

G.P. Roy Vs. K. Mohan Das

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Court : Delhi

Decided On : May-04-2011

Judge : Rajiv Sahai Endlaw, J.

Appeal No. : CONT.CAS(C) 317/2011

Appellant : G.P. Roy

Respondent : K. Mohan Das

Advocate for Def. : Mr. Arvind Sharma; Mr. Aditya Malhotra, Adv.

Advocate for Pet/Ap. : Mr. Satish Kumar Tripathi, Adv.

Judgement :

1. Contempt is averred of the order dated 11 th July, 2006 in W.P.(C) No.10869/2006 stated to be still pending. On enquiry as to whether the order dated 11th July, 2006 was confirmed subsequently or not, the counsel states that no further order has been made.

2. The writ petition was filed impugning the appointment vide letter dated 3rd July, 2006 of Mr. Ranjit Lahiri as Chairman-cum-Managing Director (CMD) of M/s Hooghly Dock & Port Engineers Ltd. (HDPEL), Kolkata. The writ petition was accompanied with an application for interim relief.

3. This Court on 11th July, 2006 while issuing notice of the writ petition and the application for interim relief merely observed:

"In the meantime, the impugned appointment of respondent no.3 will be subject to the result of this writ petition".

4. It is averred that vide communication dated 12 th/13th July, 2010 the Ministry of Shipping conveyed the sanction of the President of India to the appointment aforesaid of Mr. Lahiri w.e.f. 7 th July, 2006 (FN) thereby confirming his appointment. The said action is alleged to be contumacious.

5. This Court having not granted any interim relief of stay of confirmation of appointment or of consideration for sanction of the appointment and which must have been pending as on 11 th July, 2006, no case of contempt is made out.

6. It is next contended that the counsel for the respondent on 11 th July, 2006 deliberately wrongly informed that the said Mr. Ranjit Lahiri had joined the post. In this regard it may be noticed that this Court after granting the interim order only of making the appointment of Mr. Ranjit Lahiri subject to the result of the writ petition recorded:

"Mr. Mehra says that according to his information respondent no.3 has already accepted the appointment and has joined the post".

7. The counsel for the petitioner/relator has invited attention to the document dated 11th July, 2006 whereby Dr. A.K. Chanda earlier functioning as the Chairman-cum-Managing Director of HDPEL relinquished charge on 11th July, 2006 (AN). It is further shown that the appointment on 3rd July, 2006 was to be with effect from the date of assumption of charge. It is contended that Mr. Ranjit Lahiri could have assumed charge not before the earlier incumbent relinquished i.e. not before afternoon of 11th July, 2006 and as such it was misrepresented before the Court on 11th July, 2006 that Mr. Ranjit Lahiri had already joined the post.

8. The counsel for the respondents in the writ petition had not made any categorical statement to the said effect and had stated only **"according to his information"**. Moreover, the order does not disclose as to at what time the hearing had taken place, whether in the morning or in the afternoon. Thus, no case for contempt on this ground also is made out.

9. The counsel for the petitioner/relator has also contended that fresh applications for post of CMD have been invited, in violation of instructions/guidelines for sick PSUs as HDPEL is and also in violation of order dated 11th July, 2006 (supra).

10. This Court having not restrained fresh appointments, the fresh applications invited cannot be said to be in violation of order of this Court. As far as violation of guidelines aforesaid is concerned, the same cannot be subject of contempt petition and it is open to the petitioner to raise the said challenge in appropriate proceedings.

11. The petition is accordingly dismissed.

12. Liberty is however granted to the petitioner/relator to bring the facts stated in the contempt petition on the record of the writ petition and to at the time of hearing of the writ petition urge the same to enable the Court to appropriately mould the relief if any to be granted. A copy of this order be also placed on the writ file.

CM No.8799/2011 (for exemption)

Allowed, subject to just exceptions.

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