

Court No. - 5

Case :- CONTEMPT APPLICATION (CIVIL) No. - 4901 of 2014

Applicant :- Jahur Hasan

Opposite Party :- R.M. Srivastava Prin. Sec. Home Lko. And 5 Others

Counsel for Applicant :- Syed Imran Ibrahim, Tahir Husain

Hon'ble Saral Srivastava, J.

Heard learned counsel for the applicant.

The applicant has alleged violation of order of Writ Court dated 09.09.2013 passed in Writ-C No.48093 of 2013. The order dated 09.09.2013 reads as under:-

"Submission is that in the similar set of facts this court has entertained writ petition i.e. Writ C No. 26941 of 2013 Abdul Qayyum Vs. State of U.P. and others and protection has been given to the petitioner on 27.5.2013. By the order passed in the writ petition, referred above direction was given to the State Government to frame policy as indicated in the order. Certain directions have been given in para 11, 12 and 13 of the order, noted above and they were directed to be strictly complied.

Learned counsel for the petitioner informed that on the basis of the order of this court various instructions were issued from time to time by the competent authority which were also shown to the court during course of argument.

There appears to be no dispute about the aforesaid facts.

In view of the aforesaid, we are also to issue the same order as has been granted by this court on 22.5.2013 in the writ petition, referred above.

Accordingly, it is provided that the respondents will ensure the observations in the order of the Court as passed on 27.5.2013 in Writ C No. 26941 of 2013.

Respondents may file counter affidavit on or before the next date fixed.

Connect this petition with the writ petition, referred above."

The grievance of the applicant is that Writ Court by order dated 09.09.2013 has directed the State Government to frame policy in respect to use of amplifiers, but no policy has been framed. Accordingly, the contempt is alleged.

It is not in dispute that Writ-C No.48093 of 2013 is pending consideration before this Court in which Writ Court passed the interim order, and if the policy has not been framed yet, the matter is yet to be adjudicated by the Writ Court and outcome of the decision of the Writ Court is still awaited.

If that be so, this is not a stage at which the contempt application should be filed. Thus, no contempt is made out.

Even otherwise the pleading of the contempt application does not disclose that any case for contempt is made out.

The matter was heard at length. Learned counsel for the applicant has cast aspersion upon the Court that he is not being heard by the Court and has started arguing the matter that State Government is acting arbitrary as under the garb of the order passed by this Court, State Government is removing only illegal mosque and not removing temples.

This Court finds the said argument unacceptable as lawyer is expected to argue within the framework of law and this kind of argument should not be placed before the Court. It is also expected that counsel for the applicant should come prepared in the case and at least come with minimum essential book which is relating to the case i.e. bare act of the case. The Court has consistently requested the counsel for the applicant to demonstrate from the pleading as to how the case of contempt is made out but instead he has cast aspersion upon the Court that he is not being heard despite the fact that the Court has heard him for about half an hour.

The kind of aspersion which has been cast upon the Court clearly reflects that counsel for the applicant has tried to influence the Court by using such language to invoke religious sentiments which is deprecated and is not good for temple of justice. If this kind of practice is permitted, that will erode the faith of the public in judicial system of the country which will be detrimental to the democratic set up as well as harmony among the communities living in the country with love and dignity.

Considering the aforesaid fact, this Court finds that this is also a fit case where a cost of Rs.50,000/- should be imposed upon the applicant which shall be deposited in the High School Legal Services Committee within a period of one month.

In the event of default of submitting the aforesaid cost of Rs.50,000/-, the same shall be recovered as arrears of land revenue from the applicant.

The contempt application being misconceived is ***dismissed*** and is consigned to record.

After the judgement was delivered, counsel for the applicant has tendered apology, therefore, the cost of Rs.50,000/- which has been imposed is withdrawn.

Order Date :- 21.4.2022/Sattyarth