to join the proceeding through V.C. on 14.05.2026, and in compliance thereof Mr. Sanjay Kumar Pathak, the Chief Engineer joined the proceeding and after hearing the submission of Mr. S.S. Chauhan, learned counsel for the respondent/contemnor as well as submission of Mr. Sanjay Kumar Pathak, the following charge was framed:-

“Whether the action of the respondent contemnor for not opening the financial bid on the scheduled date amounts to contempt of Court and what action can be taken on wilfully disobeying the order of the court.”

A week’s time was given to file response on the aforesaid charge and in compliance thereof response has been filed.

5. Now the issue for consideration before this Court in this contempt petition is whether putting the tender process on hold without opening the financial bid on the ground that the other bidders refused to extend their bid validity period and now only the petitioner has been left out to be a single bidder and such financial bid cannot be opened constitutes wilful circumvention and disobedience of the directions of Writ Court.

The another issue is whether the plea of subsequent development that the other bidders are not extending their bid validity period will frustrate the tender process due to passage of time, amounts disobedience of the order of the Writ Court.

6. The issue of subsequent development has been discussed by this Court in its order dated 12.05.2026 and 14.05.2026. On 03.06.2026 , Mr. Raizada, learned Senior Advocate who appears for the respondent/contemnor submits that the judgment of the Writ Court need not to be complied with in view of the subsequent development. In support of such submission he placed reliance to the judgment of the Hon'ble Apex Court in the case of *State of Jharkhand and others vs. CWE-Soma Consortium, (2016) 14 SCC 172* as well as the another decision of the Hon'ble Apex Court in the case of *Maninderjit Singh Bitta vs. Union of India and other (2012) 1 SCC 273*.

7. In response to such submission, Mr. Jitendra Chaudhary learned counsel for the petitioner submits that the submission as advanced by Mr. Raizada is completely misconceived and the respondent/contemnor has no business to say that the order of the Writ Court need not to complied with due to subsequent development and the submission as made as such are completely outside the scope of the contempt jurisdiction.

8. Heard rival submission of the learned counsel for the parties.

9. First of all it should be keep in mind that the law of contempt jurisdiction is well settled that the order of the Writ Court cannot be bypassed due to subsequent development and in a contempt jurisdiction the Contempt Court should check whether the spirit and letter of the order was obeyed or not.

10. The respondent's plea that only one bidder remains is nothing but is a situation created by the respondent/contemnor.

The petitioner was kept out of in the financial round of bidding process due to oust in technical round for 18 months which was subjudice before the Writ Court and when the Writ Court after dealing with all the relevant aspects directed the respondents to evaluate all the bidders including the petitioner in the financial round of tender process then a new plea is taken that now other bidders are not extending their bid validity period. The argument of the respondent/contemnor that a single bidder invalidates the tender process cannot be accepted in a contempt proceeding for three reasons which are as follows:-

(i) at the time bid was frozen, there were multiple valid bidders and the exclusion of the petitioner found to be erroneous pursuant to the judgment and order passed by the Writ Court dated 26.02.2026 in WPMB No. 534 of 2024.

(ii) Allowing the other bidder to refuse to extend the bid validity period that too during the pendency of the writ petition as well as after final verdict of the Writ Court is nothing but an act of respondent/contemnor to defeat the judgment of the Writ Court and

(iii) delaying tactics in compliance of the judgment of the Writ Court in respect of bid is nothing but an attempt to circumvent the order of the Writ Court by putting on hold the process of opening of financial bid which is nothing but blatant attempt to circumvent and neutralize the direction of the Writ Court.

The plea of the respondent that “no competent bidder is left” is nothing but after thought and this is nothing but in order to circumvent the order of the Writ Court which falls under the purview of use as a shield against the finding of the contempt or to make an attempt to frustrate the contempt proceedings.

11. By placing reliance to the judgment of Hon’ble Apex Court in the case of *Maninderjit Singh Bitta vs. Union of India and*

other (2012) 1 SCC 273, learned counsel for the petitioner submits that any new development will not give any shelter to the respondent/contemnor for taking plea that the order of the Writ Court need not to be complied with.

