

**Court No. - 10**

**Case :-** CONTEMPT APPLICATION (CIVIL) No. - 300 of 2022

**Applicant :-** Rakesh Devi @ Rakesh Kumari

**Opposite Party :-** Satish Kumar, District Basic Education Officer

**Counsel for Applicant :-** Kamal Kumar Kesharwani

**Hon'ble Rohit Ranjan Agarwal,J.**

1. Sri Virender Sharma, Block Education Officer, Fatehabad, District- Agra is present in the Court who is identified by Dr. D.K. Tiwari, learned counsel appearing for opposite party no. 2.

2. An exemption application along with an affidavit has been filed today which is taken on record.

3. This is a case where the writ Court on 23.07.2021 while disposing of Writ-A No. 7448 of 2021, relying upon the decision in case of **Usha Rani vs. State of U.P. and others, Writ-A No. 17399 of 2019**, decided on 12.12.2019 had directed the opposite party to pay the gratuity amount to the applicant.

4. The State, not only in the case of applicant, is withholding the payment of gratuity but in number of cases, the gratuity was not paid to the retired teachers. The matter travelled up to Hon'ble Supreme Court by way of special leave petition filed by State of U.P. The special leave petition filed by the State was dismissed on 29.04.2022 wherein the Court directed the State authorities to release the gratuity amount along with interest as awarded by the writ Court. The Court further observed that in case the amount was not released within four weeks, it would further carry interest at the rate of 18% p.a.

5. Today, when the case was taken up, learned counsel appearing for the opposite party submitted that opposite party no. 2 has been given the charge of District Basic Education

Officer and he does not have the financial power for disbursement of the amount as directed by this Court. Annexure-1 is the correspondence brought on record, which is dated 09.05.2022, addressed by officer concerned to Chief Development Officer/ District Magistrate, Agra wherein it is requested by the officer to grant financial and administrative power of District Basic Education Officer. He further contends that the order of writ Court shall be complied with by opposite party within 15 days from today.

6. This Court finds that there are efflux of contempt petitions arising out of various orders passed by writ Court wherein relying upon decision of **Usha Rani** (supra), payment for gratuity has been directed, but the State educational authorities are withholding the same.

7. This Court finds that State had filed special leave petition in the month of August, 2021 and the same was dismissed by Apex Court on 29.04.2022 but during this period neither any amount of gratuity was disbursed by the educational authorities nor any step was taken to comply the order of writ Court.

8. Due to non-compliance of the order, number of contempt petitions have been preferred before this Court by the applicants and, on daily basis number of District Basic Education Officers along with Finance and Account Officers attached to the office of District Basic Education Officer are summoned in the Court for the payment and release of the gratuity amount as has been upheld by the Apex Court.

9. This Court finds that this exercise is hampering the work of these officers at the district level as well as huge expenditure is being incurred on the State exchequer and tax payers' money is going down the drain.

10. This Court further finds that it is due to the inefficient

working of the officers of the State education department that Government is bearing such huge expenditure which needs to be checked at this stage.

11. Moreover, the Court finds that not only the officers of the education department of the State Government are reluctant in complying the order of writ Court, the law officers attached with this Court appear to be not serious in conveying the orders of writ Court to the officers concerned.

12. It has become a routine practice that after the decision of writ Court, it takes months for legal departments to convey the decision/outcome to the higher authorities for granting permission for filing special appeal or special leave petition before the Hon'ble Apex Court.

13. It is during this period that contempt proceedings are launched which are leading to rise of litigation.

14. In this modern digital world where everything is available on the digital platform, the officers of the State Government as well as the officers of the State law departments are working on old method of sending the files seeking permission. Now the world is changing and everything is on digital platform and the information should also be sent immediately informing the authorities whether to take action in the matter by way of filing appeal against the order of writ Court or not. Once the decision is taken of not challenging the order of writ Court, the order should be complied with by authorities immediately.

15. It has been brought to the notice of the Court that after the decision is rendered by writ Court, the permission of Legal Remembrancer (L.R.) is sought for filing of appeal before the higher Court. This takes months at the office of L.R. and only after the permission is granted, higher forum is approached by the State authorities, leading to the appeals being filed with

delay. In the meantime, the order of writ Court is put to execution through contempt proceedings. The ground taken by the State in the contempt proceedings is of the pendency of appeal against the order of writ Court. The appeals are filed with inordinate delay due to permission being granted with great delay by office of Legal Remembrancer. In most of the matters, appeals filed by the State or the State authorities are dismissed on the ground of delay, and the issues raised in the appeal is never decided on merits.

16. The sole cause, is the delay caused in transmission of the information regarding decision of the case by the law officers of the State to the authorities, who in turn seek permission from the Legal Remembrancer, which results in the loss to the State on account of approaching the higher forum at a very belated stage.

17. This Court is pained to take note of the fact that in recent time there is surge in filing of contempt petitions, and on a daily basis about 20-25 officers of the State Government, who are required to perform their duties at the District or State headquarters are present in the Court due to non-compliance of the orders.

18. This speaks about the incompetence and indecisiveness of the officers of the State Government. These officers are required at their place to perform public duty and in rare cases, their presence is necessary in the Court, but as the orders are not being complied with, the Court is left with no option but to summon them.

19. This Court directs the Chief Secretary, Government of U.P. to initiate action and draw up a comprehensive plan, as regards the implementation of the orders passed by this Court and a mechanism should be brought in place, so that quick decision is

taken upon receiving of the information about the judgment rendered in a particular case, and whether the State will contest it before higher forum or not. In case no appeal is preferred order should be complied with. Further, a mechanism should be developed for sending the information by the officers of the law department posted at High Court to the office of Legal Remembrancer as well as the concerned department through e-mail within 24 hours of the decision. The concerned department should thereafter take opinion of the Legal Remembrancer within the shortest possible time and all efforts should be made by Legal Remembrancer and his office to give his opinion through e-mail to the concerned department within three days, so that the State or its department may approach the higher forum by way of appeal within the period of limitation. This will prevent dismissal of the appeals of the State on the ground of delay and many important matters will be dealt with by the appellate forum which will be in the interest of the State and its people.

20. It is a common feature that matters are dragged on for years only on the ground of lack of information, which can be curtailed by using digital platform and requiring these officers of the State Government while dealing with State law department to interact through e-mail which will shorten the delay and will not lead to rise in unnecessary litigation. The Court feels that huge amount of tax payers' money is being wasted because of delay being caused by the officers of the State Government and the legal department. This also brings in bad name to the Government.

21. The Chief Secretary, Government of U.P. is requested to call for a report especially from the education department of the State as to why such huge number of litigation is pending in this Court and the orders are not being complied by subordinate

officers. In case, it is found that these officers are incompetent or inefficient in performing their duties, they should be placed on the desk with least amount of work and more efficient and competent officers should head the desk where the work is of great importance and needs faster decision.

22. The Registrar (Compliance) shall convey the order of this Court to the Chief Secretary, Government of U.P. for taking necessary action in the matter within 72 hours from today.

23. The Chief Secretary, Government of U.P. shall submit his report within next one month through Registrar (Compliance).

24. List this matter in the second week of July, 2022.

**Order Date :- 18.5.2022**

V.S.Singh