

Shivda Ram Vs. Development Commissioner and anr.

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Court : Rajasthan

Decided On : Apr-26-1984

Reported in : 1984WLN754

Judge : G.M. Lodha, J.

Appeal No. : S.B. Civil Misc. Contempt Petition No. 292 of 1933

Appellant : Shivda Ram

Respondent : Development Commissioner and anr.

Judgement :

G.M. Lodha, J.

1. This is a contempt petition filed by Shivda Ram against the Development Commissioner, Shri C.S. Beniwal, Dy District Development Officer Nagaur and Shri Mani Ram, Vikas Adhikari Panchayt Samiti Jayal District Nagaur.

2. The petitioner's case is that he belongs to scheduled casts and is a young man. He was appointed by the Selection Committee for Panchayat Samiti Jayal, and he joined his post as Gram Sewak and Ex-officio Secretary of Gram Panchayat, Rohina in the forenoon of 13-12-82. It is alleged that thereafter an order was passed against him on higher level, on account of which he was sought to be removed from the service. A writ petition was filed by the petitioner on or about 17-

1-1983 and show-cause notice was issued. When no reply was given to the show cause notice, this court passed an order on 10-2-1983 in the following terms:

No body appears to oppose the stay application inspite of service of notice. Heard learned Counsel for the petitioner. The respondents are directed to permit Shri Shivda Ram to function as Gram Sevak Rohina P.L. Jayal till further orders.

He was allowed to work as Gram Sewak in pursuance of the order of the Court. But on 12-10-83. Vikas Adhikari Shri Mani Ram sent a letter that the Dy District Development officer Nagaur vide order dated 15-9-1983 has intimated that the writ petition has been dismissed and as such the services of petitioner were terminated.

3. The petitioner on this submitted to the non-petitioners that his writ petition is pending and the stay order passed by the High Court is subsisting. He further submitted that he never filed the writ petition at Jodhpur and as such the question of dismissal never arises.

4. On this the non-petitioners stated that they are not bound by the stay order of the High Court passed on 10-2-83.

5. It is submitted that the action of the non-petitioners in passing the order dated 12-10-83 and persisting on it is clearly contemptuous being in flagrant disregard and wilful dis-obedience of the order of the Court with a view to undermine the authority of this Court.

6. The contempt petition was filed on 18-11-83 and notice was ordered to be issued on 1-12-83. The non petitioners inspite of service have not filed any reply and Mr. Khan, Govt. Advocate submits that they moved an application on 4-1-1984 in this contempt petition praying that two months time may be granted to file reply to the contempt petition after obtaining specific directions on the stay application from this Court. This prayer was made on 4-1-1984 and more than 2 months time has already expired.

7. Mr. Khan submitted that there were some Writ Petitions at Jodhpur, which were dismissed and thereafter under mis-apprehension and (sic)afide mistake it was

thought that writ petition of the petitioner at Jaipur has also been dismissed. Mr. Khan submitted that the impugned order was passed in misapprehension based on bonafide mistake. Mr. Bhandari on the contrary submitted that he had filed 4 writ petitions in addition to the present writ petition, in behalf of Sarvashri Hari Singh, Luna Ram, Suraj Karan and Hira Lal. In all these cases, the stay application was accepted and the petitioners were allowed to function by the same Panchayat Samiti till now and these writ petitions are pending here at Jaipur. Mr. Bhandari then submitted that even though the assumption of misapprehension may be there though there is no justification for it yet when it was brought to their notice repeatedly they should not have insisted on removal of the petitioner in any case should have reinstated him immediately after knowing the facts.

8. I have enquired from Mr. Khan whether after having knowledge that writ petition of petitioner Shivda Ram was never dismissed and the earlier communication about the other writ petitions had no relation with the present writ petition, the respondents should have reinstated the petitioners and paid him the salary for the entire period for which the mistake was committed. On repeated questions being asked Mr. Khan replied that he has prayed for time to get the order from this Court and then to file reply. It was conceded that no action has been taken by the respondents to restore the petitioner by re-instatement in service and pay him the salary.

