

(2008) 08 AHC CK 0330

Allahabad High Court

Case No: None

Prem Narain Singh

APPELLANT

Vs

Dr. Ved Pati Mishra,
Secretary, U.P.
Secondary Education
Services Selection
Board and Sri Ram
Chet, District
Inspector of Schools

RESPONDENT

Date of Decision: Aug. 8, 2008

Hon'ble Judges: Sanjay Misra, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Sanjay Misra, J.

Heard Sri Indra Raj Singh, learned Counsel for the applicant.

2. By this contempt petition the applicant wants that the opposite parties should be punished for wilful and deliberate disobedience of the order dated 16.10.2003 passed by a Division Bench of this court in writ petition of the applicant being Writ Petition No. 16855 of 2002 Prem Narain Singh v. U.P. Secondary Education Services Selection Board, Allahabad and others. The order dated 16.10.2003 passed on the writ petition of the petitioner has been annexed as annexure-3 to the affidavit supporting this contempt petition. The said order is quoted hereunder:

For order see our order of date passed in Writ Petition No. 11322 of 2002 (Nathoo Lal Verma v. State of U.P. and Ors).

3. The writ petition of Nathoo Lal Verma was decided by a Division Bench of this court alongwith a bunch of other writ petitions by the order dated 16.10.2003 wherein relying upon a decision of this court in the case of Anand Narain v. U.P.

Secondary Education Services Selection Board, Allahabad and others decided on 29th September 2003 the advertisements issued by the Commission in the year 1998-99 and 1999-2000 were quashed by this court. Learned Counsel for the applicant states that when the said advertisements were quashed the order was passed on the writ petition of the petitioner, based upon that judgement and the petitioner was entitled to the benefits of the order dated 16.10.2003 also.

4. According to learned Counsel for the applicant the matter was taken to the Apex court and the Apex court set aside the judgement dated 16.10.2003 of the Division Bench and restored the decision of the Single Judge. Learned Counsel submits that the matter went up before the Apex court against the decision dated 16.10.2003 passed by the Division Bench in the bunch cases and the proceedings did not include the order passed in the writ petition of the petitioner. He therefore states that when the Division Bench's order dated 16.10.2003 was quashed by the Hon'ble Supreme Court the effect of order of the Hon'ble Supreme Court will not in any way be effective on the petitioner because the order in his writ petition was not challenged before the Apex Court.

5. The order passed on the writ petition of the petitioner as has already been quoted which indicates that the writ petition of the petitioner was disposed of as per decision of the Division Bench in Nathoo Lal's case. Therefore, the submission of learned Counsel for the applicant that the decision of the Apex court in the case of Balbir Kaur and Anr. v. U.P. Secondary Education Services Selection Board, Allahabad and Ors. reported in 2008(3) ESC 409 will not apply to this case since the Apex Court has set aside the order dated 16.10.2003 passed by the Division Bench of this court in Nathoo Lal's case and not in the writ petition of the petitioner which was disposed of in the light of Nathu Lal's case is misconceived. When the decision in Nathu Lal's case does not stand any more no benefit can be taken by the applicant from the order passed in his Writ Petition No. 16855 of 2002.

6. The contention of learned Counsel for the applicant that the order dated 16.10.2003 passed in his case (Prem Narain Singh) was not assailed before the Apex Court does not have any leg to stand. It is not in dispute that the writ petition of the petitioner was disposed of in terms of Nathoo Lal's case which has been set aside by the Apex Court. Even if the order dated 16.10.2003 passed in the writ petition of the petitioner, which has been quoted earlier was not challenged before the Apex Court the petitioner can not take a ground that the order in his case has not been set aside and hence is enforceable.

7. This contempt petition is misconceived and is accordingly dismissed. This court is of the view that such frivolous contempt petitions invite imposition of costs and with reference to the decision of this court dated 6.8.2008 passed in contempt petition No. 2502 of 2008 Smt. Madhu Agrawal v. R.C. Shukla such imposition of deterrent costs is becoming necessary in the prevailing circumstances. However, no costs are being imposed in this petition in view of the apology expressed by learned Counsel.