I perused the judgment. At this juncture certain relevant paragraphs of this judgment are relevant to examine the principle of law which guide the exercise of judicial discretion in the contempt jurisdiction which are as under:-

“16. Now, we would examine certain principles of law which would normally guide the exercise of judicial discretion in the realm of contempt jurisdiction. ‘Contempt’ is an extraordinary jurisdiction of the Courts. Normally, the courts are reluctant to initiate contempt proceedings under the provisions of the 1971 Act. This jurisdiction, at least suo moto, is invoked by the courts sparingly and in compelling circumstances, as it is one of the foremost duty of the courts to ensure compliance of its orders. The law relating to contempt is primarily dissected into two main heads of jurisdiction under the Indian Law: (a) Criminal Contempt, and (b) Civil Contempt. It is now well settled and explained principle under the Indian contempt jurisdiction that features, ingredients, procedure, attendant circumstances of the case and the quantum of punishment are the relevant and deciphering factors.

17. Section 12 of the 1971 Act deals with the contempt of court and its punishment while Section 15 deals with cognizance of criminal contempt. Civil contempt would be wilful breach of an undertaking given to the court or wilful disobedience of any judgment or order of the court, while criminal contempt would deal with the cases where by words, spoken or written, signs or any matter or doing of any act which scandalises, prejudices or interferes, obstructs or even tends to obstruct the due course of any judicial proceedings, any court and the administration of justice in any other manner. Under the English Law, the distinction between criminal and civil contempt is stated to be very little and that too of academic significance. However, under both the English and Indian Law these are proceedings sui generis.

19. Under the Indian Law the conduct of the parties, the act of disobedience and the attendant circumstances are relevant to consider whether a case would fall under civil contempt or a criminal contempt. For example, disobedience of an order of a court simplicitor would be civil contempt but when it is coupled with conduct of the parties which is contemptuous, prejudicial and is in flagrant violation of the law of the land, it may be treated as a criminal contempt. Even under the English Law, the courts have the power to enforce its judgment and orders against the recalcitrant parties.

20. In exercise of its contempt jurisdiction, the courts are primarily concerned with enquiring whether the contemnor is guilty of intentional and wilful violation of the orders of the court, even to constitute a civil contempt. Every party to lis before the court, and even otherwise, is expected to obey the orders of the court in its true spirit and substance. Every person is required to respect and obey the orders of the court with due dignity for the institution. The Government Departments are no exception to it. The departments or instrumentalities of the State must act expeditiously as per orders of the court and if such orders postulate any schedule, then it must be adhered to. Whenever there are obstructions or difficulties in compliance with the orders of the court, least that is expected of the Government Department or its functionaries is to approach the court

for extension of time or clarifications, if called for. But, where the party neither obeys the orders of the court nor approaches the court making appropriate prayers for extension of time or variation of order, the only possible inference in law is that such party disobeys the orders of the court. In other words, it is intentionally not carrying out the orders of the court. Flagrant violation of the court's orders would reflect the attitude of the concerned party to undermine the authority of the courts, its dignity and the administration of justice.

22. Another very important aspect even of the Civil Contempt is, 'what is the attribution of the contemnor?' There may be cases of disobedience where the respondent commits acts and deeds leading to actual disobedience of the orders of the court. Such contemnor may flout the orders of the court openly, intentionally and with no respect for the rule of law. While in some other cases of civil contempt, disobedience is the consequence or inference of a dormant or passive behaviour on the part of the contemnor. Such would be the cases where the contemnor does not take steps and just remains unmoved by the directions of the court. As such, even in cases where no positive/active role is directly attributable to a person, still, his passive and dormant attitude of inaction may result in violation of the orders of the court and may render him liable for an action of contempt.

23. It is not the offence of contempt which gets altered by a passive/negative or an active/positive behaviour of a contemnor but at best, it can be a relevant consideration for imposition of punishment, wherever the contemnor is found guilty of contempt of court.

24. With reference to Government officers, this Court in the case of *E.T. Sunup v. Canss Employees Assoc.*] took the view that it has become a tendency with the Government officers to somehow or the other circumvent the orders of the Court by taking recourse to one justification or the other even if *ex-facie* they are unsustainable. The tendency of undermining the court orders cannot be countenanced. Deprecating practice of undue delay in compliance with the orders of the court, this Court again in the case of *M.C. Mehta v. Union of India and Ors.* observed : (SCC p. 311, paras 8-9)

".....clear lapse on the part of NCT and Municipal Corporation. Even if there was not deliberate or wilful disregard for the court orders, there has clearly been a lackadaisical attitude and approach towards them. Though no further action in this matter need be taken for now, but such lethargic attitude if continues may soon become contumacious."