9. As has been observed above the contempt petition was filed on 18-11-83 and even the application by which the time was sought for two months, was filed on 4-1-84, two months time was sought for setting aside exparte order dt. 4-3-84.

10. The factual position that Shri Shivda Ram never filed any writ petition at Jodhpur nor his writ petition was dismissed is not in doubt. No communication has been placed before this court on record in which the Government Advocate at Jodhpur informed that Shivda Ram's writ petition has been dismissed. The pissing of the order on the basis of dismissal of some other writ petitions at Jodhpur was, therefore, misconceived and had no justification.

11. Even if it is assumed that there was any bonafide error, though I do not find any because nothing has been placed on record When the petitioner as alleged in

para No. 9 of the Contempt petition told the authorities that his writ petition is pending in the High Court at Jaipur and still pending there was no justification for the authorities not to check up the matter at least from Jaipur Government Advocate and wait till then.

12. To add fuel to the fire even after filing of the contempt petition and notice of it, the non-petitioner have chosen not to file any reply and that too even after expiry of two months as prayed by their application, not to show any record and submit analogy and over and above that even till today Shivda Ram, who is a low paid employee has been kept out of service without there being any recalling of the stay order by this Court so far I am convinced that the conduct of the non-petitioner is not only of wilful disobedience but by not implementing the order even after knowing it that the earlier order was passed by mistake they have undermined the majesty of law and are persisting in their contemptuous conduct.

13. The order dated 12-10-83 was passed by Shri Mani Ram, Vikas Adhikari, Panchayat Samiti, Jayal. This order was passed on the directions of Shri C.S. Beniwal Dy. District Development Officer. In para No. 11 the petitioner has alleged that he approached Shri Mani Ram and Shri C.S. Beniwal and showed (hem photo-stat certified copy of the stay order and prayed that they must not insist upon the compliance of the order dt. 12-10-83, but in spite of this nothing has been done. In Para No. 12, it has been mentioned that they said that they are not bothered about the stay order and will face the contempt proceedings. It is matter of great concern that these allegations have not been controverted in spite of ample opportunity.

14. In view of the above facts and circumstances, it is clear that both Shri C.S. Beniwal, Dy District Development Officer, Nagaur and Shri Mani Ram, Vikas Adhikari, Panchayat Samiti, Jayal have not only committed contempt of court, but are persisting on it and even today after the expiry of such a long period of the pendency of the contempt petition they have not redressed the grievance of the petitioner, withdrew their contemptuous order and expressed regret.

15. This Court is very reluctant to punish for contempt of court, but it appears that the non-petitioners No 2 and 3 are persisting in their contemptuous conduct even

after knowing it well that the stay order of this court continues. The stay order was passed on 10-2-83 and nothing could have prevented the non-petitioners from making an attempt of getting the stay order vacated or re-called or getting the writ dismissed, if they had a good case. It is a salutary principle of jurisprudence of law that the Majesty of law cannot be allowed to be undermined and party to the proceedings should come to the court and if he has got any grievance, move an application and get the order rectified if according to him it has been passed under mistake of fact or law. Nothing of the sort has been done in this case. It appears that the non-petitioners No. 2 and 3 want to persist on wilful disobedience of the order of this court by not correcting their earlier wrong steps and not withdrawing the impugned order of removal so far.

16. In these circumstances, it is ordered that the respondent No. 2 Shri C.S. Beniwal and No. 3 Shri Maniram are guilty of committing contempt of this court. So far as respondent No. 1 is concerned, there is no direct evidence against him and therefore, notice of contempt is discharged against the respondent No. 1, Development Commissioner.

17. Both Shri C.S. Beniwal, Dy. District Development Officer and Shri Mani Ram, Vikash Adhikari are the officers of the State of Rajasthan. Before passing an order of punishment or considering the case of punishment I deem it proper in the interest of justice to provide one week's time to them to withdraw the order dated 12-10-1983 removing the petitioner from service and re-instate him and pay him all the salary due as if the order 12-10-83 was not passed and also to submit, if they so desire, an apology before this court, so that the question of punishment can be considered in that light.

18. Put up on 3rd May, 1984.