

WP(C) 100/2000
BEFORE
THE HON'BLE MR. JUSTICE A. H. SAIKIA

(1) Heard Mr. B. Habung, learned counsel for the petitioner and also heard Mr. R. H. Nabam, learned State counsel appearing on behalf of the State respondents .

(2) This is an exemplary case of State respondents' callous disregard for Court's order pertaining to filing of counter affidavit despite intermittent grant of time.

(3) This Court at the time of admission by issuing Rule vide order dated 31/8/2000, granted interim relief to the petitioner as follows:

\these two petitioners shall be allowed to serve under the respondents as work-charged employees and they shall be taken back in service within a period of one week from the date of receipt of this order and that, they shall be treated equally with those work-charge employees who are similarly situated with the present writ petitioners. \

(4) In the same order, this Court also directed that a copy of the said order be supplied/communicated to the learned state counsel by this Registry so as to enable him to highlight the matter before the appropriate authority for doing the needful in the matter as indicated above, ordering the matter to be listed after one month for further orders.

(5) Thereafter on several occasions, this court by orders dated 9. 1. 2001, 8. 2. 2001, 16. 5. 2001, 25. 6. 2001 and 6. 8. 2001 granted time to the state respondents to file counter affidavit on request of the learned State counsel. On 18. 9. 2001 again on the prayer of learned state counsel, one month time was granted to file affidavit-in-opposition as a last chance.

(6) Shockingly despite the said order of 18. 9. 2001, again on 18. 10. 2001, Mr. R. H. Nabam, learned Addl. Senior Govt. Advocate, Arunachal Pradesh prays for one week's time to file counter affidavit on the simple ground that \counter affidavit on behalf of the State respondents is being prepared and will be filed shortly\ and the prayer was allowed accordingly.

(7) Despite the granting of time abovementioned, no affidavit-in-opposition could not be filed for which on 21. 1. 2002 this Court was again requested to grant 3 (three) weeks time to the state respondents to file affidavit on the prayer of Mr. R. H. Nabam, learned Addl. Senior govt. Advocate.

(8) Situated thus, today also when the matter is called on for consideration, Mr. R. H. Nabam, learned State counsel has again made prayer for adjournment stating that counter affidavit is almost ready awaiting to be sworn by officer concerned. On 18. 10. 2001 also, as noticed above, almost on similar ground adjournment was obtained from this Court. How much time does the Govt. require to swear this affidavit, if so already prepared ?

(9) Enough is enough. After going through the above orders, I feel that if again further time is granted to the State respondents on mere asking, it would greatly prejudice the petitioner. It is the duty of the Court to see that an Act of the court should prejudice no person. Remedy against injustice must be on the principle \actus curiae neminem gravabit\. It is really disgusting and disgracing to note state respondents' apathy in not taking the matter seriously for filing the affidavit pursuant to this Court's orders. It has become a routine feature to take adjournment on the behalf of the State respondents on the ground of fili

ng affidavit-in-opposition and after obtaining time to sleep over the matter month and month without taking any steps in this regard. The Court does appreciate the difficulty faced by the Govt. litigant. An affidavit-in-opposition of the State, in order to reach this Court, has to pass through various stages from table to table in file pushing, keeping in mind those circumstances, the Court, taking lenient view does permit reasonable time for filing the response on the prayer of the learned state counsel. But this permission of the court must not be misconstrued as a liberty to file: the counter at the whims and fancies of the State respondents. Obviously, non-submission of Govt's. response generally causes much impediment to the speedy disposal of cases affecting the justice delivery system. Endeavour needs be made to break the ice. Accordingly I am totally disinclined to grant any further time to the state respondents as prayed for.

(10) I have perused the materials available in records including the averments made in this writ petition. Since no counter affidavit is forthcoming on behalf of the State respondents, in view of the settled law, it is presumed that the state respondents have accepted the statements made in this writ petition.

(11) Another surprising feature in the instant case is that notwithstanding the interim order granted on 31. 8. 2000, State respondents have yet to come up with any application for cancellation/modification/ alteration and vacation of the said interim order. At least the records do not reveal filing of any such application. The learned state counsel is also not able to say about the present position relating to the implementation of the interim order.

(12) That being the position, on overall consideration of the facts and circumstances of the case and upon hearing the learned counsel for the parties, I am of the considered view that since the interim order dated 31. 8. 2000 has already taken care of the petitioner's grievances, the ends of justice will be satisfied, if interim order was passed on 31. 8. 2000 is made absolute. Accordingly, I hereby confirm the interim order passed on 31. 8. 2000 as indicated hereinabove.

(13) Consequently, this writ petition is allowed and since this writ petition is disposed of in presence of the learned State counsel, the state respondents are directed to comply with the order dated 31/8/2000 forthwith.

(14) Considering the factual position of the present case, I am of the view that it is a fit case for slapping exemplary costs, however, on request of Mr. Nabam, the learned State counsel, I refrain myself from imposing any such costs.