

**Court No. - 7**

**Case :-** WRIT - A No. - 7450 of 2023

**Petitioner :-** Deepak Dewvedi And 4 Others

**Respondent :-** State Of U.P. Thru. Prin. Secy (Basic Education) Deptt. Of Basic Edu. Lucknow And 4 Others

**Counsel for Petitioner :-** Sharad Pathak,Piyush Pathak

**Counsel for Respondent :-** C.S.C.,Prashant Kumar Singh,Ran Vijay Singh

**Hon'ble Abdul Moin,J.**

1. Heard learned counsel for the petitioners, learned Standing Counsel for the respondents no. 1, 2 & 4, Shri Ran Vijay Singh, learned counsel for the respondent no. 3 and Shri Prashant Kumar Singh, learned counsel for the respondent no. 5.

2. The sole question which arises for consideration before this Court is that when an order has been passed by Hon'ble Supreme Court with respect to the petitioners as to whether non-compliance of the same can be seen by the High Court.

3. The case set forth by the petitioners is that against the cancellation of their appointment, the petitioners filed a writ petition under Article 32 of the Constitution of India before Hon'ble Supreme Court which was numbered as Writ Petition (Civil) 546 of 2021. It was connected with a bunch of petitions leading being Writ Petition No. 378 of 2021 in re: Rahul Kumar and others vs State of U.P. and others.

4. The said writ petition was decided vide the judgement and order dated 29.06.2021, a copy of which is annexure 24 to the petition, with certain observations which may not detain the Court. As the order was not complied with the petitioners were constrained to file Contempt Petition (C) No. 815 of 2021 in re: Poonam Yadav vs Deepak Kumar and others which was disposed of vide the order dated 22.10.2021, a copy of which is annexure 26 to the petition, permitting the petitioners to prefer

appropriate representations before the authorities and the representations made were required to be considered by the authorities by a reasoned and speaking order. Again, when the said representations were not decided the petitioners filed a contempt petition no. 400-402 of 2022 in re: Poonam Yadav and others vs Deepak Kumar and others and Hon'ble Supreme Court vide order dated 01.08.2022, a copy of which is annexure 28 to the petition, was of the view that it would not be possible for the Court to keep issuing directions but observed that the pending representations be dealt with at the earliest.

5. Now the petitioners are before this Court claiming that although they had approached Hon'ble Supreme Court by filing the aforesaid Writ Petition No. 546 of 2021 and directions were issued vide judgement and order dated 26.09.2021 yet another set of petitioners had approached this Court by filing Writ Petition No. 1074 of 2022 in re: Chandra Shekhar Dwivedi vs State of U.P. and others and this Court vide the judgement and order dated 14.03.2022, a copy of which is annexure 36 to the petition, has quashed cancellation of appointment order and has directed for his continuance in service. He also contends that various other judgements have been passed by the Writ Court with respect to the persons similarly circumstanced consequently there cannot be any occasion for the respondents to not extend the benefit of those judgements passed in the case of **Chandra Shekhar Dwivedi (supra)** and other matters as decided by this Court to the petitioners also.

6. Having heard learned counsel for the parties and having perused the record what emerges is that in fact the petitioners despite having an order in their favour by the Hon'ble Supreme Court passed in Writ Petition No. 546 of 2021 and two decisions in the contempt petitions filed by them basically want compliance of the order that has been passed by Hon'ble

Supreme Court.

7. No judgement to the effect that a writ can be issued by the High Court for compliance of the judgement of Hon'ble Supreme Court has been brought to the notice of this Court. Even otherwise there cannot be any judgment to the said effect in as much as once the judgement has been passed by the Hon'ble Supreme Court and there is non compliance of the same as such it is always open for the petitioners to file a contempt petition but there cannot be any occasion for the High Court to have the judgement of the Hon'ble Supreme Court complied with.

8. In this regard it would be apt to refer to a division bench judgement of this Court passed in Writ C No. 7052 of 2020 in re: Ajaypal Singh and others vs State of U.P. and others decided on 27.02.2020 wherein it was held as under:

*"2. Petitioner is seeking compliance of direction of Full Bench in Gajraj and Others Vs. State of U.P. and Others, 2011 (11) ADJ 1(FB). We are informed that aforesaid judgement has also been confirmed by Supreme Court and if there is any non compliance thereof, no writ petition lies. Remedy lies to petitioner to file contempt proceedings before appropriate forum. Further in case of non compliance of judgement of Supreme court, the power is vested in Supreme Court itself to take action for contempt and not to this Court.*

*3. The relief prayed for by petitioners therefore, cannot be granted at this stage, since no mandamus can be issued, which has already been issued. Petitioners may take steps for compliance thereof by taking steps as permissible in law.*

*4. Writ petition is, accordingly, dismissed."*

9. From perusal of the aforesaid judgement it emerges that the division bench of this Court has categorically held that in case of non-compliance of the judgement of Hon'ble Supreme Court the power is vested in Supreme Court itself to take action in contempt and not by this Court.

10. At this stage, learned counsel for the petitioners has placed reliance on the judgement of Hon'ble Supreme Court in the case of **Commissioner, Karnataka Housing Board vs C. Muddaiah, (2007) 7 SCC 689.**

11. Perusal of the said judgement would indicate that Hon'ble Supreme Court has held that once a direction is issued by a competent Court it is to be obeyed and implemented without any reservation.

12. There can be no quarrel to the aforesaid proposition of law as laid down by Hon'ble Supreme Court. However in the instant case it would be Hon'ble Supreme Court which is to have its order complied with in as much as there cannot be any occasion for a contempt petition to be filed in the High Court for compliance of judgment of Hon'ble Supreme Court.

13. As an abundant precaution the Court may take notice of the judgement of Hon'ble Supreme Court in the case of **Arnesh Kumar vs State of Bihar and another, (2014) 8 SCC 273** wherein while delivering the aforesaid judgement it was held that in case of non-compliance of its directions, the concerned police officers, apart from departmental action, shall also be liable to be punished for contempt of court to be initiated before the High Court having territorial jurisdiction.

14. In the instant case there is no direction issued by Hon'ble Apex Court while rendering the judgement and order dated 29.06.2021 that any non-compliance would be seen by the High Court having territorial jurisdiction and thus there cannot be any question of entertaining the instant writ petition.

15. Keeping in view the aforesaid discussion, the writ petition is **dismissed** leaving it open for the petitioners to pursue other remedies as may be available to them.

**Order Date :- 6.10.2023/J.K. Dinkar**