

03.08.2023
Court No.13
Item No.1
AP

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT PORT BLAIR**

**CPAN 24 of 2023
In
MA 9 of 2020
With
CAN 1 of 2022
With
CAN 2 of 2022**

**Andaman Sarvajanic Nirman Vibagh
Mazdoor Sangh & Anr.
Vs.
Admiral D.K. Joshi, The Hon'ble Lieutenant
Governor,
Andaman & Nicobar Islands & Anr.**

(Through Video Conference)

Mr. Gopala Binnu Kumar.

..For the Applicants.

Mr. Vikramjit Banerjee, Senior Advocate
Mr. Shatadru Chakraborty
Mr. Ramendu Agarwal

...For the alleged contemnors.

1. Mr. Vikramjit Banerjee places an affidavit of compliance filed by S. Thej Bahadur holding the Office of Chief Engineer, APWD, A & N Administration.

2. The contemnors have not even bothered to file any affidavit. This conduct is ex facie contumacious and has reduced the contempt jurisdiction of a Division Bench of this Court under Article 215 of the Constitution of India to a mockery.

3. The purported affidavit of compliance dated 2nd August, 2023 throws a challenge to the order dated 19th December, 2022 where specific and clear directions have

been made, the said order remains unchallenged today as on date.

4. The findings of this Court as recorded on 27th July, 2023 are clear and explicit. The undertaking required by the administration from the DRMs as a precondition for release of payment has not been withdrawn till date.

5. Mr. Vikramjit Banerjee, however, submits that he has held a conference with the administration and the administration has condescended to withdrawing the requirement of signing the undertaking.

6. This Court finds that the purported affidavit of compliance says nothing about framing of any scheme or the illegal and contumacious distinction sought to be drawn between the DRMs engaged against sanctioned post and those DRMs that are not engaged against any sanction post.

7. In essence particularly paragraph at 16 the deponent of the affidavit had the audacity to challenge and reopen the issues decided before the Single Bench and confirmed by the Division Bench, without challenging the same before a higher forum.

8. This Court clearly finds flagrant and reprehensible contempt on the part of the contemnors Admiral D.K. Joshi, Lieutenant Governor, Andaman and

Nicobar Islands and Shri Keshav Chandra, Chief Secretary, Andaman and Nicobar Administration.

9. In view of the above and in view of the conduct of the contemnors indicated hereinabove, this Court is left with no option than to direct that the Contemnor No.2, Shri Keshav Chandra, Chief Secretary, Andaman and Nicobar Administration be suspended forthwith. The next senior most officer in the administration shall take over and discharge the functions of the Chief Secretary.

10. In view of the blatant contumacious conduct of Admiral D.K. Joshi, this Court directs him to deposit with the Registrar of the Port Blair Bench of the High Court at Calcutta, a sum of Rs.5,00,000/- from his own funds, within a period of seven days from date.

11. On the adjourned date, Admiral D.K. Joshi, Lieutenant Governor shall appear in virtual mode and the Chief Secretary, Andaman and Nicobar Administration shall be personally present in this Court and shall show cause as to why they should not be committed to prison for having committed contempt of Court as already found against them.

12. Let this matter stand adjourned and be listed on 17th August, 2023.

13. Pendency of the proceedings shall not prevent the administration from complying with the orders of this Court.

14. Let a copy of this order be sent to the Ministry of Home Affairs, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) and Principal Secretary to the Government of India at New Delhi.

15. The Registrar General of this Court shall communicate this order as directed hereinabove.

16. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Bibhas Ranjan De, J.)