

CIVIL APPEAL NO. OF 2012
(@ SPECIAL LEAVE PETITION(C)NO.29392 OF 2010)

CHAIR.WEST BEN.ADMIN.TRIBUNAL.& ANR ...APPELLANTS
VERSUS
SK.MONOBBOR HOSSAIN & ANR ...RESPONDENTS

O R D E R

- 1) Leave granted.
- 2) This appeal is directed against the judgment and order passed by the High Court of Calcutta in C.P.A.N. No. 50 of 2010 arising out of W.P.S.T. No.47 of 2009 dated 19.05.2010. By the impugned judgment and order, the learned Judges of the High Court, though having accepted the unconditional apology offered by the contemnors, have passed some remarks against the members of the State Administrative Tribunal. Aggrieved by these observations, the appellants are before us in this civil appeal.
- 3) A Contempt Petition came to be filed by the petitioner in W.P.S.T. No.47 of 2009. The allegation in the complaint was that though the High Court had directed the Tribunal to advance the hearing of the application filed before it, the same had not been complied with by the Tribunal and had not passed appropriate orders on merits of the application filed by the petitioner.
- 4) On entertaining the Contempt Petition, the Court had issued notices to the members of the State Administrative Tribunal. They had offered their explanation, explaining the so

called lapses on their part and further, had offered unconditional apology by stating that, if for any reason, the court comes to the conclusion that there is some disobedience of the directions issued by the Court, the same may be condoned in the light of the unconditional apology offered. They also undertook to follow the directions that they had allegedly flouted as soon as the Tribunal

2

resumes sittings after the summer vacations.

5) We find that the High Court graciously accepts the unconditional apology offered, but states in its order that the members of the Tribunal, who are former Judges of the High Court, ought not to have disrespected the directions issued by the High Court and while saying so, certain remarks are also made against the performance of the Judges as members of the Tribunal. The appeal is filed before this Court for expunging those remarks and observations.

6) We have heard learned counsel for the parties to the lis.

7) This Court in R.N. Dey v. Bhagyabati Pramanik, (2000) 4 SCC 400, has observed:

"7. We may reiterate that the weapon of contempt is not to be used in abundance or misused.....Discretion given to the court is to be exercised for maintenance of the court's dignity and majesty of law....."

8) In Suresh Chandra Poddar v. Dhani Ram, (2002) 1 SCC 766, it is held:

3

"1. This is an instance of how a Tribunal vested with the powers to punish for contempt of court became oversensitive in using such powers. Time and again this Court has cautioned

as to when and in what circumstances contempt of court jurisdiction is to be exercised. Such a power is not intended to be exercised as a matter of course. Courts should not feel unduly touchy when they are told that the orders have not been implemented forthwith. If the court is told that the directions or the order of the court has been complied with subsequently, albeit after receipt of notice of contempt, we expect the courts to show judicial grace and magnanimity in dealing with the action for contempt."

9) In P.K. Singh v. S.N. Kanungo, (2010) 4 SCC

504, this Court opined:

"21. After reaching the conclusion that the violation is neither willful nor deliberate, the High Court should have at once dropped the contempt proceedings and could not have accepted the unconditional apology tendered by the appellant nor could have imposed costs on the appellant. In any view of

4

the matter, the High Court, after accepting the unconditional apology tendered by the appellant, should not have imposed costs on the appellant for negligence and reckless manner in which it had allegedly acted in the instant case."

10)The tenor of the dicta of this Court on the topic is crystal clear. This Court has, time and again, asserted that the contempt jurisdiction enjoyed by the Courts is only for the purpose of upholding the majesty of the judicial system that exists. While exercising this power, the Courts must not be hyper-sensitive or swung by emotions, but must act judiciously. In Dinabandhu Sahu v. The State of Orissa (1972) 4 SCC 761, this Court very pertinently observed that "(i)it is no part of the judicial function to be vindictive or allow any personal or other considerations to enter in the discharge of its functions..."

11)With this background, let us examine the appeal presently before us.

12) We have perused the orders passed by the High Court while disposing of the Contempt Petition. In our view, there is some justification for the High Court to have initiated the contempt proceedings against the appellants, but at the same time the High Court, in order to maintain its dignity and majesty of law, could have avoided making some of the remarks and observations against the functioning of the members of the Tribunal. The Judges are also mortals and sometimes, the behaviour of another mortal may not be palatable to them. It is in this type of situation they are expected to rise to the occasion and avoid passing disparaging remarks. This would reflect their learning magnanimity and maturity, particularly when they accept the unconditional apology offered by the contemnors.

13) Accordingly, we allow this appeal and expunge all those remarks/ observations made by learned Judges in the course of their order.

Ordered accordingly.

.....J.
(H.L. DATTU)

.....J.
(ANIL R. DAVE)

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)
No(s).29392/2010
(From the judgement and order dated 19/05/2010 in
WPST No.47/2009,CPAN No.50/2010 of The HIGH COURT OF
CALCUTTA)

CHAIR.WEST BEN.ADMIN.TRIBUNL.& ANR Petitioner(s)

VERSUS

SK.MONOBBOR HOSSAIN & ANR Respondent(s)
(With prayer for interim relief)

Date: 29/02/2012 This Petition was called on for
hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE ANIL R. DAVE

For Petitioner(s) Mr.Pradip Ghosh, Sr.Adv.
Mr. Abhijit Sengupta,Adv.
Ms.Sampa Sengupta, Adv.
Mr.Raja Chatterjee, Adv.
Mr.Prakash, Adv.
Mr.Piyush Hans, Adv.

For Respondent(s) Dr.Sumant Bhardwaj, Adv.
Ms.Ankita Chaudhary, Adv.
For Ms. Mridula Ray
Bharadwaj,Adv.

UPON hearing counsel the Court made the
following

O R D E R

Leave granted.

Heard learned counsel for the parties to
the lis.

Appeal allowed, in terms of the signed
order.

(G.V.Ramana) (Sharda Kapoor)
Court Master Court
Master

(signed order is placed on the file)