26. It is also of some relevancy to note that disobedience of court orders by positive or active contribution or non-obedience by a passive and dormant conduct leads to the same result. Disobedience of orders of the court strikes at the very root of rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. If the Judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs (refer *T.N. Godavarman Thirumulpad's* case SCC p. 6, para 5). The proceedings before the highest court of the land in a public interest litigation, attain even more significance. These are the cases which come up for hearing before the court on a grievance raised by the public at large or public spirited persons. The State itself places matters before the Court for determination which would fall, statutorily or otherwise, in the domain of the executive authority.

29. Lethargy, ignorance, official delays and absence of motivation can hardly be offered as any defence in an action for contempt. Inordinate delay in complying with the orders of the courts has also received judicial criticism. It is inappropriate for the parties concerned to keep the execution

of the court's orders in abeyance for an inordinate period. Inaction or even dormant behaviour by the officers in highest echelons in the hierarchy of the Government in complying with the directions/orders of this Court certainly amounts to disobedience. Inordinate delay of years in complying with the orders of the court or in complying with the directed stipulations within the prescribed time, has been viewed by this Court seriously and held to be the contempt of court, as it undermines the dignity of the court. Reference in this regard can be made to Maniyeri Madhavan v. Inspector of Police, Cannanore [AIR 1993 SC 356] and Anil Ratan Sarkar and Ors. v. Hirak Ghosh and Ors. [(2002) 4 SCC 21]. Even a lackadaisical attitude, which itself may not be deliberate or wilful, have not been held to be a sufficient ground of defence in a contempt proceeding. Obviously, the purpose is to ensure compliance of the orders of the court at the earliest and within stipulated period."

12. Apart from this it is settled principle of law that the Court while exercising contempt jurisdiction is primarily concerned with the question of contemptuous conduct of the party who is alleged to have committed default in compliance with the direction of the Writ Court. If there was an ambiguity in the order, it is for the party concerned to approach to higher court if according to him the same is not legally tenable. Such a question is necessarily to be adopted before the Higher Court.

The Court exercising contempt jurisdiction cannot take upon itself power to decide the subject matter of petition which has already been decided in any manner nor to dealt with by the Writ Court while passing the order.

If the plea of respondent/contemnor is accepted at this stage that due to some new development there is no need to comply with the judgment then it amounts to frustrate the order of the Writ Court as well as to frustrate the contempt proceeding and in such an eventuality this Court is of the view that if there is any impossibility to obey the order then it has been assailed for correctness of the judgment before the Higher Court.

13. The Hon'ble Apex Court in the case of *Prithawi Nath Ram vs. State of Jharkhand and others* (2004) 7 SCC 261 observed that

the court dealing with application against alleged non-compliance in a contempt jurisdiction cannot examine rightness or wrongness of the order of the Writ Court nor can it add or delete any direction and whether the order is wrong or against the rules or impracticable or not feasible this cannot be looked into in the contempt jurisdiction. The order is right or wrong in any eventuality has to be obeyed and disobedience thereof would render the party liable for contempt.

The certain relevant paragraphs of the judgment as aforesaid are reproduced herein as under:-

“5. While dealing with an application for contempt, the Court is really concerned with the question whether the earlier decision which has received its finality had been complied with or not. It would not be permissible for a Court to examine the correctness of the earlier decision which had not been assailed and to take the view different than what was taken in the earlier decision. A similar view was taken in K.G. Derasari and Anr. V. Union of India and Ors.. The Court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party who is alleged to have committed default in complying with the directions in the judgment or order. If there was no ambiguity or indefiniteness in the order, it is for the concerned party to approach the higher Court if according to him the same is not legally tenable. Such a question has necessarily to be agitated before the higher Court. The Court exercising contempt jurisdiction cannot take upon itself power to decide the original proceedings in a manner not dealt with by the Court passing the judgment or order. Though strong reliance was placed by learned counsel for the State of Bihar on a three-Judge Bench decision in Niaz Mohammad and Ors. v. State of Haryana and Ors., we find that the same has no application to the facts of the present case. In that case the question arose about the impossibility to obey the order. If that was the stand of the State, the least it could have done was to assail correctness of the judgment before the higher Court. State took diametrically opposite stands before this Court. One was that there was no specific direction to do anything in particular and, second was what was required to be done has been done. If what was to be done has been done, it cannot certainly be said that there was impossibility to carry out the orders. In any event, the High Court has not recorded a finding that the direction given earlier was impossible to be carried out or that the direction given has been complied with.

