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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CACP- 1 – 2018 (O&M)
Reserved on :-18.09.2024
Date of Decision : 14.10.2024**

Shivdular Singh Dhillon IAS and Another

....Appellants

VERSUS

M/s Roshan Lal Prem Chand & Others

....Respondents

**CORAM : HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Vijay K. Jindal, Advocate for contemnor.

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SUDEEPTI SHARMA, J.

The present contempt appeal is preferred against the order dated 12.02.2018 passed by the learned Contempt Court, whereby the appellants were sentenced to undergo symbolic sentence “till the rising of the Court” and further imposed a fine of Rs.2000/- each and order dated 01.02.2017, whereby the appellants were convicted under the provisions of Contempt of Courts Act, 1971.

2. The facts as mentioned in the contempt petition are that order dated 30.10.2015 passed by this Court in CWP-1780 of 2013 by which the respondents were directed to pay transportation charges and margin money to the petitioner on Wheat/Atta being procured and distributed by the petitioner under the Atta Dal Scheme. The relevant part of the order dated 30.10.2015 is reproduced as under:-

“ The logic of the respondents is really fantastic and does not appeal to reason. Pulses/Dal and Wheat/Atta are two separate commodities which are being distributed under the Scheme which is



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known as Atta Dal Scheme and the petitioner has to lift/procure both the commodities separately in which the extent of procurement of Wheat/Atta is must more larger than the Pulses/Dal ad are being transported separately, therefore, the respondents cannot adjust the payment of transportation charges and margin money paid to the petitioner on account of procurement of Pulses/Dal with the procurement of Wheat/Atta and hence, the action of the respondents in this regard is totally arbitrary and unreasonable, being violative of Articles 14 and 19(1)(g) of the Constitution of India. The respondents may keep on claiming from the Central Government the amount which is to be paid to petitioner towards margin money and transportation charges on Wheat/Atta but so far as the petitioner is concerned, he is definitely entitled to transportation charges and margin money on Wheat/Atta separately from the transportation charges and margin money being paid on Pulses/Dal, though under the Atta Dal Scheme.

In view of the aforesaid discussion, the present writ petition is hereby allowed and the respondents are directed to pay transportation charges and margin money to the petition on Wheat/Atta being procured and distributed by the petitioner under the Atta Dal Scheme, within a period of three months from the date of receipt of certified copy of this order.”

3. From the record it appears that by 02.03.2016, respondents were to calculate the handling charges for distribution of wheat under the above-mentioned scheme and after due verification, release the amount due towards the petitioner in



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the writ petition (respondent No.1 herein). Since the order was not complied with, therefore, the petitioner (respondent No.1 herein) was constrained to file the contempt petition before this Court on 11.05.2016.

4. Notice was issued to respondent Nos. 2 and 4 (appellants herein) (responsible for calculation and release of amount) on 23.05.2016, which was accepted by Deputy Advocate General, Punjab in the Court itself, therefore, the service was effected to respondent Nos. 2 and 4 (appellants herein). Consequently, the matter was posted for 18.10.2016. However, no reply was filed by respondent Nos. 2 and 4 (appellants herein) nor any compliance report was filed. The matter was fixed for 01.02.2017 by granting them last opportunity with a condition that in case reply/compliance report is not filed within a period of four weeks from 18.10.2016, the reply/compliance report would be accepted by the Registry on deposit of Rs.10,000/- as costs.

5. Again reply was not filed in time and it was filed after deposit of Rs.10,000/- by respondent Nos. 2 and 4 (appellants herein). The matter came up for hearing on 01.02.2017, wherein the following order was passed:-

“ *Sh. Jaspreet Singh Kahlon, The Controller, Food, Civil Supply and Consumer Affairs, District Bathinda (respondent No.4) is present in Court.*

From the pleadings, it is apparent that necessary payments have not been released within the required period of three months from the date of receipt of the certified copy of the order dated 30.10.2015 (Annexure P-1). No plausible justification whatsoever has been forthcoming.



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Learned counsel for the respondents has tried to give a justification that an LPA along with application for condonation of delay of 298 days stands filed against the order dated 30.10.2015 (P-1). The same is stated to be listed for hearing on 18.04.2017.

After examining the aforesaid plea, it is evident that Sh. Shidular Singh Dhillon, IAS and Sh. Jaspreet Singh Kahlon (respondent Nos. 2 and 4 respectively), the competent authority for releasing such amounts, have deliberately disobeyed the directions passed by this Court, accordingly, both of them stand convicted.

Let both respondent Nos. 2 & 4 be present in Court for the purpose of sentencing on the next date of hearing.

Adjourned to 06.02.2017.”

6. Not finding any reason given in the reply filed by the State to be plausible, respondent Nos. 2 and 4 (appellants herein) were convicted by this Court vide its order dated 01.02.2017 and ordered them to be present in Court for the purpose of sentencing. No appeal was filed against the order dated 01.02.2017. As per reply the amount due to the petitioner in the writ petition (respondent No.1 herein) was released on 07.02.2017 and affidavit to this regard was filed by respondent No.2 and 4 (appellants herein) on 09.02.2017 alongwith unconditional apology. However, the petitioner in the writ petition (respondent No.1 herein) filed a counter-affidavit dated 12.02.2017 stating therein that the amount was not paid as per the rate determined by State itself.

