

**Court No. - 10**

**Case :- CONTEMPT APPLICATION (CIVIL) No. - 3671 of 2010**

**Petitioner :- Ram Sakha Singh**

**Respondent :- Sunil Kumar Chaudhary, State Chief Information Commissioner,**

**Petitioner Counsel :- Dharendra Kr. Srivastava**

**Respondent Counsel :- S.C.**

**Hon'ble Shashi Kant Gupta,J.**

This contempt application has been filed for the alleged violation of the order dated 26.11.2009 passed by this court in Civil Misc. Writ Petition No. 64204 of 2009.

The brief facts of the case , as set out in the contempt application are stated as follows:

The applicant, who is a retired village Panchayat Officer, made a request for obtaining information regarding disbursement of fund under several Schemes, job cards, meeting of several committees , constructions etc. under Section 6 of Right to Information Act, 2005 ( hereinafter referred to as the 'Act') to the Block Development Officer, Manda, District Allahabad on 27.5.2009 and the requisite fee was also deposited by the applicant. Since the Block Development Officer Manda did not furnish the required information, the applicant preferred an appeal before the opposite party, the State Chief Information Commissioner, Lucknow under section 19 of the said Act . Since the opposite party did not pass any order on the said appeal of the applicant, he approached this Court by filing a writ petition, being Civil Misc. Writ Petition NO. 64204 of 2009, which was disposed of on 26.11.2009 with a direction to the opposite party to dispose of the application/ appeal dated 1.8.2009 of the applicant already pending before him within a period of two months from the date of production of a certified copy of the

order before him.

According to the applicant, when despite order of this court , no order was passed by the opposite party , he again approached this court by filing contempt application no. 1135 of 2010 which was finally disposed of on 19.3.2010 directing the opposite party to decide the said application within a month from the date of receipt of the said order. When , despite the above orders having been passed by this court, no order was passed by the opposite party, the applicant again approached this court by filing the present second contempt application and this court by order dated 3.8.2010 issued notice to the opposite party granting one more opportunity to comply with the order of this court.

Heard the learned counsel for the applicant, Mr. K. R. Singh, learned Standing Counsel for the opposite party and perused the record.

After receipt of the notice, an affidavit of compliance has been filed by the opposite party and the averments made in paragraphs 7 and 8 thereof, which are very relevant for the purpose of the present case, run as under:

*“7. That, it is stated that the order dated 26.11.2009 passed by this Hon'ble Court stood complied with, with the disposal of the application dated 1.8.2009 on 18.1.2010. It is stated that the application was filed by the applicant on 1.8.2009 before the State Information Commissioner was taken up on 4.1.2010, on which date the applicant was present. In his presence the next date was fixed as 18.1.2010. On 18.1.2010, the applicant was present but nobody had appeared on behalf of the opposite parties and therefore a detailed order was passed by the deponent on 18.1.2010, in the presence of the applicant. Photostat copies of the order passed on 4.1.2010 as well as final order dated 18.1.2010 are being annexed herewith and marked as Annexure Nos. 1 and 2 to this compliance affidavit.*

*8. That, from the aforesaid facts, it is apparent on the face of record that the allegations with which the present contempt application as well as the earlier contempt application were filed is totally baseless and false.”*

Referring to the above averments , learned Standing Counsel submitted that a detailed order was passed on 18.1.2010 in the presence of the applicant whereby penalty of Rs. 250/- each day till information is furnished to the applicant subject to payment of the maximum penalty of Rs. 25000/- was imposed upon the State Public Information Officer.

At this juncture, it would be useful to refer to the orders dated 4.1.2010 and 18.1.2010 passed by the opposite party under section 19 of the Right to Information Act, 2005, which are reproduced as under:

शिकायत संख्या—एस 7/2743 /सी /09

माननीय श्री सुनील कुमार चौधरी राज्य सूचना आयुक्त

आदेश

**वादी उपस्थित है**। प्रतिवादी की ओर से कोई भी उपस्थित नहीं है। वादी द्वारा बताया गया कि उन्हे वांछित सूचनाए उपलब्ध नहीं कराई गई है। प्रतिवादी जन सूचना अधिकारी कार्यालय खण्ड विकास अधिकारी विकास खण्ड माण्डा इलाहाबाद को स्पीड पोस्ट से नोटिस जारी की जाये कि वे अगली तिथी को उपस्थित होकर कारण बताये कि वादी को वांछित सूचनाय निश्चित समयावधि में उपलब्ध न कराये जाने के कारण क्यो न उनके विरुद्ध सूचना अधिकार अधिनियम 2005 के प्रावधानों के अर्न्तगत दण्डात्मक कार्यवाही की जाये? अपने स्पष्टीकरण के साथ जन सूचना अधिकारी कार्यालय खण्ड विकास अधिकारी विकास खण्ड इलाहाबाद अगली तिथी को आयोग में व्यक्तिगत रूप से उपस्थित होंगे। इस वाद की अगली सुनवाई दिनांक 18-01-2010 को होगी।

