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INDIAN AIRPORTS EMPLOYEES UNION

v.

RANJAN CHATERJEE AND ANR.

FEBRUARY 2, 1991

B

[M. JAGANNADHA RAO AND D.P. WADHWA, JJ.]

Contempt of Courts Act, 1971 : Section 2(b).

C

Civil contempt—Wilful disobedience—Disobedience of order of court—Supreme Court directed regularisation of workmen upon abolition of contract labour system—However, certain workmen were not regularised on the ground that the said direction did not apply to these workmen—Held, in order to amount to "civil contempt" disobedience must be "wilful"—If disobedience is based on interpretation of court's order, notification and other relevant documents it does not amount to wilful disobedience—Further, the question of regularisation has to be decided in appropriate proceedings—Contract Labour (Regulation and Abolition) Act, 1970, S.10—Labour Law.

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Words and Phrases :

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"Civil contempt" and "Wilful disobedience"—Meaning of—In the context of S.2(b) of the Contempt of Court Act, 1971.

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In an earlier case this Court had given direction for regularisation of sweepers working at International Airport, National Airport Cargo Complex and Import Warehouse consequent upon the abolition of the contract labour system. However, six workmen, represented by the appellant-Union, who were said to be working as sweepers in the Car Parking area of the International Airport at the time the notification abolishing contract labour came into effect were not regularised by the respondents. Hence, the appellant-Union had filed the present contempt petition.

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On behalf of the respondents it was contended that there was no specific directions in the judgment of this Court for absorption of these sweepers working in the Car Parking area; that even assuming that they were included in the category of sweepers working at the 'International airport', inasmuch as they were not employed for the purpose of cleaning, dusting and watching the buildings, as mentioned in the notification

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abolishing contract labour, they were not covered by the judgment; that the case of these sweepers was not even referred to the Advisory Board under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970, and that it was highly doubtful if they were covered by the notification.

Dismissing the petition, this Court

HELD : 1. It is well settled that disobedience of orders of Court, in order to amount to 'civil contempt' under Section 2(b) of the Contempt of Courts Act, 1971 must be 'wilful' and proof of mere disobedience is not sufficient. Where there is no deliberate flouting of the orders of the court but a mere misinterpretation of the executive instructions, it would not be a case of Civil Contempt. [329-G-H]

S.S. Roy v. State of Orissa, AIR (1960) SC 190 and *Ashok Kumar Singh v. State of Bihar*, AIR (1992) SC 407, relied on.

Air India Statutory Corporation v. United Labour Union, [1996] 9 SCALE 70 and *Masih Charan v. Union of India*, W.P. (Civil) No. 219 of 1993 dated 10.3.1997, referred to.

2. The rival contentions raised in the present case involve an interpretation of the order of this Court, the notification and other relevant documents. In this contempt case whether the interpretation put forward by the respondents or the petitioners is correct is not being decided. That question has to be decided in appropriate proceedings. For the purpose of this contempt case, it is sufficient to say that the non-absorption of the six sweepers was bonafide and was based on an interpretation of the said orders notification etc. and cannot be said to amount to 'wilful disobedience' of the orders of this Court. [330-H; 331-A]

3. No opinion is expressed on the right of the petitioners to seek regularisation. It is open to the petitioners to resort to appropriate remedies in accordance with law. [331-B]

CIVIL APPELLATE JURISDICTION : Contempt Petition Nos. 301-303 of 1998.

In

Civil Appeal Nos. 2987-2989 of 1997.

- A From the Judgment and Order dated 27.3.96 of the Bombay High Court in W.P. Nos. 1494/89, 2362/90 and 504 of 1991.

Ms. Indira Jaisingh, Ms. Anita Shenoy, Sanjay Ghose, A.K. Misra, Sanjay Parikh for the Petitioner/Appellant.

- B R. Sundaravardan, R.N. Keshwani, Chadra Kanta Nayak and Ram Lal Roy for the Respondent/Contemners.

The Judgment of the Court was delivered by

- C M. JAGANNADHA RAO, J. A Bench of this Court of which one of us (Justice D.P.Wadhwa) was a member disposed of a batch of Civil Appeals on 11.4.1997 giving various directions. The said Appeals were filed against the judgment of the Bombay High Court dated 27.3.1996 in W.P.Nos. 1494/89, 2362/90 and 504/1991. In the matters now before us relating to contempt of Court, we are concerned only with W.P. No.2362 of D 1990.

- E The workmen who were concerned with the said Civil Appeal arising out of W.P. No.2362 of 1990 and who filed the said writ petition were represented by the International Airport Authority Employees Union. As the writ petition was dismissed, the said Union filed the Civil Appeal. This Court allowed the Civil Appeals on 11.4.1997 following the judgment in *AIR INDIA Statutory Corporation Etc. v. United Labour Union & Others*, [1996] 9 SCALE 70 and held that "consequent upon the abolition of the contract labour system with effect from 9.12.1976, the appellants were entitled, in the light of the above judgment in *AIR INDIA* case, to be regularised w.e.f. the date of judgment of the High Court (i.e. 27.3.1996) as held in *Masih Charan & Others v. Union of India & Others* in Writ Petition (Civil) No.219 of 1993 dated 10.3.1997."

