

THE HIGH COURT OF MEGHALAYA
AT SHILLONG.

CONT.CAS (C) No. 19/2014
In WP(C) 226/2014

Shri. Ashish Kumar Das,
S/o (L) D.K.Das
R/o NEHU Campus, Umshing,
Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

Shri. L. Cajee,
Registrar,
North Eastern Hills University,
Umshing,
Mawlai,
East Khasi Hills District,
Meghalaya.

:::: Respondent.

BEFORE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

For the Petitioner : Ms. R. Dutta, Adv

For the Respondents : Mr. S. Sen, Adv.

Date of hearing : **18.11.2014**

Date of Judgment & Order : **18.11.2014**

JUDGMENT AND ORDER (ORAL)

This contempt petition is filed alleging that the respondents No. 2 – 4 had willfully and deliberately disobeyed the directions of this court in the judgment and order dated 30.06.2014 passed in WP(C) No. 266/2014. The directions of this court in the said judgment and order dated 30.06.2014 read as follows:

“5. In the given case, this Court is of the considered view that the present writ petition can be disposed of with the following directions:-

(i) The respondents No.2-4 are directed to furnish the copies of the documents mentioned in the said representation dated

13.06.2014 i.e. viz, 1. Copy of the complaint filed against me. 2. Copies of all the documents and evidences submitted by the complainant along with the complaint. 3. Names and addresses of all the witnesses submitted by the complainant along with the complaint. 4. Copies of the statements of all the witnesses, along with their names and addresses, examined by the Women's Cell during its investigation into the present case. 5. Copies of all the documents and evidences received or collected by the Women's Cell during its investigation into the present case. 6. Copy of the report containing the findings of the investigation into the present case conducted by the Women's Cell. 7. Copy of the recommendation made by the Women's Cell to the NEHU Authorities in connection with the present case. 8. Copies of all the enclosures submitted by the Women's Cell along with its report and recommendation to the NEHU Authorities in connection with the present case. 9. Copies of all other documents, evidences and statements of persons upon which the recommendation or the report of the Women's Cell in connection with the present case relied to the writ petitioner within a period of 6(six) days from today;

(ii) The writ petitioner shall be allowed to submit his Show Cause Explanation after receiving the copies of the said documents mentioned in the direction No.(i) within a period of 7(seven) days from the date of receipt of the said documents;

(iii) After receiving the Show Cause Explanation, the University has to decide, if the inquiry is required or not, within a period of one week from the date of receipt of the Show Cause Explanation;

(iv) If the inquiry is required to be initiated, Article of charge, statement of imputation and document in support of Article of charge should be furnished to the writ petitioner within a period of one week from the date of receipt of the Show Cause Explanation and;

(v) The departmental inquiry, if initiated, against the writ petitioner it should be in compliance with the principles of natural justice and it should be completed within a period of three months from the date of initiation of the departmental inquiry.”

2. Mr. S.Sen, learned counsel appearing for the respondents contended that the said directions of this court in the judgment and order dated 30.06.2014 had been fully complied with by the respondents. The respondents also filed affidavit-in-opposition in the present contempt petition. Paras 5 and 6 of the affidavit-in-opposition filed by respondents read as follows:

“5. That with regard to the statement made in Paragraph 4, of the contempt petition, the Deponent states that in pursuant to the direction of the Hon’ble Court as contained in the Judgment and Order dated 30-06-2014 the petitioner filed his show cause explanation on 10-07-2014 and the University after due consideration of the same took the decision to initiate disciplinary proceeding against him on 18-07-2014. It may be stated that the University got only three working days for taking a decision on the show cause explanation filed by the petitioner on 10-07-2014 as 12, 13 of July 2014 were Saturday and Sunday and again 16, 17 of July, 2014 were State holidays. Article of charges etc. were furnished to the petitioner vide memo dated 23-07-2014 immediately after decision of the University to initiate disciplinary proceeding against him as communicated vide Order 18-07-2014. The fresh decision to initiate the disciplinary proceeding against the petitioner had been taken after careful consideration of the show cause explanation dated 10-07-2014 submitted by him as per the direction of this Hon’ble Court as contained in paragraph 5 (III) and (IV) of the Judgment and Order dated 30.06.2014. Therefore, in the fact and circumstances the question of furnishing the article of charges etc. to the petitioner even before taking a decision as to whether a disciplinary proceeding was to be initiated against him was practically and legally not possible. The article of charges, statement of imputation and document in support of article of charges as required to be furnished to the delinquent only after a decision of the disciplinary authority to initiate disciplinary proceeding and not before that. In the instant case, the University took a decision to initiate a disciplinary proceeding against the petitioner and the same was communicated to him vide Order date 18-07-2014 and thereafter, well within 5 days article of charges etc. had been furnished to the petitioner by memo dated 23-07-2014. The rational interpretation of the direction of this Hon’ble Court contained in the Judgment dated 30-06-2014 is that article of charges, etc. were to be furnished to the petitioner within 7 days after the decision of the University to initiate disciplinary proceeding against him taken on the consideration of the Show Cause explanation filed by the petitioner. In the present case the article of charges, etc. had been furnished to the petitioner well within time after the decision of the University to initiate disciplinary proceeding against him.

6. That with regard to the statements made in paragraph 5, of the contempt petition, the deponent specifically deny that the memo dated 23-07-2014 issued to the petitioner was not inconsonance with the direction laid down by this Hon’ble Court in paragraph 5 (I) of the Judgment and Order dated 30-06-2014. As stated earlier, pursuant to the direction of this Hon’ble Court as contained in the Judgment and Order dated 30-06-2014 all the available documents had been furnished to him and the receipt of the same was duly acknowledged. It may stated that during the preliminary inquiry conducted by the Women’s Cell statement of witnesses were never recorded and such document being not available could not be furnished to the petitioner. The fact that statement of witnesses were not recorded was admitted by the petitioner in his show cause

explanation dated 10-07-2014, which had been submitted to the University in pursuant to the direction of this Hon'ble Court as contained in the Judgment and Order dated 30-06-2014 at paragraph E4 of the show cause explanation dated 10-07-2014, the petitioner had categorically stated that during his appearances before the Women's Cell his oral statement was not recorded and further that statement of the complainant Miss Oliman was not recorded. Therefore the contention of the petitioner that statement of witnesses were not furnished to him is totally misconceived and has been made with the sole intention to mislead this Hon'ble Court. In the fact and circumstance there is no willful violation or any disobedience shown to the Judgment and Order dated 30-06-2014 passed by this Hon'ble Court."

3. On perusal of the contempt petition as well as the directions of this Court in the judgment and order dated 30-06-2014 passed in WP(C) No. 266/2014 and also the affidavit-in-opposition filed by the respondents, it appears that the said directions of this Court had already been complied with and also fresh departmental inquiry for article of charges against the petitioner had already been initiated. Mr. S.Sen, learned counsel for the respondents made an assurance before this court, as directed, by this Court in the judgment and order dated 30.06.2014 passed in WP(C) No. 266/2014, the said departmental inquiry against the petitioner shall be in compliance with the principles of natural justice. It is made clear that if the petitioner is aggrieved either by the mode of the proceedings of the departmental inquiry or by the report of the said departmental inquiry against him, he may seek appropriate remedy in the appropriate forum.

4. With the above observations, this contempt petition is closed.

JUDGE

Sylvana