

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
SPECIAL CIVIL JURISDICTION
APPELLATE SIDE**

RESERVED ON: 08.04.2025

DELIVERED ON:11.04.2025

PRESENT:

THE HON'BLE MR. JUSTICE RAJIB KUMAR MITRA

CPA.N.No. 1511 OF 2017

IN

W.P. 16493 (W) OF 2004

MD. ENAT ALI

- VERSUS -

TAPAS KUMAR BISWAS & ANR.

Appearance:

Mr. Kamalesh Bhattacharya, Adv.

Md. Yusuf Ali, Adv.

..... for the Applicant/Petitioner

Mr. Rajarshi Basu, Adv.

Mr. Suvendu Sengupta , Adv.

..... for the alleged Contemnor

Reetobroto Kumar Mitra, J.:

1. The present action is one seeking enforcement of directions contained in an order passed on December 24, 2010 in WP No. 16493 (W) of 2004, by way of a Contempt Petition.
2. The facts of the case are very simple. The petitioner had instituted a Writ Petition being WP No. 16493(W) of 2004 before this Hon'ble Court seeking approval of his service as a clerk of Mazharul Ulum High Madrasah situated in the district of Malda. The petitioner was a graduate at the time of his appointment in December 1996, which he had joined on January 15, 1997. In the course of his employment, he had obtained a Master's Degree in Political Science and has been working in the capacity of a clerk for a considerable period of time, even though his appointment had not been regularised.
3. It is for the regularisation of his service that he had approached this Hon'ble Court. During the pendency of the Writ Petition, four other persons were added along with the petitioner herein as petitioners in the Writ Petition.
4. The order of 24th December 2010 records that since all petitioners had been serving the institution in question for a considerable period of time in their respective posts as teaching and non-teaching staff, the District Inspector of School, the alleged contemnor herein, should appoint all petitioners as permanent staff simply by virtue of their "long length of service". The District Inspector of School was directed to approve the appointment of all the

petitioners in their respective posts within a period of four weeks from the date of communication of the said order. The petitioners upon such approval would be entitled to receive salary and other benefits without any interruption.

5. It appears from the order that no one had appeared on behalf of the State or the District Inspector of School, the respondent No. 3 in the Writ Petition.
6. It is the non-compliance of these directions as aforesaid, contained in the order of 24th December 2010, that the present Contempt Petition was filed sometime in December 2017.
7. The Counsel for the petitioner has argued that in spite of such specific direction, the concerned District Inspector of School, the present incumbent, having been impleaded as the contemnor on 11th March 2025, did not take any steps to comply with the directions as contained in the order. Hence, there is a clear act of wilful, deliberate, and contumacious violation of the directions contained in the order of 24th December 2010. The petitioner has also urged that by a notice on 10th January 2011 as well as of 14th June 2017, the contemnor had been intimated of the order of 24th December 2010 and that the contemnor was required to act on the basis of such notice.
8. Ld. Counsel for the respondent/alleged contemnor has urged that though the order was made on 24th December 2010, such intimation was never made at all to the concerned respondent/contemnor. Thus, the present action is clearly

barred by the provisions of the Contempt of Courts Act 1971 as contained in Section 20. It has also been argued by the counsel for the respondent that the notices of 10th January 2011 and 14th January 2017 were never served on the respondent/contemnor. He also pointed out that both aforesaid notices had no postal receipts or acknowledgement card. Thus, it cannot be conclusively held that the petitioner had indeed effected service of the order on the alleged contemnor by these two notices.

9. The petitioner has relied on a decision of the Hon'ble Supreme Court of India reported in 2013 (11) SCC 618 to urge that long periods of delay, 10 years in the said case, were condoned as it was construed that in civil execution, the period of limitation would have been 12 years. However, in the said case, the initiation had been within the time prescribed under the Act and the time consumed was due to the pendency of the matter before various forums as well as before the Courts. There is no such leverage in the present matter. The respondent has relied upon a recent decision of the Hon'ble Supreme Court of India *S. Tirupathi Rao v. M. Lingamaiah and Ors.* reported on **22nd July 2024**. The Supreme Court in this case has clearly held that an action should be brought within a year and not beyond, irrespective of when the proceedings to punish for an act of contempt are actually initiated by the Court.
10. Thus, two issues are required to be answered in the facts of the case:

- (i) Whether the alleged contemnor has wilfully and deliberately violated the direction in the order of 24th December, 2010?
- (ii) Whether this petition for contempt is barred under Section 20 of the Contempt of Courts Act, 1971?

