

NON-REPORTABLEIN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTIONCIVIL APPEAL NO. 10238 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 20097 OF 2017
[DIARY NO. 20473/2017]PRAVEER KUMAR PRINCIPAL SECRETARY
DEPARTMENT OF MEDICAL HEALTH AND FAMILY
WELFARE, GOVT. OF U.P. & ORS.

Appellant (s)

VERSUS

REENA KUMARI & ORS.

Respondent(s)

J U D G M E N TKURIAN, J.

1. Delay condoned. Leave granted.
2. In the nature of the order we propose to pass in this case, it is not necessary to issue notice to the respondents.
3. The respondents had approached the High Court of Allahabad at Lucknow Bench alleging contempt on the part of the appellants for not having implemented the Judgments dated 01.02.2013 and 21.10.2013 in the proper perspective.
4. When the matter came up for consideration in the High Court in contempt jurisdiction, the High Court passed the following order on 21.04.2015 :-

"Heard Dr. L.P. Mishra, learned counsel for the petitioner and the learned standing counsel for quite some time.

Dr. Misra has painstakingly pointed out to the Court that the directions in the bunch of the writ petition leading being W.P. No.7868(SS) 2011 and the review petition no. 92 of 2013, there are clear directions for giving preference to the petitioners while filling up the vacancies of three thousands Basic Health Workers (femala). It has clearly been mentioned that the first appointment has to be given to 195 petitioners and the remaining vacancies to be filled up by general candidate. If the petitioners had become overage, the same has to be relaxed. Moreover, working of the petitioners were never in doubt before the Court in the counter- affidavit filed in the writ petition. It has also not been claimed that the petitioners are not working. Hence, this position cannot be reviewed by asking for certificate of working/ experience from the respective C.M.Os. The general advertisement will not be binding upon the petitioners, who form a class by themselves. Under the concept of equality before the law, the petitioner cannot be treated at par with the general candidate and hence certain requirements of verification etc. will not be applicable for say viz-a-viz the petitioners.

In such a situation, this Court feels that in case the petitioners candidature has been rejected on the ground that their working certificates have been by A.C.M.O., is totally unacceptable for the reasons firstly; there was no requirement of such certificate and secondly; if the certificates have been issued but not found correct by the opposite parties, their appointments could not have been denied on this ground. There appears to be some serious misgivings in the mind of the opposite parties, hence the compliance of the Court's order has not been forthcoming.

Since the order has not been complied with, this Court comes to the conclusion that prima-facie a case for committing contempt of Court, is made out.

However, learned standing counsel submitted that he will advise in the light of observations made by this Court today and the argument advanced by Dr.L.P. Mishra, to the opposite parties. Therefore, on his request that the matter will be taken care of in the light of today's discussion, this Court grants 15 days further time to the opposite parties to comply with the Court's order. In case compliance is not made, opposite party no. 5-Principal Secretary, Department of Medcial, Health and Family Welfare,

Lucknow along with opposite party no. 6 Dr. Vinay Laxmi, Director General, Medical Healthy and Family Welfare, U.P., Lucknow shall appear in person before this Court on 7.5.2015 to show-cause why action be not taken against them for committing contempt of this Court."

5. Ms. Aishwarya Bhati, learned counsel appearing for the appellants, submits that before granting opportunity to the appellants to submit their explanation, the High Court might not have compelled the appearance of the Principal Secretaries and other officials. We find substance in the submission made by the learned counsel. Accordingly, we dispose of this appeal making it clear that after the court considering the explanation offered by the appellants, in case it is found that explanation is not acceptable and that the appellants are otherwise liable to be proceeded against in contempt proceedings, only then their appearance will be insisted.

No costs.

.....J.
[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

New Delhi;
August 08, 2017.

ITEM NO.18

COURT NO.6

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Diary No(s). 20473/2017

(Arising out of impugned final judgment and order dated 25-01-2017 in SA No. 368/2015 passed by the High Court Of Judicature At Allahabad, Lucknow Bench)

PRAVEER KUMAR PRINCIPAL SECRETARY
DEPARTMENT OF MEDICAL HEALTH AND FAMILY
WELFARE, GOVT. OF U.P. & ORS.

Petitioner(s)

VERSUS

REENA KUMARI & ORS.

Respondent(s)

(CONDONATION OF DELAY IN FILING SLP)
(EXEMPTION FROM FILING O.T.)

Date : 08-08-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Ms. Aishwarya Bhati, AAG, U.P.
Mr. Ardhendumauli Kumar Prasad, AOR
Ms. Charu Ambwani, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeal is disposed of in terms of the signed
non-reportable Judgment

Pending interlocutory applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU DIWAN)
ASSISTANT REGISTRAR

(Signed non-reportable Judgment is placed on the file)