

Vinay Kumar Pandey vs Committee Of Management Shri Gandhi ... on 8 December, 2020

Bench: Uday Umesh Lalit, Vineet Saran, S. Ravindra Bhat

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.4007-4008 OF 2020
(Arising out of SLP (C) Nos.14995-14996 OF 2020
Arising out of Diary No.14268 of 2020)

VINAY KUMAR PANDEY

VERSUS

COMMITTEE OF MANAGEMENT
SHRI GANDHI INTER COLLEGE & ANR.

ORDER

Delay condoned.

Leave granted.

These appeals challenge (i) the judgment and order dated 10.12.2019 passed by the High Court¹ in Contempt Application (Civil) No.5875 of 2019 and

(ii) the judgment and order dated 14.02.2020 passed by the High Court in Contempt Appeal No.1 of 2020.

The instant proceedings arose out of an ad-interim order dated 15.07.2019 passed by the Single Judge of the High Court in Writ Application No.10128 of 2019. While issuing notice in the matter, it was directed: -

“Till the next date of listing, the operation of the order Mukesh Nasa Date: 2020.12.12 12:55:07 IST Reason:

of the Director dated 3.6.2019 shall remain stayed. However, any appointment that may be made, shall be 1 The High Court of Judicature at Allahabad subject to final

decision in this writ petition.” It must be stated that Special Appeal No.899 of 2019 preferred by the appellant against similar orders passed in connected matters came up for consideration before the Division Bench of the High Court, in which it was directed that instead of entertaining an appeal against an interlocutory order, the State would be better advised to prefer an application for vacation of the ad-

interim order. Thereafter, alongwith counter affidavit, Civil Miscellaneous Stay Vacation Application was preferred on 14.10.2019 in Writ Application No.10128 of 2019 seeking vacation of the aforesaid order dated 15.07.2019.

It is common ground that this application seeking vacation of the ad- interim order dated 15.07.2019 is still pending consideration before the High Court. However, without the prayer for vacation of ad-interim order being considered, the contempt proceedings at the instance of the original writ petitioner, namely Contempt Petition No.5875 of 2019, were entertained by the Single Judge of the High Court and vide order dated 10.12.2019, a charge has been framed against the alleged contemnors.

The alleged contemnors thereafter approached the Division Bench of the High Court by filing Contempt Appeal No.1 of 2020, which appeal was dismissed by the Division Bench of the High Court as not being maintainable.

Without going into the issue of maintainability of the appeal before the Division Bench of the High Court, the basic facts which emerge from the record are that the contempt alleged is of non-compliance of the order dated 15.07.2019 which itself was an ad-interim order and appropriate application seeking vacation of that order is still pending consideration before the High Court.

In the circumstances, unless and until the submission raised in that application seeking vacation is adequately addressed and rejected, no case for initiation of contempt proceedings was made out.

We, therefore, allow these appeals, set-aside the orders under appeal, and request the High Court to take up the application seeking vacation of the ad- interim order dated 15.07.2019 at the earliest.

The appeals are allowed in the aforesaid terms. No Costs.

.....J. [UDAY UMESH LALIT]J. [VINEET SARAN]
.....J. [S. RAVINDRA BHAT] NEW DELHI;

DECEMBER 08, 2020

ITEM NO.25

COURT NO.4

SECTION XI

(HEARING THROUGH VIDEO CONFERENCING) S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS SPECIAL LEAVE PETITION (CIVIL) Diary No.14268/2020 (Arising
out of impugned final judgment and order dated 10-12-2019 in CAC No.5875/2019, 14-02-2020 in

CA No.1/2020 passed by the High Court Of Judicature At Allahabad) VINAY KUMAR PANDEY Petitioner(s) VERSUS COMMITTEE OF MANAGEMENT SHRI GANDHI INTER COLLEGE & ANR. Respondent(s) (FOR ADMISSION and I.R.; IA No.68567/2020 – FOR CONDONATION OF DELAY IN FILING; IA No.68569/2020 – FOR ADDITION/DELETION/ MODIFICATION PARTIES; IA No.68568/2020 – FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; and, IA No.68565/2020 – FOR EXEMPTION FROM FILING O.T.) Date : 08-12-2020 This petition was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT HON'BLE MR. JUSTICE VINEET SARAN HON'BLE MR. JUSTICE S. RAVINDRA BHAT Counsel for the Parties:

Mr. Vimlesh Kr. Shukla, Sr. Adv.

Mr. Harish Pandey, AOR Mr. Gaurav Agarwal, Adv.

Ms. Shruti Gupta, Adv.

Mr. Abhishek Sharma, AOR UPON hearing the counsel the Court made the following
O R D E R Delay condoned.

Leave granted.

The appeals are allowed, in terms of the Signed Order. Pending applications, if any, also stand disposed of.

(MUKESH NASA)
COURT MASTER

(PRADEEP KUMAR)
BRANCH OFFICER

(Signed Order is placed on the File)