

**Laxmi Narayan Vs. D.D.A.**

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**SooperKanoon Citation :** [sooperkanoon.com/706882](http://sooperkanoon.com/706882)

**Court :** Delhi

**Decided On :** Jul-12-2004

**Reported in :** 2005CriLJ449; 2004(77)DRJ624

**Judge :** B.C. Patel, C.J. and; Badar Durrez Ahmed, J.

**Acts :** [Contempt of Courts Act, 1971](#) - Sections 19(1)

**Appeal No. :** Cont. App. (C) No. 11 of 2004

**Appellant :** Laxmi Narayan

**Respondent :** D.D.A.

**Advocate for Def. :** Jagmohan Sabharwal, Sr. Adv., ; Sangeeta Chandra and ; Deep

**Advocate for Pet/Ap. :** D.N. Vohra, Adv

**Disposition :** Appeal dismissed

**Judgement :**

B.C. Patel, C.J.

1. It is a well recognised principle that a matter of contempt is between the Court and the contemnor. In the instant case an appeal (being LPA. No. 120/2001) preferred by the present applicant was disposed of in view of the statements made

by the learned counsel for the parties in the following manner:

'Appellant shall approach the competent authority in DDA within a month from today for consideration of employment against class-IV vacancy on the plea of similar treatment in case DDA had offered such employment against class-IV to any other person in lieu of land acquisition. His case shall be given due consideration in that event on the analogy of such similar cases and subject to availability of vacancy. Appropriate orders shall be passed in this regard within one month from receipt of appellant's application /representation.'

2. According to the learned counsel, there were directions, namely, to the applicant to approach within a period of one month and to the respondent to consider the application and to give similar treatment in case DDA had offered such employment against class-IV to any person in lieu of land acquisition. There was a further direction that consideration would be subject to availability of the vacancy and the third direction was that an appropriate order shall be passed within one month from the receipt of the appellant's application or representation. We note that, in fact, these were not directions but were statements made at the bar by the learned counsel for the parties which have been recorded by the Court and, in view of these statements, the appeal was disposed of.

3. It is thereafter that the applicant approached the Court by filing a contempt application stating that the application was not disposed of within a reasonable period or within a period of one month. It was alleged that the petitioner has been denied employment and the consent terms were not complied with by the respondent. The learned Judge who heard the petitioner's contempt petition observed that 'there is no doubt about the fact that there has been inordinate delay on the part of the respondent in considering the request by the petitioner'. It is further observed 'However, in so far as the merit of the contempt petition is concerned, a communication has been subsequently addressed to the petitioner dated 21-01-2002 rejecting the case of the petitioner'. The learned Judge subsequently observed that in the said letter it has been stated that the DDA has not offered any employment to the children of the family members whose lands were acquired after the policy resolution of 1978 was formulated and there are no

similar cases. There is no vacancy in which the petitioner can be accommodated.

4. Thus, in view of the this, the learned Judge found that there is no violation of any of the consent terms and it is against this order that the present contempt appeal is filed. Section 19 of the [Contempt of Courts Act, 1971](#) is required to be perused. Sub-section (1) provides that 'an appeal shall lie as of right from any order or decision of the High Court in exercise of its jurisdiction to punish for contempt.'

5. Our attention was drawn by the learned counsel for the respondent to the decision of the Supreme Court in the case of *Baradakanta Mishra v. Mr. Justice Gatikrushna Misra*: : 1975 CriLJ1 . At page 542, the Court points out as under :

'The exercise of contempt jurisdiction being a matter entirely between the Court and the alleged contemner, the Court, though moved by motion or reference, may in its discretion, decline to exercise its jurisdiction for contempt. It is only when the Court decides to take action and initiates a proceeding for contempt that it assumes jurisdiction to punish for contempt. The exercise of the jurisdiction to punish for contempt commences with the initiation of a proceeding for contempt, whether suo motu or on a motion or a reference. That is why the terminus a quo for the period of limitation provided in Section 20 is the date when a proceeding for contempt is initiated by the Court. Where the Court rejects a motion or a reference and declines to initiate a proceeding for contempt, it refuses to assume or exercise jurisdiction to punish for contempt and such a decision cannot be regarded as a decision in the exercise of its jurisdiction to punish for contempt. Such a decision would not, therefore, fall within the opening words of Section 19, Sub-section (1) and no appeal would lie against it as of right under that provision. This of course does not mean that there is no remedy available where the High Court on an erroneous view of the law or unreasonably and perversely refuses to take a action for contempt on a motion or a reference. Though no appeal lies under Section 19, Sub-section (1) as of right against such order or decision of the High Court, the Advocate General or any other person who has with the consent in writing of the Advocate General moved the High Court can always come to this Court by a petition for special leave to appeal and the power of this Court to interfere with

such order or decision in the exercise of its extraordinary jurisdiction under Article 136 is unfettered. This Court can always in suitable cases set right any order or decision of the High Court refusing to take action for contempt against the alleged contemner, if the larger interests of administration of justice so require.'

6. In view of the clear dictum of the Supreme Court, in the present case, no appeal lies under Section 19 of the [Contempt of Courts Act, 1971](#) as the impugned decision, whereby the learned single Judge refused to punish the alleged contemnors for contempt of Court, cannot be regarded as a 'decision of the High Court in exercise of its jurisdiction to punish for contempt'. Hence, the appeal is dismissed.

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