11. Insofar as the notices of 10th January 2011 and 14th June 2017 are concerned, it has been admitted in the petition that no postal receipt or acknowledgement card was available in respect of such letters/notices, alleged to have been given by the petitioners to the contemnor.

12. The provisions of the Contempt of Courts Act 1971 are absolutely clear, the time for initiation of Contempt Proceedings has been limited to a period of one year from the date on which the act of contempt is alleged to have been committed. The petitioner was unable to show or prove conclusively that he had served the order of the 24th December, 2010 on the alleged contemnor within a reasonable period of time. The admitted service was made by a letter of 24th October, 2017, after a delay of seven years from the date of the order. This notice, obviously to revive a stale claim, as the petition was filed thereafter. Thus, it cannot be held that there was any wilful, deliberate or contumacious violation of the order of 24th December, 2010. The first issue is answered in the negative.

13. The petitioner's own case is that the communication was made in January 2011. In terms of the order, the compliance had to be made within a period of four weeks from the date of communication of the said order to the alleged contemnor. The petitioner has pleaded and argued that such communication was made on 10th January 2011. Four weeks therefrom would take the date of compliance to 9th February 2011. Thus, the non-compliance, if at all, has occurred on 10th February 2011. In consonance with Section 20 of the Contempt of Courts Act, 1971, the time to institute the action for contempt, being a period of one year, would therefore come to an end on 10th February 2012. Admittedly, the petition was not filed by such time.
14. The Contempt Petition was filed on 13th December 2017. Clearly, the Contempt Petition is barred by limitation as prescribed in Section 20 of the Contempt of Courts Act 1971.
15. The dictum of the Hon'ble Apex Court in *S. Tirupathi Rao (supra)* expounds the law with absolute clarity, which is applicable to the instant case. The facts of the case reported in 2013 (11) SCC 618 are substantially different from the facts in the present case and cannot be made applicable hereto.
16. Reverting to the point of limitation, even in a case of a petition disclosing facts constituting contempt, which is civil in nature, the petitioner cannot choose a time convenient for him to approach the Court. The statute has specifically provided a time frame from the date of the alleged act of contempt for

proceedings to be initiated. In the present case, there is absolutely no doubt that the petitioner had slept over his rights and had not acted diligently and had never taken any steps for enforcement of the order of 24th December 2010.

17. The petition is bereft of any explanation as to the delay caused in intimating the District Inspector of School, not only of the order of 24th December 2010 but also any request or demand for implementation of the direction contained in the order.
18. This is clearly an attempt to revive a stale claim under the camouflage of the contempt petition.
19. The contempt being an action in personam against the acts of commission and/or omission of a particular person, the efficacy of such proceedings is lost with the passage of time, as in the instant case.
20. The action for contempt has been brought at a much belated stage, after a lapse of 7 years from the date of the order, and any attempt to resurrect the direction would not only be an empty formality. Such resurrection would also not militate against the legislative intent of Section 20 of the Contempt of Courts Act 1971, rendering the same a dead provision, causing further damage to the majesty of the Court, which could be irreparable.



21. Further, there is no act of commission or omission of the alleged contemnor that would prove that he has deliberately violated the order.
22. In view of the foregoing reasons both issues are answered in the negative. I hold that the action is barred under Section 20 of the Contempt of Courts Act, 1971 and that there was no wilful or deliberate violation or non compliance of the order of this Hon'ble Court, passed on 24th December, 2010.
23. In view thereof, the Contempt Petition being C.P.A.N. No. 1511 of 2017 is dismissed.
24. There shall be no order as to costs.
25. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Reetobroto Kumar Mitra, J.)