

GAHC010025052014



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Cont.Cas(C)/293/2014

DIPAK KUMAR DEY
S/O- LT. MANINDRA CH. DEY, R/O- INSTITUTE COLONY, PANDU, P.O.-
PANDU, P.S.- JALUKBARI, GUWAHATI, DIST.- KAMRUP M, ASSAM, PIN-
781012.

VERSUS

ANKUR DUTTA
HONORARY SECRETARY, ASSAM FOOTBALL ASSOCIATION, NEHRU
STADIUM, GHY- 7, ASSAM, PN- 781007.

BEFORE
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

For the petitioner : Mr. A.K. Gupta Advocate.

For the respondent : Mr. R. De Advocate.

Dates of hearing : 04.06.2024

Date of Judgment : 13.06.2024

ORDER (CAV)

1. Heard Mr. A. K. Gupta, learned counsel for the petitioner and Mr. R. De,

learned counsel for the respondent.

2. This contempt petition has been filed for non-compliance with the orders dated 28.05.2014 and 02.06.2014 passed in WP(C) 2653/2014.

3. The gist of the case is that the petitioner, who was a former National Level Football Referee, aspired to be selected for the Referee Educator Course, as per the circular dated 12.03.2014 issued by the All India Football Federation. The petitioner applied for participating in the Referee Educator Course, vide application dated 25.03.2014. The said application was to be routed through the Assam Football Association (in short, 'AFA') to the All India Football Federation (in short, 'AIFF'). As the petitioner's application was not being sent by the AFA to the AIFF, the petitioner filed WP(C) 2653/2014 and this Court passed an interim order dated 28.05.2014, directing the AFA to immediately forward the petitioner's application to the AIFF for necessary action, as the Referee Educator Course was scheduled to commence on 05.06.2014.

4. The petitioner's application was not being forwarded by the AFA to the AIFF, on the ground that there were defects in the petitioner's application. Thereafter, this Court passed another order dated 02.06.2014, stating that even if the petitioner's application was assumed to be defective, an interim order having been passed by this Court earlier, the AFA was to ensure that the petitioner's application and their report should reach the AIFF in due time.

5. The petitioner's counsel submits that the orders dated 28.05.2014 and 02.06.2014 has not been complied with by the respondent, inasmuch as, the

petitioner's application has not been forwarded to the AIFF. Only the letter dated 03.06.2014 issued by the respondent, which is to the effect that the petitioner did not have the requisite criteria for participating in the Referee Educator Course, was forwarded to the AIFF for consideration.

6. In support of his contention that the respondent did not comply with the orders of the Court, the petitioner has relied upon the observation made by the AIFF authority in the petitioner's letter dated 05.06.2014, which is to the effect that the petitioner had reported at Cuttack on 05.06.2014 at 6 AM and had returned back, as HoR, AIFF had not received any documents from the AFA in support of eligibility of the petitioner to participate in the Referee Educator Course. The petitioner's counsel also relied upon the DTDC courier receipt, bearing No. K71921579, the tracking report of the said DTDC and the letter dated 01.07.2014 issued by the AIFF to show that the petitioner's application had not reached the AIFF.

7. The petitioner's counsel thus submits that as there has been blatant violation of the interim orders of this Court, the respondent should be penalized under the Contempt of Courts Act.

8. Mr. R. De, learned counsel for the respondent, on the other hand, submits that the documents relied upon by the petitioner's counsel does not prove that the respondent did not send the petitioner's application to the AIFF for consideration, for participating in the Referee Educator Course. He further submits that the petitioner's application had been sent by way of the DTDC courier service on 04.06.2014, as well as by e-mail on 03.06.2014 and as such,

there was no violation of the direction passed by this Court. He further submits that the note put in the petitioner's letter by the HoR, AIFF does not show that the petitioner's application had not been sent by the AFA to the AIFF, inasmuch as, the note only states that the AIFF had not received any documents in support of his eligibility.