04-01-2010

शिकायत संख्या—एस 7/2743 /सी /09

माननीय श्री सुनील कुमार चौधरी राज्य सूचना आयुक्त

आदेश

वादी उपस्थित है। प्रतिवादी की ओर से कोई भी उपस्थित नहीं है। वादी द्वारा बताया गया कि उन्हें वांछित सूचनाएं उपलब्ध नहीं कराई गई हैं। पिछली तिथी को जन सूचना अधिकारी कार्यालय खण्ड विकास अधिकारी विकास खण्ड माण्डा इलाहाबाद को स्पीड पोस्ट से नोटिस जारी की उन्हें यह स्पष्ट करने के लिये यह कहा गया था कि उनके द्वारा वादी को वांछित सूचनाएं उपलब्ध न कराये जाने के कारण क्यों न उनके विरुद्ध सूचना अधिकार अधिनियम 2005 के प्रावधानों के अर्न्तगत दण्डात्मक कार्यवाही की जाये? आयोग की नोटिस के क्रम में आज भी प्रतिवादी की ओर से कोई भी उपस्थित नहीं है। उनके द्वारा कोई स्पष्टीकरण भी आयोग में प्रस्तुत नहीं किया गया है। उपरोक्त परिस्थितियों में प्रतिवादी जनसूचना अधिकारी कार्यालय खण्ड विकास अधिकारी विकास खण्ड माण्डा इलाहाबाद पर वादी के मूल प्रार्थना पत्र दिनांक 27-05-2009 के क्रम में सूचनाएं न उपलब्ध कराये जाने के कारण 250/रुपयें प्रतिदिन का आर्थिक दण्ड अधिरोपित किया जाता है जिसकी अधिकतम सीमा 25000/हजार रुपये तक हो सकती है। आज के आदेश की प्रति रजिस्टर्ड डाक से जिला पंचायत राज अधिकारी इलाहाबाद को प्रेषित की जाये जो वादी के मूल प्रार्थना पत्र दिनांक 27-05-2009 के एक माह बाद से सूचनाएं दिये जाने तक 250/रुपयें की दर से अधिकतम 25000 रुपये प्रतिवादी से दण्ड की वसूली किया जाना सुनिश्चित करे। प्रस्तुत प्रकरण में खण्ड विकास अधिकारी माण्डा इलाहाबाद को जन सूचना अधिकारी दण्डित करते हुए उन्हें यह निर्देशित किया जाता है कि वादी को वांछित सूचनाएं आयोग के आज के आदेश को प्राप्त करने की तिथी से एक माह के अन्दर वादी को उपलब्ध कराया जाना सुनिश्चित करेगे। आल के आदेश की प्रति खण्ड विकास अधिकारी माण्डा इलाहाबाद को रजिस्टर्ड डाक से प्रेषित की जाये। उपरोक्त निर्देश के साथ वाद को निस्तारित किया जाता है।

Sd/-

18.1.2010”

Per contra, learned counsel for the applicant submitted that neither a copy of the aforementioned order dated 18.1.2010 was served upon the applicant nor the same was passed in his presence, as such the applicant was not aware of the aforementioned orders dated 4.1.2010 and 18.1.2010. He further submits that had he been aware about the said orders, he would have definitely not filed the contempt applications.

A bare perusal of the orders dated 4.1.2010 and 18.1.2010, as referred to herein above, clearly goes to show that the said orders were passed by the opposite party in presence of the applicant and consequently, after passing of the said order dated 18.1.2010, the order of the writ court stood complied with, but even then the applicant filed two contempt applications concealing the said material fact. It is also notable that the averments made in the affidavit of compliance, which was

filed on 21.9.2010, has not even been rebutted by the applicant by filing reply to the said affidavit. Failure of the applicant to file reply to the affidavit of compliance amounts to admission of the facts alleged in the affidavit of compliance, particularly the orders passed by the opposite party recording the presence of the applicant.

The aforementioned facts clearly go to show that a fraud has been played upon the Court by concealing the material fact that the orders dated 4.1.2010 and 18.1.2010 were passed by the opposite party in compliance of the order dated 26.11.2009 passed by the writ court in Civil Misc. Writ Petition No. 64204 of 2009. Filing of this kind of applications not only wastes the time of the court but also amounts to abuse of the process of the Court and as such the litigant is not required to be dealt with lightly.

In order to sustain and maintain sanctity and solemnity of the proceedings in law courts, it is necessary that the parties should not make false or knowingly, inaccurate statements or misrepresentation and/or should not conceal material facts with a design to gain some advantage or benefit at the hands of the Court, when a Court is considered as a place where truth and justice are the solemn pursuits. If any party pollutes or attempts to pollute the purity of the fountain of justice and thus commits a serious wrong to the court and to the society as a whole of which it is not desirable and indeed is dangerous to take a lenient view.

In view of what has been discussed above and considering the submissions made by the learned counsel for the parties and perusing the materials available on the record, in order to meet the ends of justice, I am of the opinion that imposition of costs would meet the ends of justice which I quantify to be Rs. 50,000/- (Rupees fifty thousands only).

In the result, this contempt application is dismissed with exemplary costs of Rs. 50,000/- (Rupees fifty thousands only). The applicant is directed to deposit the said costs with the Registrar General of this Court within 45 days from today by means of a Bank Draft drawn in his favour, and the amount, if so deposited, shall be remitted to the Mediation and Conciliation Center, High Court, Allahabad. In case of default in depositing the said money within the stipulated period, the same shall be recovered from the applicant as arrears of land revenue by the Collector, Allahabad.

Let a copy of this order be placed before the Registrar General of this Court to ensure necessary compliance of this order. A copy of this order may also be sent to the District Magistrate, Allahabad for necessary follow up in the matter.

Order Date 12.11.2010

MLK