

CENTRAL ADMINISTRATIVE TRIBUNAL SRINAGAR

Order Sheet

Item no.: 13
C.P./127/2022 (SRINAGAR)
[CONTEMPT]
In
O.A./195/2022
REINSTATE
With
EXTENSION OF TIME
Court No.: 2

No of Adjournment: 13

Order Dated: 30/11/2023

HILAL AHMAD RATHORE
Vs
HOME DEPARTMENT

For Applicant(s) Advocate : JEHANGIR IQBAL GANAI - Sr.ADV with MIR KAMIL

For Respondent(s) Advocate : WASEEM GUL - GA

Order of The Tribunal

Learned counsel for the applicant submits that a detailed order was passed by the court on 03-10-2023, wherein the learned counsel for the respondents, in all fairness, prayed that he be granted four weeks' time to positively comply with the judgement of the court dated 27-04-2022, which judgement was confirmed by the Hon'ble High Court and upheld by the apex court of the country.

The matter came up for consideration before the court today and learned counsel for the respondents - Mr Waseem Gul - GA, submitted that he has filed an application seeking extension of time. However, surprisingly, the prayer of the said application reads that *the applicants be granted reasonable time to examine the matter in the light of the directions passed by the Tribunal in the contempt petition.* The

application is supported by a duly sworn affidavit, which seems to have been signed by one Shri Qazi Irfan - Additional Secretary to Govt. Home Department, U.T. of J&K.

Learned counsel for the applicant submits that the judgement of the Tribunal, having been confirmed by the Hon'ble High Court and ultimately upheld by the apex court of the country, the Additional Secretary to Government, Home Department has the cheeks to submit such an affidavit, which according to the learned counsel itself amounts to contempt of the court and may even amount to criminal contempt , for which he deserves to be dealt with seperately in accordance with law. Learned counsel for the respondents, however, makes a statement at the bar that the respondents are in process of complying with the direction of the court dated 27-04-2022 and he prays for grant of some time.

This court has, on many occasions held that we do not feel happy in calling the officers, high or low, in the court as they are more required in public to mitigate their sufferings rather than be present before the court. However, it seems that the authorities concerned are taking these observations casually. The court orders are to be complied with grace as law always commands grace and coercive measure is adopted only when the orders of the courts are not complied with in its letter and spirit. This Tribunal is not powerless to initiate proceedings in terms of section 17 of Administrative Tribunal Act, 1985 which mandates that the Tribunal shall have the same jurisdiction, power and authority while dealing with the contempt petitions as that of the Hon'ble High Court and the Tribunal may, for this purpose, exercise the provisions of contempt of Courts Act 1971 as well, read with the Contempt of Courts

(CAT) Rules, 1992, which prescribes the procedure for initiation of contempt proceedings. This Tribunal has, all along, showered grace and respect to the senior responsible officers of the U.T of J&K with the expectation that its orders will be complied with grace and respect as there is nobody above law and the law is supreme. Judicial orders cannot be allowed to be circumvented. Hon'ble the Supreme Court has held that disobedience of the orders of the courts strikes at the very rule of law, which erodes the faith of common people in this temple of justice.

We are also at pains to observe that every order of the court is accompanied by a contempt petition, as the orders of the courts are being taken casually, which is a matter of grave concern for both the Bench and the Bar.

Heard learned counsel for the parties.

In view of the submission made by learned Government Advocate, Mr. Waseem Gul, three weeks further time is granted for compliance of the judgement of the court dated 27-04-2022. It is further directed that on the next date of hearing, the Additional Secretary to Govt. Home, namely Shri Qazi Irfan, shall remain present in person before the court to explain as to how has he filed an irresponsible affidavit accompanying the M.A 2397/2023. The said officer shall cause his appearance before the court on the due date at 4.30 PM sharp as he may be required in discharging his public duties and we would not like the public to suffer in his absence in the office. The said officer will also assist this court for seeking compliance of the judgement dated 27-04-2022, which judgement was confirmed by the Hon'ble High Court and also upheld by the apex court of the country as ultimately presence of the said officer

will help in expeditious disposal of this contempt petition and to uphold the majesty of law

List this matter for consideration on **21-12-2023**.

Registry is directed to send a copy of this order to the Chief Secretary, U.T of J&K.

Prasant Kumar
Member (A)

M. S. Latif
Member (J)

/TARIQ MOTA/