

SUPREME COURT OF INDIA

Samar Ghosh

Vs.

Sanat Kumar Bag

S.L.P. (C) No. 19598-19599 of 2004

(P. K. Balasubramanyan, R. C. Lahoti CJI. and G. P. Mathur JJ.)

21.09.2004

ORDER

1. Taken on board.

2. Leave granted.

3. Heard on merits.

4. These appeals by special leave put in issue orders dated 5.8.2004 and 2.9.2004 passed during contempt proceedings. The proceedings in contempt are primarily a matter between the Court and the contemnor. In the peculiar facts and circumstances of these cases, we are not inclined to issue notice to the respondents who are Fire Engine Drivers and their appearance in this Court will subject them to needless expenses and costs which is uncalled for keeping also in view the nature of order which we are passing hereby.

5. On the proceedings being initiated complaining of violation of the order dated 11.11.1998 passed by a Division Bench of the Calcutta High Court, the Court, on 5.8.2004, directed notice to issue requiring appearance of the appellants before it on 2.9.2004. On that day, the appellants wanted to argue on the maintainability of the proceedings, as submitted by the learned senior counsel for the appellants, but the Court passed the following order:

"Let the matter stand adjourned for 3 weeks.

Affidavit of compliance be filed in the meantime."

6. The insistence on affidavit of compliance being filed before the next date of hearing has pre-empted the right of the appellants to file a response and to show that there was no contempt committed and the proceedings were not maintainable.

7. In our view, insistence on affidavit of compliance being filed without affording an

opportunity to show cause against the very initiation of the proceedings cannot be countenanced.

8. For the foregoing reason, the impugned order dated 2.9.2004 is set aside. The proceedings may continue. However, before the filing of affidavit of compliance is insisted on, the High Court shall afford the appellants an opportunity of showing cause against the initiation of the proceedings and also the opportunity of explaining how the order passed by the Court of which non-compliance is alleged, has already been complied with.

9. The appeals stand disposed of in the terms above-said.