

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT JAMMU**

CPSW No. 183/2016

Satish Kour and others

.... Petitioner/Appellant(s)

Through:- Mrs. Deepali Arora, Advocate.

V/s

Shafiq Raina and others

.....Respondent(s)

Through:- Mr. Eishaan Dadhichi, GA.

**CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE**

**ORDER**

1. The latest statement of facts has been filed by Mr. Eishaan Dadhichi, learned Government Advocate on behalf of respondent No.1 is not in tune with order/judgment passed by this Court dated 17.09.2013 followed by order dated 04.09.2015 passed in Contempt (SWP) No. 224/2014.
2. It is a strange case where the judgment passed by this court which has assumed finality vide order dated 17.09.2013 passed in SWP No. 2056/2010 has not been complied with in its letter and spirit even after 9 years. This court vide order dated 04.06.2019 has observed that although the Department of Consumer Affairs and Public Distribution i.e. respondent No.1 has filed compliance report stating therein that the matter with regard to the framing of the Statutory Rules has been taken up with the ARI and Training Department, whereas, in the affidavit filed by ARI and Training

Department, it has been stated that the file has been returned to the respondent No.1 to make good certain deficiencies. This court vide order dated 15.09.2022 has made an observation after analysing the whole record that the issue with regard to the framing of the Statutory Rules was being shuttled between the two departments i.e. Department of Consumer Affairs and Public Distribution and Department of ARI and Training and the respondents, as such, lacked the requisite sincerity as they were just adopting dilly-dally tactics in framing the Statutory Rules. This was precisely the reason that both the Commissioner/Secretaries of Consumer Affairs and Public Distribution & ARI and Training were directed to appear in person before the court along with the record, with a view to indicate the progress made in furtherance of the framing of the Statutory Rules governing the service conditions of the petitioners. It was further observed by this court in the aforesaid order that in case the matter is resolved and the Rules are ultimately framed before the date fixed, then in that eventuality, both the Commissioner/Secretaries were exempted from appearing before this Court.

3. In light of the assurance extended by the learned counsel appearing for the respondents that the judgment passed by this court will be complied with in its letter and spirit, reluctantly, the time was extended by two weeks by way of last and final opportunity to the respondents to comply with the order/judgment in question in its letter and spirit, failing which it was observed that both the

Commissioner/Secretary-Consumer Affairs and Public Distribution & Commissioer/Secretary-ARI and Training should appear in person before the court on the date fixed in the case. The respondents instead of complying with the aforesaid order in its letter and spirit and also in the light of the assurance extended by the respondents have filed the present statement of facts on behalf of respondent No.1 which is in flagrant violation of the order/judgment passed by this court on 17.09.2013 followed by order dated 04.09.2015 and the stand taken in the statement of facts is just narration of the facts and nothing else. Apparently it seems that the respondents are sleeping over the matter and instead indulging in uncalled for correspondence by misconstruing the judgment.

4. This Court vide order dated 17.09.2013 in SWP No. 2056/2010 has disposed of the writ petition with a direction to the respondents to prepare/formulate the recruitment rules providing for adequate promotional avenues at all levels and in the event there are recruitment rules in force, the respodnents were directed to accord consideration to the petitioners' claim for promotion in accordance with such rules and the respondents were directed to take a decision in the matter within eight weeks from the date copy of the order was served upon them.
5. Since the aforesaid direction passed by this Court which has assumed finality was not complied with, the petitioner was constrained to file the contempt petition before this court which was

registered as Contempt (SWP) No. 224/2014 in which the respondents have taken a specific stand that the Government has initiated the process for framing recruitment rules and in the meantime, J&K Secretariat Subordinate Service Recruitment Rules, 1988 have been applied to the employees of the Divisional Commissioner Protection Forum as regards their method of recruitment and condition of service.

6. In light of the aforesaid stand taken by the respondents, the contempt petition was disposed of by directing the respondents that till such time the service specific rules are framed by the Government with regard to the employees of the Divisional Consumer Protection Forum, their cases can be considered in accordance with the J&K Secretariat Subordinate Service Recruitment Rules, 1988.
7. In light of the above stand coupled with no objection of the learned counsel appearing on behalf of the respondents, a direction was issued to the respondents to accord consideration to the case of the petitioner under the aforesaid Rules within a period of three months from the date a copy of the order was served upon the respondents.
8. The respondents even did not comply the subsequent directions which was passed in the light of the stand taken by the respondents and feeling aggrieved of the same, the petitioner was constrained to approach this Court again by way of the present contempt petition.
9. The respondents have not only flouted the directions passed by this court dated 17.09.2013 but the respondents have also shown wilful

disobedience with the subsequent directions passed by this court in the contempt petition bearing Contempt (SWP) No. 224/2014.

10. The fresh statement of facts has been filed by respondent No.1 in which the respondent has taken a specific stand that the answering respondent has taken up the case of the petitioner with the General Administration Department vide O.M. No. 156117/FCS&CA/Legl/10/2022 dated 19.10.2022 for taking a policy decision in compliance of the judgment of this Court.
11. Earlier the issue with regard to the framing of the Statutory Rules was being shuttled between the two departments i.e. Department of Consumer Affairs and Public Distribution and Department of ARI and Training and now the respondents with a view to defeat the rights of the petitioner have shifted the onus on the General Administration Department but the fact remains that the order/judgment passed by this court till date has not been complied with. Thus the conduct of the respondents in the present contempt petition is *prima facie* contemptuous as they have flouted the directions passed by this court in SWP No. 2056/2010 dated 17.09.2013 followed by order dated 04.09.2015 with impunity.
12. This Court is of the view that it is a fit case where the Rule is required to be framed against the respondents for wilful disobedience of the directions passed by this court which has assumed finality, but before proceeding further in the matter against the contemnors, another opportunity of three weeks is granted to the respondents to file fresh compliance report strictly in conformity

with the order/judgment passed by this court dated 17.09.2013 followed by order dated 04.09.2015 in Contempt (SWP) No. 224/2014 in SWP No. 2056/2010 with an advance copy to the learned counsel for the petitioner, who may respond to the same within one week thereafter. It is made clear that in case if the judgment is not complied with in its letter and spirit within the aforesaid period both respondent Nos. 1 & 2 shall appear in person before the court on the next date of hearing.

13. List on 01.05.2023.
14. Registry is directed to provide copy of this order to Mr. Eishaan Dadhichi, learned Government Advocate for compliance.



**(WASIM SADIQ NARGAL)**  
**JUDGE**

**Jammu**  
28.03.2023  
Pawan Chopra