

THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Civil Contempt Petition No.360 of 2024

Vinay SharmaPetitioner

Vs.

Ajay Kumar Upadhyay Respondent

With

Civil Contempt Petition No.361 of 2024

Vinay SharmaPetitioner

Vs.

Sandeep Singh Respondent

Mr. K.H. Gupta, Advocates for the petitioner.

Mr. Digvijay Nath Dubey and Mr. Jagdish Singh Bisht, Advocates for the respondents.

Hon'ble Ravindra Maithani, J. (Oral)

Since common questions of law and facts are involved in both these writ petitions, they are heard together and being decided by this common judgment.

2. In both these petitions, the petitioner has brought to the notice of the Court, the wilful disobedience of this Court's order dated 01.10.2024, passed in WPSB No.549 of 2024, Vinay Sharma vs. Sandeep Singh and another ("the first petition"). Several other reliefs have also been sought by the petitioner.

3. The petitioner was working in IIM, Kashipur. He was served with a show cause notice on 29.07.2024, which was challenged by him in the first petition. But, by

an order of the Court, passed in the first petition, the order of suspension was stayed. Subsequently, the petitioner intended to join the position of Registrar in AIIMS Rajkot, but he was not relieved by the respondents. Therefore, the petitioner filed an interim relief application in the first petition. When the vigilance clearance was not given, the petitioner again knocked at the door of the Court by filing an application in the first petition in which on 01.10.2024, the Court, *inter alia*, passed the following order:-

“8. We also examined the charge, for which, the show cause notice has been given to the petitioner, and that is certainly subject to the final outcome of the writ petition. However, since the petitioner has been selection on the post of Registrar on deputation in AIIMS, Rajkot, and we already stayed the operation of the order impugned (Annexure-1), therefore, respondents cannot withhold the vigilance clearance of the petitioner.

9. In view of the above, we direct the respondents to issue vigilance clearance in the prescribed format, as appended along with E-mail dated 28.09.2024 of the AIIMS, Rajkot (Annexure-2 to the IA No.05 of 2024), and the same be issued within three days from today, so that the petitioner may furnish the vigilance clearance to the AIIMS, Rajkot.”

4. It is the case of the petitioner that despite categorical direction of the Court’s order dated 01.10.2024 passed in first petition as quoted hereinabove, the vigilance clearance certificate was not given to the petitioner due to which, the petitioner could not join the services at AIIMS, Rajkot. Hence, the petitioner has

brought to the notice of the Court the wilful disobedience of the order dated 01.10.2024.

5. The respondents were given notice and they have filed objections. According to the respondents, the vigilance clearance has been given by them in the prescribed format and there is no wilful disobedience of the Court's order dated 01.10.2024.

6. Heard learned counsel for the parties and perused the record.

7. Learned counsel for the petitioner submits that except contempt, no other prayer is to be pressed in these petitions.

8. Since prayers (b) to (e) of the petitions are not pressed, both the petitions stand dismissed as not pressed *qua* these prayers.

9. Insofar as the contempt is concerned, learned counsel for the petitioner submits that on 01.10.2024, in the first petition, the Court has categorically directed the respondents to issue vigilance clearance in the format-2. He further submits that the petitioner had given vigilance clearance, but some words were changed in the format and the clearance was not

given, as such, as directed by the Court, which resulted in non acceptance of the request of the petitioner for working in AIIMS, Rajkot.

10. On the other hand, learned counsel for the respondents submits that vigilance clearance has been given to the petitioner, but since disciplinary case and departmental inquiry were pending against him, this fact was revealed in the certificate and in view of the pending departmental inquiry, the integrity was not certified, and, in fact, it was written that “the integrity will be certified accordingly in due course”.

11. Every disobedience is not contempt. In order to bring a breach of the Court’s order within the realm of contempt, it should be wilful disobedience. The intention is very important for it. It should be an informed choice of the contemnor not to obey the Court’s order. And if it is so, only then the provision of contempt would be attracted.

12. It is also argued on behalf of the respondents that, in fact, while forwarding the vigilance clearance certificate, the Court’s order was also quoted by the petitioner in the e-mail. It is also enclosed along with the response.

13. In the instant case, the vigilance clearance certificate is given in the format itself but the factum of the disciplinary case and departmental inquiry has also been revealed and instead of certifying the integrity, what is stated about the integrity, has already been quoted hereinabove. A factual narration has been given by the respondents in their vigilance clearance certificate. The Court's direction on 01.10.2024 in first petition was to issue vigilance clearance that has been given by the respondents. Therefore, it cannot be said that the respondents did make any wilful disobedience of this Court's order. Accordingly, there is no reason to proceed further in the matter. Therefore, insofar as the contempt proceedings are concerned, they are closed.

14. The petitions stand disposed of accordingly.

(Ravindra Maithani, J.)
16.07.2025

Ravi