- G In the cases argued before us, arguments were confined to 6 workmen, Elizabeth D'Souza, Nagubai Kurade, Shoba Babu Gurav, Laxmi Babu Mirikar, Dwarkabai Arke and Vishravathi Waghmare, who were said to be working as sweepers in the Car Parking area of the Bombay International Airport at the time the notification abolishing contract labour came into effect on 9.12.1976. They claim that inasmuch as the benefit given to them by the Supreme Court in its judgment above-mentioned, has not H been granted, the respondents have committed Civil Contempt.

According to the learned senior counsel for the petitioners, Ms. Indira Jaising, the respondents were obliged to regularise the services of these six sweepers by way of absorbing them as employees of the Corporation and as the same was not done, there is clear contempt of the orders of this Court dated 11.4.1997 in the Civil Appeal. It was pointed out that the names of these six employees were shown in the annexure to the writ petition No.2362 of 1990 filed in the High Court. There was no reason as to why these six sweepers were not regularised.

On the other hand, according to the learned senior counsel for the respondents Sri. R.Sundaravardan, the matter turns upon an interpretation of the notification of the Central Government dated 9.12.1976, as to whether these six sweepers can be said to be among those "sweeping, cleaning, dusting and watching the buildings owned or occupied by establishment" and also on the interpretation of the judgment in the Civil Appeals dated 11.4.1997. It is argued that these six employees, if they were engaged by a licensee of the respondent, employed in connection with "Management of Car Parks" then these sweepers would not come within the purview of the notification nor within the scope of the judgment of this Court. Any bonafide action on the part of the respondents based on an interpretation of the notification and judgment of this Court, it is argued, will not amount to breach of the orders of this Court. It is also stated that if, indeed, this Court declares in appropriate proceedings that these six sweepers are also to be absorbed and regularised, the respondents have no objection to do so.

The point for consideration is: whether the respondents can be said to have committed contempt of the orders of this Court in Civil Appeal Nos. 2987-89 of 1997 dated 11.4.1997?

It is well settled that disobedience of orders of Court, in order to amount to 'Civil Contempt' under section 2(b) of the Contempt of Courts' Act, 1971 must be 'wilful' and proof of mere disobedience is not sufficient. *S.S.Roy v. State of Orissa & Others*, AIR (1960) SC 190. Where there is no deliberate flouting of the orders of the Court but a mere misinterpretation of the executive instructions, it would not be a case of Civil Contempt. *Ashok Kumar Singh & Others v. State of Bihar & Others*, AIR (1992) SC 407.

A In this contempt case, we do not propose to decide whether these six sweepers do fall within the scope of the notification dated 9.12.1976 or the judgment of this Court dated 11.4.1997. That is a question to be decided in appropriate proceedings.

B It is true that these six sweepers' names are shown in the annexure to the W.P. No.2362 of 1990 in the High Court. But, the question is whether there is wilful disobedience to the orders of this Court. In the counter affidavit of the respondents, it is stated that there is no specific direction in the judgment of this Court for absorption of these sweepers, if any, working in the Car Park area, and that the directions given in the judgment
C were in relation to the sweeper working at the 'International Airport, National Airport Cargo Complex and Import Warehouse'. It is stated that the cleaners employed by the licensee in charge of Maintenance of the Car Park area do not, on a proper interpretation of the order, come within the sweep of these directions. It is contended that even assuming that they were
D included in the category of sweepers working at the 'International Airport', inasmuch as they were not employed for the purpose of cleaning, dusting and watching the buildings, as mentioned in the notification abolishing contract labour, they were not covered by the judgment. It is also contended that the case of such sweepers at the Car Park area was not even referred to the Advisory Board under section 10 of the Contract Labour
E (Prohibition) Act and it was highly doubtful if they were covered by the notification.

On the otherhand, learned senior counsel for the petitioners contended that, going by the map of the Airport, it was clear that these
F sweepers at the Car Park area were clearly covered by the notification and the judgment. The fact that the names of these six employees were shown in the annexures to the writ petition was proof that they were covered by the judgment. The licensee is in the position of a contractor.

G In our view, these rival contentions involve an interpretation of the order of this Court, the notification and other relevant documents. We are not deciding in this contempt case whether the interpretation put forward by the respondents or the petitioners is correct. That question has to be decided in appropriate proceedings. For the purpose of this contempt case, it is sufficient to say that the non-absorption of these six sweepers was
H bonafide and was based on an interpretation of the above orders and

notification etc. and cannot be said to amount to 'wilful disobedience' of the orders of this Court. A

The contempt case is dismissed without costs and without expressing any opinion on the right of the petitioners to seek regularisation. It is open to the petitioners to resort to appropriate remedies in accordance with law.

V.S.S.

Petition dismissed.

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