

Shivakumar vs State Of Karnataka on 3 November, 2022

Author: B.Veerappa

Bench: B.Veerappa

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 03RD DAY OF NOVEMBER, 2022

PRESENT

THE HON'BLE MR. JUSTICE B.VEERAPPA

AND

THE HON'BLE MRS. JUSTICE K.S.HEMALEKHA

C.C.C. No.765/2021 (CIVIL)

BETWEEN:

SHIVAKUMAR
S/O. LATE HANUMANTHAIAH,
AGED 57 YEARS,
HUBBALLI-DHARWAD
MAHANAGARA PALIKE (AREA)
HUBBALLI-DHARWAD DISTRICT.
PIN - 580 021.

RESIDING H.B.SHIVA KUMAR,
NO.102, SHIRU TOWER
BESIDE AKANKHA HOSPITAL,
BEHIND BHAVANI PLAZA,
BASAVA VANA NEAR OLD BUS STAND
HUBLI - 580 022.

... COMPLAINANT

(BY MS. A. MANJULA, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY PRINCIPLE SECRETARY,
DEPARTMENT OF HEARTH AND
FAMILY WELFARE SERVICE,
VIKASA SOUDHA,
DR. AMBEDKAR ROAD,
BENGALURU - 560 001.

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2. ANIL KUMAR

PRINCIPLE SECRETARY,
DEPARTMENT OF HEALTH AND
FAMILY WELFARE SERVICE
VIKASA SOUDHA,
DR. AMBEDKAR ROAD,
BENGALURU - 560 001.

3. LEELAVATHI K.
THE COMMISSIONER FOR FOOD SAFETY
AND STANDARD AUTHORITY/COMMISSIONER
FOR HEALTH AND FAMILY WELFARE SERVICES,
K.R. CIRCLE
BENGALURU - 560 001. ... ACCUSED

(BY SRI ARUN K.S., HCGP FOR A-2 AND A-3 AND PROFORMA A-1)

THIS CCC IS FILED UNDER SECTIONS 11 AND 12 OF THE
CONTEMPT OF COURT ACT, 1971, R/W ARTICLE 215 OF THE
CONSTITUTION OF INDIA, BY THE COMPLAINANT, WHEREIN HE
PRAYS THAT THE HON'BLE COURT MAY BE PLEASED TO
SUMMON THE ACCUSED HEREIN BEFORE THIS HON'BLE COURT
FOR PUNISHING THEM FOR SHOWING WILLFUL DISRESPECT
DATED 18.08.2021 IN W.P.NO.13528/2020 THIS HON'BLE
COURT PASS SUCH OTHER ORDERS OF PUNISHMENT AS DEEM
FIT.

THIS CCC COMING ON FOR ORDERS, THIS DAY,
B.VEERAPPA J., PASSED THE FOLLOWING:

ORDER

The complainant has filed the present Civil Contempt Petition against the accused to take action under the provisions of Sections 11 and 12 of the Contempt of Courts Act for willful disobedience of the interim order dated 18.08.2021 passed by the Co- Ordinate Bench of this Court in W.P. No.13528/2020, wherein the Co-Ordinate Bench while issuing notice to the respondents has stayed the operation of the order dated 24.01.2017.

2. In response to the notice, learned HCGP has filed the affidavit of the accused dated 02.02.2022, wherein at paragraph Nos.4 and 5 stated as under:

"4. I most respectfully submit that the Complainants in the present Contempt Petition are alleged dis-obedience of the aforementioned interim orders passed by this Hon'ble Court, wherein primarily the operation of the order dated 24.01.2017 is stayed. The effect of the order dated 24.01.2017 is only placing the Complainants in additional charge to the post mentioned as against their names in addition to their existing posts. Subsequent to the interim order being granted by this Hon'ble Court, all the additional charge, which was created in favour of the Complainants has now been assigned to other employees as per the order of the Government dated 13.11.2020. A copy of the Order dated 13.11.2020 is produced herewith and marked

as ANNEXURE-R1. As such, in view of the Respondents not implementing the order dated 24.01.2017, the District Surveillance Officers, who were appointed as per this Order, are no more working as Designated Officers. Hence, the interim order granted by this Hon'ble has become infructuous.

5. The Accused - Respondents are law binding & have never violated any of the order of the passed by this Hon'ble Court willfully. The Respondents have highest respect and regards for the orders passed by this Hon'ble Court. The accused have never willfully violated any of the orders passed by this Hon'ble Court. In view of the aforementioned facts and in view of the order dated 13.11.2020 passed by the State, it is now clear that the accused have not violated any of the order passed by this Hon'ble Court."

4. It is learnt that the Co-Ordinate Bench of this Court by order dated 28.02.2022 has disposed of the very W.P. No.13528/2020 with the following observations:

"15. However, this Court, by its order dated 13.07.2021, while staying the operation of the impugned notification dated 24.01.2017 had observed that the order on record though provides that the posting is being made temporarily, but the temporary phase has not ended till 2021 and that no statutory provisions of law has been pointed out by State making such postings. While taking note of framing of Recruitment Rules, 2015 by the Government, this Court made it clear that the State shall be free to fill up a post in accordance with the statutory provisions as contained under the Food, Safety and Standards Act, 2006 read with rules framed thereunder and the recruitment rules governing the field. In view of the above order, this Court hopes that the State Government would endeavour to fill up the post strictly in accordance with the act and the rules made thereunder as admittedly the appointments are only on adhoc basis.

16. Though writ petitions lack merit warranting interference with the order passed by the Tribunal, the same are disposed of with the above observations."

5. In view of the same, the complainant has not made out a complaint as alleged and accordingly, the contempt petition is hereby dropped.

Sd/-

JUDGE Sd/-

JUDGE MBM