

PETITIONER:
M.L. SACHDEV

Vs.

RESPONDENT:
UNION OF INDIA AND ANR.

DATE OF JUDGMENT 05/11/1990

BENCH:
MISRA, RANGNATH (CJ)
BENCH:
MISRA, RANGNATH (CJ)
KULDIP SINGH (J)

CITATION:
1991 AIR 311 1990 SCR Supl. (2) 545
1991 SCC (1) 605 JT 1990 (4) 329
1990 SCALE (2) 926

ACT:

Contempt of Courts Act, 1971: Section 2--M.R.T.P. Commission--Filling up posts of Chairman and Members--Direction regarding --Default of by Union of India--Secretary, Ministry of Industry--Held guilty of contempt.

Monopolies and Restrictive Trade Practices Act, 1969: Section 5--Chairman and Members of Commission--Filling up posts of--Direction regarding--Default of by Union of India--Secretary, Ministry of Industry--Held guilty of contempt.

HEADNOTE:

Article 144 of the Constitution requires all authorities, civil and judicial, in the territory of India to act in aid of the Supreme Court.

Section 5 of the Monopolies and Restrictive Trade Practices Act, 1969 provides that the Commission shall consist of a Chairman and not less than two and not more than eight other members. The said Commission having been rendered non-functional with the death of its Chairman in December, 1989 and retirement of three out of four members by March, 1990 the petitioner sought a direction to the Union of India to fill up the said posts. By its order dated April 20, 1990 the Court directed that the Commission be appropriately constituted within three weeks. By a subsequent order dated May 25, 1990 the Vacation Judge extended the time to comply with the said direction till 7th July, 1990. The respondent-Union having failed to comply with the order by the said date the petitioner moved a petition for contempt. In its order dated 12th October, 1990 the Court held that by not constituting the Commission on or before 7th July, 1990 its direction had been violated and directed issue of notice on the contempt petition.

In the affidavit filed on October 22, 1990, the Secretary, Department of Company Affairs, Ministry of Industries of the Union Government averred that he did his best to obtain orders of appointment of Chairman and the Members of the Commission as per directions of the Court, that there has been no wilful negligence or intention to disobey the orders and that further reasonable time may be granted for completing the procedure of appointment.

546

Allowing the contempt petition, the Court,

HELD: 1. The respondent-Union in the Ministry of Industries represented by the Secretary was guilty of contempt of the Court.

2.1 It was the obligation of the Union of India to constitute the Commission in the manner prescribed under Section 5 of the M.R.T.P. Act, 1969 and when it failed to do so the Court had given the direction comply with the requirements of law.

2.2 Once it was found that before the extended date direction was not being complied with, it was the obligation of the respondent-contemner to approach the Court for further extension of time or to receive such direction as the Court in its discretion thought it appropriate to make. No such petition was ever filed before or after 7th of July, 1990 and even after notice of contempt was served, such step was not considered necessary and the Union Government remained satisfied by indicating in the affidavit of the contemner that extension should be given. Since the mandamus had been addressed to the respondent Union, it could not keep away from the Court in such a way without complying with the direction. The fact that some attempt was made to reconstitute the Commission does not constitute an extenuating circumstance.

3.1 By invoking the power of contempt, the Court seeks only to ensure that the majesty of the institution may not be lowered and the functional utility of the constitutional edifice may not be rendered ineffective. It expects the Union of India to exhibit the most ideal conduct for others to emulate.

3.2 In view of the offer of unqualified apology and the fact that the Chairman and a Member have in the meantime been appointed and the Commission in terms of s. 5 of the Act has been reconstituted the Court does not propose to impose any punishment in the hope and trust that there would be no recurrence of the conduct.

JUDGMENT: