

Court No. - 32

Case :- CONTEMPT APPLICATION (CIVIL) No. - 4369 of 2020

Applicant :- Janvikas Society

Opposite Party :- Smt Anju Agrawal And Another

Counsel for Applicant :- Ashish Kumar Singh, Ajay Kumar Singh

Hon'ble Pankaj Bhatia, J.

The present application has been filed alleging non-compliance of the directions of the Supreme Court dated 18.1.2013 passed in Special Leave to Appeal (Civil) No. 8519 of 2006, whereby the Supreme Court gave the following directions:-

"We further direct that henceforth, State Government shall not grant any permission for installation of any statue or construction of any structure in public roads, pavements, sideways and other public utility places. Obviously, this order shall not apply to installation of high mast lights, street lights or construction relating to electrification, traffic, toll or for development and beautification of the streets, highways, roads etc. and relating to public utility and facilities."

Counsel for the applicant further argues that while disposing of the Special Leave to Appeal (Civil) No. 8519 of 2006, the Supreme Court had directed as under:-

"Vide order dated 16.2.2010, the following directions have been issued:

In pursuance of the order of this Court dated 29th September, 2009, by which this Court directed that henceforth no unauthorized construction shall be carried out or permitted in the name of Temple, Church, Mosque or Gurudwara etc. on public streets, public parks or other public places, the affidavits of all the States and the Union Territories, except the State of Uttarakhand, have been filed. All the States and the Union Territories have taken necessary steps to ensure that no further unauthorized construction

shall take place and Court's directions are seriously and meticulously complied with.

The other part of the directions issued on 29th September, 2009, were that in respect of unauthorized construction of religious nature which has already taken place on public streets, public parks or other public places, the State Governments and the Union Territories were directed to review the same on case to case basis and take appropriate steps as expeditiously as possible. We do not find comprehensive and satisfactory affidavits as far as this direction of the order is concerned. Therefore, it has become imperative to direct all the States and the Union Territories to formulate comprehensive policy regarding the removal/ relocation/ regularisation of the unauthorized construction within six weeks' from today. The policy should clearly indicate within what period the States and the Union Territories are going to fully comply with its policy to remove/relocate/regularise the unauthorized construction.

We also direct all the States and the Union Territories to identify unauthorized construction of religious nature on public streets, public parks and public places within six weeks' from today.

We direct the Chief Secretary of the State of Uttarakhand to file an affidavit within two weeks from today. In case the affidavit is not filed, the Chief Secretary shall remain present in Court on the next date of hearing.

We also direct all the Chief Secretaries of the States and the Administrators of the Union Territories to file further comprehensive affidavits within six weeks' from today.

The special leave petition is adjourned to 6th April, 2010."

To ensure the implementation of directions issued by this Court, consensus has been arrived at Bar and in our opinion, rightly, that the implementation of the

order should be supervised by the concerned High Courts. We, consequently, remit the above matters to the respective High Courts for ensuring implementation of the orders in effective manner.

The concerned records be transmitted to the respective High Courts. The interim orders wherever passed, shall continue, until the matters are considered by the High Court. In case any clarification is required, it would be open to the parties to approach this Court.

The High Court will have the jurisdiction to proceed in the Contempt of any of the orders passed by this Court."

Counsel for the applicant further argues that following the said judgment, following Government Order dated 11th August, 2013 had been issued:-

"इस संबंध में मुझे यह कहने का निर्देश हुआ है कि मा० उच्चतम न्यायालय के आदेश दि० 18.01.2013 एवं 05.07.2013 की प्रतिलिपी समस्त जनपदस्तरीय अधिकारियों को अनुपालनार्थ तत्काल उपलब्ध कराते हुए जनपद स्तर पर उनका कड़ाई से अनुपालन सुनिश्चित करे और एक पक्ष में संलग्न प्रारूप पर शासन को अपेक्षित सूचना उपलब्ध करने का कष्ट करे।"

Counsel for the applicant argues that applicant in the present case is a Society which raises public issues of importance and have approached this Court alleging violation of the directions given by the Supreme Court. He further argues that despite the specific order of the Supreme Court followed by a Government Order dated 11th August, 2013, the respondents authorities have passed a resolution for installing statue of Maharana Pratap on the Tiraha/round about on Shamli Road in front of the Police Chowki. He thus alleges that the resolution is in the teeth of the judgment of the Supreme Court and is a clear contempt of Court and the High Court should proceed to punish the opposite party for contempt.

I am sorry that the argument of the counsel for the applicant cannot be accepted as the intent of the Supreme Court order was not to allow constructions of any statue on the public road, pavements, sideways and

other public utility place, a round about public Tiraha does not fall within any of the said and thus the contention of the counsel for the applicant alleging contempt of the Supreme Court order is not worthy of acceptance. The applicant is aggrieved, may take steps challenging the resolution passed by the Nagar Palika in accordance with law, if so advised.

The contempt application is, accordingly, dismissed.

Order Date :- 10.11.2020

S. Rahman