

Court No. - 6

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3214 of 2021

Applicant :- Unnati Management College And 4 Others

Opposite Party :- Rakesh Kumar, Director

Counsel for Applicant :- Prashant Shukla

Counsel for Opposite Party :- K.R. Singh

Hon'ble Ajay Bhanot, J.

Sri Prashant Shukla, learned counsel assisted by Sri Ram Prakash Upadhyay, learned counsel for the applicants is permitted to implead "K.Ravindra, Principal Secretary, Social Welfare Department, Government of U.P. at Lucknow and Rakesh Kumar Sachan, Deputy Secretary, Government of U.P. at Lucknow" as party respondents No.2 and 3 in the array of the parties to the contempt application (civil) during the course of the day.

Sri Rakesh Kumar, Director, Social Welfare Department, Government of U.P., Lucknow/opposite party No.1 is present in the Court.

Affidavit has been filed on behalf of the opposite party No.1/contemnor which is taken in the record.

Heard Sri Prashant Shukla, learned counsel assisted by Sri Ram Prakash Upadhyay, learned counsel for the applicants and Sri Mata Prasad, learned Standing Counsel for the opposite party/contemnor.

The defence taken in the affidavit does not purge the defendant of his contumacious actions. There is another aspect of the matter which needs to be noticed. Reference has been made to the communication dated 28.10.2021 sent by the State Government to the contemnor.

The communication of the State Government dated 28.10.2021 records that the compliance of orders passed by this Court would lead to violation of the regulations, however, the orders of the Court have to be complied with in all circumstances. Further recital in the said communication is that permission has to be obtained from Hon'ble the Chief Minister as well as Government of India. Accordingly, time period of one month is sought for compliance of orders passed by this Court. The affidavit does not disclose the cause for the delay in complying with the order which was passed by this Court on 15.03.2021.

The matter pertains to grant of scholarship to needy students who belong to the lowest strata of the society and their academic careers are at stake. The contemnor as well as other Senior Officers of the State Government have shown apathy towards the plight of needy students and have prima facie disobeyed the orders passed by this Court.

Since the burden is sought to be shifted upon the office of the Hon'ble Chief Minister, by the contemnor, it would be in the interest of justice to implead the Principal Secretary, Social Welfare Department, Government of U.P. at Lucknow and Deputy Secretary, Government of U.P. at Lucknow as co-respondents No.2 and 3 respectively.

Prima facie, the case of the contempt is from the conduct of the respondent No.1. After perusal of the affidavit culpability of the respondent No.2/Principal Secretary, Social Welfare Department, Government of U.P. at Lucknow is not ruled out.

The respondent No.1/Rakesh Kumar, Director, Social Welfare Department, Government of U.P. at Lucknow, the respondent No.2/K.Ravindra, Principal Secretary, Social Welfare Department, Government of U.P. at Lucknow shall appear in person before the Court on 06.12.2021 and show cause why charge of contempt be not framed against him.

The respondent No.3/Rakesh Kumar Sachan, Deputy Secretary, Government of U.P. at Lucknow shall also appear in person before the Court on 06.12.2021 and explain the communication dated 28.10.2021 by filing an affidavit.

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Put up this matter on 06.12.2021 in the additional cause list.

At this stage, Sri K.R.Singh, learned Additional Chief Standing Counsel contends that the order shall be complied with in the letter and spirit before the next date of listing and that the officials be not summoned.

In light of the submissions of Sri K.R.Singh, learned Additional Chief Standing Counsel, it is provided that in case orders passed by this Court are complied, the officials need not be present in person and affidavit of compliance may be filed.

The Talisman given by the Father of the Nation, Mahatma Gandhi for those who are confronted with a doubt and are in a dilemma about the right decision may be recalled by the concerned officials.

"I will give you a Talisman. Whenever you are in doubt, or when the self becomes too much with you, apply the following test.

Recall the face of the poorest and the weakest man whom you may have seen, and ask yourself, if the step you contemplate is going to be of any use to him.

Will he gain anything by it? Will it restore him to control over his own life and destiny?

In other words, will it lead to swaraj [freedom] for the hungry and spiritually starving millions?

Then you will find your doubts and your self melts away."

– [Mahatma Gandhi]

Order Date :- 1.11.2021

Ashish Tripathi