

Court No. - 35

Case :- CONTEMPT APPLICATION (CIVIL) No. - 6613 of 2022

**Applicant :-** Suresh Chand Rajvanshi

**Opposite Party :-** Shri Sanjay Prasad, Principal Secretary Home And Another

**Counsel for Applicant :-** Jaswant Rai

**Hon'ble Piyush Agrawal,J.**

1. Heard Shri Jaswant Rai, learned counsel for the applicant and Shri M.C. Chaturvedi, learned Additional Advocate General, along with Shri K.R. Singh, learned Chief Standing Counsel for the opposite party.

2. This is the second contempt application filed by the applicant for wilfull and deliberate disobedience of the writ Court's order dated 10.11.2021 passed in Writ A No. 14282 of 2021; whereby, the writ petition was disposed of with a direction to decide the claim of the petitioner for grant of additional increment within a period of three months after treating training period for the purposes of grant of such benefit. When the order of the writ Court was not complied with, the applicant had preferred Contempt Application (Civil) No. 3038 of 2022, which was disposed of vide order dated 24.05.2022 by granting three months further time to comply with the order of the writ Court.

3. Even after the orders of the writ Court and the contempt Court, when the claim of the applicant was not decided, the instant second contempt application has been filed.

4. On 09.11.2022, the following order was passed:-

*"1. Heard learned counsel for the applicant.*

*2. This is a second contempt application. It is alleged that the order of writ court has been violated.*

*3. From a perusal of the record, prima facie case for contempt is made out.*

*4. Issue notice to opposite parties returnable within a month.*

*5. However, one more opportunity is granted to the opposite parties to comply with the order within a month and file an affidavit of compliance within the aforesaid period.*

*6. In case by the next date fixed the directions of the Writ Court are not complied with and an affidavit to that effect is not filed, the opposite party shall remain present before this Court on the date fixed.*

*7. List this matter on the date fixed in the notice.*

*8. The office may send a copy of this order along with the notice. "*

5. Pursuant to the aforesaid order, two affidavits, one by the opposite party no. 1 and other by the opposite party no. 2, have been filed, which are taken on

record.

6. Perusal of the affidavit filed by the opposite party no. 1, it transpires that only the reference of the other contempt application filed by the other petitioners in Writ A No. 14282 of 2021 has been made and no specific averment has been made with regard to the compliance of the writ Court's order.

7. In the affidavit filed by the opposite party no. 2, similar averments have been made as that of in the affidavit filed by the opposite party no. 1.

8. Learned Additional Advocate General submits that since the various contempt applications have been preferred by the petitioners in connected matters, in which date has been fixed, the present contempt application may also be connected with those matters and may be taken up together. He further submits that two affidavits are being filed for connecting the present contempt application with Civil Misc. Contempt Application No. 1967 of 2022 (**Ramjeet Tiwari & Others Vs. Sanjay Prasad & Another**).

9. The opposite party no. 2 is present in person before this Court, who has been identified by Shri K.R. Singh, learned Chief Standing Counsel.

10. But the opposite party no. 1 is not present in person before this Court in spite of the direction of this Court. Learned Additional Advocate General submits that an application has been filed for exempting his personal presence, along with an affidavit. The exemption application filed by the opposite party no. 1 reads as under:-

*"To,*

*The Hon'ble the Chief Justice and his other Companion Judges of the aforesaid Hon'ble Court.*

*The humble application on behalf of the applicant named above most respectfully showeth as under:-*

*1. That full and correct facts have been stated in the accompanying affidavit.*

*2. That it is therefore, most respectfully prayed that this Hon'ble Court may very kindly be pleased to exempt the personal presence of the deponent before this Hon'ble Court and/or pass such other and further order which this Hon'ble Court may deem fit and proper in the circumstances of the present case.*

*2. That this application will be filed on ..... and the same shall come up before the Hon'ble Court on .....*

#### **PRAYER**

*It is, therefore, most respectfully prayed that this Hon'ble Court may very kindly be pleased to exempt the personal presence of the deponent before this Hon'ble Court and/or pass such other and further order which this Hon'ble Court may deem fit and proper in the circumstances of the present case."*

## VERDICTUM.IN

11. On perusal of the affidavit, annexed along with the exemption application, there is no whisper about the reason or justification for the opposite party no. 1 for non-appearance before this Court today.
12. In view of the above, the exemption application is rejected.
13. The conduct of the opposite party no. 1 shows deliberate and wilfull disobedience of the orders passed by the writ Court as well as this Court. It appears that the opposite parties have no regard to the orders passed by this Court. For the slackness on their part, the applicant is being put to suffer. In spite of filing of the second contempt application, the opposite parties are sitting tight over the matter.
14. In view of the above, a *prima facie* case for contempt is made out against the opposite parties.
15. Let bailable warrants be issued against Shri Sanjay Prasad, Principal Secretary (Home), Government of U.P., Lucknow (opposite party no. 1), who shall appear in person on the date fixed for framing of charges for wilfull and deliberate disobedience of the order passed by the writ Court.
16. The Director General of Police, Lucknow is directed to serve the bailable warrants to the opposite party no. 1 within a week from today and file his personal affidavit, to that effect, within next one week for compliance of this order. The Director General of Police, Lucknow shall further ensure the presence of the opposite party no. 1 before this Court on the next date fixed in the matter.
17. List this case on 25.01.2023.
18. The manner in which the Officers of the State are behaving is a very sorry state of affairs. Let this order be placed before Hon'ble the Law Minister of the State for intimation and necessary action at his end.
19. On the date fixed, the Principal Secretary (Law)/L.R. shall also remain present before this Court.
20. The opposite party no. 2 shall also remain present on the date fixed.
21. The Registrar (Compliance) of this Court shall communicate this order to the concerned Officers within 48 hours.

**Order Date :-** 4.1.2023

Amit Mishra