6. On the question of impossibility to carry out the direction, the views expressed in T.R. Dhananjaya v. J. Vasudevan need to be noted. It was held that when the claim inter se had been adjudicated and had attained finality, it is not open to the respondent to go behind the orders and truncate the effect thereof by hovering over the rules to get round the result, to legitimize legal alibi to circumvent the order passed by a Court.

7. In Mohd. Iqbal Khanday v. Abdul Majid Rather it was held that if a party is aggrieved by the order, he should take prompt steps to invoke appellate proceedings and cannot ignore the order and plead about the difficulties of implementation at the time contempt proceedings are initiated.

8. *If any party concerned is aggrieved by the order which in its opinion is wrong or against rules or its implementation is neither practicable nor feasible, it should always either approach to the Court that passed the order or invoke jurisdiction of the Appellate Court. Rightness or wrongness of the order cannot be urged in contempt proceedings. Right or wrong the order has to be obeyed. Flouting an order of the Court would render the party liable for contempt. While dealing with an application for contempt the Court cannot traverse beyond the order, non-compliance of which is alleged. In other words, it cannot say what should not have been done or what should have been done. It cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional direction or delete any direction. That would be exercising review jurisdiction while dealing with an application for initiation of contempt proceedings. The same would be impermissible and indefensible. In that view of the matter, the order of the High Court is set aside and the matter is remitted for fresh consideration. It shall deal with the application in its proper perspective in accordance with law afresh. We make it clear that we have not expressed any opinion regarding acceptability or otherwise of the application for initiation of contempt proceedings."*

14. So far as judgment as relied upon by Mr. Raizada, learned Senior Advocate particularly in the case of State of Jharkhand (supra) is concerned, the said judgment is nothing to do with the issue in hand in this contempt proceeding. This Court is exercising the contempt jurisdiction and under the contempt jurisdiction the Contempt Court should only examine whether the direction of the writ Court is complied with in letter and spirit and there is no scope of disobeying the order of the Writ Court due to any subsequent development, therefore, the judgment as relied upon by Mr. Raizada has no relevance to the issue in hand.

So far as another judgment is concerned, i.e. Maninderjit Singh Bitta (supra) this Court took note of this judgment earlier also which is reflected from the previous order dated 12.05.2026.

15. After considering the rival submissions of the learned counsel for the parties and in view of the discussion as above, this Court finds that the respondent/contemnor are guilty of wilful disobedience of the order of the Writ Court dated 26.02.2026 passed in WPMB No. 534 of 2024, M/s Ram Krishan Jayara vs. State of Uttarakhand and others. The attempt of the respondent/contemnor to put the process of financial bid on hold on the plea that the other bidders have refused to extend their bid

validity period and the petitioner is now left out to be a single bidder therefore his financial bid cannot be opened is nothing but after thought and creation of such a situation by the respondent/contemnor and this Court comes to the conclusion that with some oblique motive the respondent/contemnor are making an attempt to circumvent the order of the Writ Court.

16. In such view of the matter, following directions are being issued:-

The respondents are directed to strictly comply the order of the Writ Court dated 26.02.2026 passed in WPMB No. 534 of 2024, M/s Ram Krishan Jayara vs. State of Uttarakhand and others within ten days from today and submit compliance report on the next date.

If the respondents fail to comply the directions as aforesaid within the stipulated period as above, the respondent/contemnor shall appear personally before this Court on the next date fixed to receive sentence under the provision of Contempt of Courts Act 1971.

17. Put up this matter on 27.07.2026 before this Bench.

RAKESH THAPLIYAL, J.

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