7. On 20.02.2017 both respondent Nos. 2 and 4 (appellants herein) were present in Court and were asked to file their additional affidavit detailing therein



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the steps taken from the moment order dated 30.10.2015, till the payment was made in order to show their bonafide. In compliance of the order dated 20.02.2017, respondent Nos. 2 and 4 (appellants herein) filed their additional affidavit dated 20.04.2017 detailing therein the steps taken from the moment the order dated 30.10.2015, till the payments were made to the petitioner in the writ petition (respondent No.1 herein) i.e. on 07.02.2017.

8. Appellants namely Shivdular Singh Dhillon, Director, Department of Food, Civil Supplies and Consumer Affairs Punjab and Jaspreet Singh Kahlon, District Food and Supplies Controller, Bathinda, Punjab had filed additional affidavit dated 11.05.2017 whereby they extended unconditional apology for the inaction on their part.

9. State counsel in the contempt petition submitted that the order dated 30.10.2015 was complied with and in view of unconditional apology tendered by both respondent Nos. 2 and 4 (appellants herein) namely Shivdular Singh Dhillon, Director, Department of Food, Civil Supplies and Consumer Affairs Punjab and Jaspreet Singh Kahlon, District Food and Supplies Controller, Bathinda, Punjab, a lenient view be taken and rule be discharged. Whereas learned Single Judge did not agree to the same and punished both the appellants namely, Shivdular Singh Dhillon, Director, Department of Food, Civil Supplies and Consumer Affairs Punjab and Jaspreet Singh Kahlon, District Food and Supplies Controller, Sangrur, Punjab to undergo symbolic sentence “till the rising of the Court” and further a fine of Rs.2000/- each was imposed upon the appellants. Hence the present appeal.

10. Learned counsel for the appellants contend that unconditional apology was made by both the appellants and order dated 30.10.2015 was also complied



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with. Still the learned Single Judge convicted and sentenced the present appellants. Therefore he prays that this appeal be allowed and orders dated 01.02.2017 and 12.02.2018 be set aside.

11. *Per contra*, learned counsel for the respondents contends that orders dated 01.02.2017 and 12.08.2018 are well reasoned. Therefore, he prays for dismissal of the present contempt appeal.

12. We have heard learned counsel for the parties and perused the whole record of this case.

13. A perusal of the record shows that vide order dated 31.10.2015, this Court directed the respondents to pay transportation charges and margin money to the petitioner on Wheat/Atta being procured and distributed by the petitioner under the Atta Dal Scheme, within a period of three months from the date of receipt of certified copy of the order. The reply/compliance report was filed after granting of last opportunity and after deposit of costs of Rs.10,000/-. The conduct of the respondents for delay in filing the compliance report is not appreciated by this Court.

14. The amount in compliance of order dated 30.10.2015 has been explained in the affidavit filed by the appellants before the contempt court, which was disputed by respondent No.1 (petitioner in the contempt petition) vide affidavit dated 09.02.2017.

15. We have perused affidavit dated 20.04.2017 filed in compliance of order dated 20.02.2017 of this Court in the contempt petition whereby the delay in compliance has been categorically explained. A perusal of the same also shows that this is a normal procedure/trend of a Government to explain delay in



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complying the orders of this Court, which apparently shows the movement of file from one department to other because of which litigants are forced to file contempt petitions. Whereas order of the Court is clear and unambiguous, no review or appeal or clarification of the same is required to be filed and the orders should be complied with by State forthwith without any delay.

16. Though in the present case also the affidavit explaining delay shows the movement of file from one person to the other, which further shows that the file is unnecessarily moved for legal opinion of the compliance. This action amounts to contempt in the present case. A perusal of the affidavit dated 20.04.2017 shows that on 08.12.2015 the branch concerned namely 'Food Distribution', which deals with the fair price shops, proposed to seek a legal opinion on the order dated 30.10.2015 from OSD (Litigation) of the Department. Then a proposal was approved by the Joint Director concerned on 10.12.2015 to send a file to the OSD (Litigation). On 18.12.2015 OSD (Litigation) advised to comply with the orders of the High Court and make the payment as directed by the High Court within the stipulated time. This shows that these are the actions of the State with which normally a delay occurs in compliance of the orders of this Court.

17. After observing the facts and circumstances of this particular case, this Court feels that once an unconditional apology was tendered by the appellants on 09.02.2017 and further vide affidavit dated 20.04.2017 in compliance of the directions of this Court dated 20.02.2017 again the appellants tendered unconditional apology. Therefore, we find merit in the present appeal and set aside the orders dated 01.02.2017 and 12.02.2018 passed by the learned Single Judge while accepting the apology tendered by the appellants.



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18. Accordingly, the appeal is allowed and rule is discharged against the appellants.

19. Pending applications, if any, also stand disposed of.

(SURESHWR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

October 14, 2024
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Whether speaking/non-speaking : Speaking
Whether reportable : Yes