9. Mr. R. De, learned counsel for the respondent submits that the petitioner was 47 years at the time of filing of the contempt case and as per the FIFA Rules, the retirement age is 45 years for referees at the National level and for State level is 50 years. He also submits that the petitioner did not have the eligibility criteria for undergoing the Referee Educator Course, as a candidate was supposed to be retired and possessing a Referee Identification Number. At the time of filing of the writ petition, the petitioner was neither a retired person nor did he possess a Referee Identification Number, for which he could not have been considered for the Referee Educator Course. However the above being said, the respondent had forwarded the petitioner's application and the report in terms of the orders of this Court. He accordingly submits that the contempt petition should be closed.

10. I have heard the learned counsels for the parties.

11. The operative portion of the interim order dated 28.05.2014 passed by this Court in WP(C) No.2653/2014 is as follows :

“In the interim, since the Referee Educator Course is scheduled to commence on 5. 6.2014, the Assam Football Association (respondent No.4) is directed to immediately forward the petitioner's application to the

All India Football Federation, for necessary action.

The petitioner may furnish a certified copy of this order to enable the respondents to act on the Court's order.

12. The subsequent order dated 02.06.2014 passed by this Court in MC 1596/2014 is as follows :

“This Court passed an interim order on 28.5.2014 requiring the Assam Football Association (respondent No.4) to immediately transmit the petitioner's application to the All India Football Federation (respondent No.2) for necessary action. But Mr. R. Dey, the learned Counsel for the respondent No.4 submits that the petitioner's application is defective for 2 reasons. Be that as it may, since an interim order was passed, the respondent No.4 is required to comply with the Court's order. They should accordingly forward the petitioner's application with their comments. The respondents 4 & 5 must however make sure that their report and recommendation reaches the All India Football Federation (respondent No.2) in due time.”

13. The issue is whether the application of the petitioner for participating Referee Educator Course was forwarded to the AIFF, in terms of the orders of this Court. It is however clear that the letter dated 3.06.2014 issued by the respondent which is to the effect that the petitioner did not have the requisite criteria for participating in the Referee Educator Course was forwarded to the AIFF for consideration. In terms of the order dated 02.06.2014 passed in MC 1596/2014 the respondent was to ensure that the report and the recommendation was to reach in the AIFF in due time. The observation made by the AIFF Authority in petitioner's letter dated 05.06.2014 only states that the AIFF had not received any document from the AFA in support of the eligibility of the petitioner to participate in the Referee Educator Course. The said

observation does not prove that the petitioner's application had not been sent to the AIFF. It only states a fact regarding no document had been submitted by the AFA supporting the eligibility of the petitioner. The respondent has however taken the stand that the petitioner's application had been sent by the DTDC Courier and the DTDC Courier receipt bearing no. K71921579 was issued. The tracking details of K71921579 shows that the consignment had been booked on 04.06.2014 and the destination was reached at 06.06.2014 at 03:05 p.m. The consequent order passed by this Court had been issued on 02.06.2014 and as stated above, the booking had been done on 04.06.2014. Further, the stand of the respondent is that an e-mail along with scanned copies of all documents had been sent through e-mail on 03.06.2014 to the General Secretary of AIFF which had been duly acknowledged by the Head of the Referees Department.

14. A perusal of the letter dated 03.06.2014 which had been e-mailed on the same date shows that the respondent had stated that the petitioner was not having the required eligibility criteria laid down by the AIFF to undergo the Referee Educator Course and had submitted a Misc. Application before this Court. However, as they had received a copy of the order dated 03.06.2014 passed by this Court at 5:30 p.m., the AFA was forwarding the petitioner's application with the remarks that he should not be allowed to take part in the Course, as he did not have the eligibility for the same.

15. On considering the pleadings and various Annexures to the pleadings, this Court is of the view that it cannot be said with certainty that the respondent did not forward the petitioner's application to the AIFF. On the other hand, the respondent had taken a stand that he had complied with the orders of this

Court. There being disputed questions of fact, this Court is of the view that no definite finding can be made with respect to the disputed questions of fact, on the basis of the materials on record. Accordingly, in view of the reasons stated above, this Court is of the view that the present case should be given a quietus, inasmuch as, the requirement for coming to a finding that the respondent had wilfully and deliberately violated the orders of this Court cannot be proved with certainty.

16. The contempt petition stands closed.

JUDGE

Comparing Assistant