

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No – CCP – 42 of 2022 (OA-573 of 2019)

DR. ANIL KUMAR GUPTA Vs **Dr. Siddhartha Niyogi, Director of Health Services,
Government of West Bengal & Ors.**

Serial No. and Date of order For the Applicant : Mr. Anil Kumar Gupta,
(Applicant appears in person)

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22.01.2024 For the Alleged Contemnor / Opposite Party : Mr. Soumendra Narayan Ray,
Advocate

The matter is taken up by the single Bench pursuant to the order contained in the Notification No.638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

Dr. Anil Kumar Gupta, the applicant appearing in person, filed a written notes of argument. Let it be kept in record. Copy served on the other side.

On consent of the learned counsels for the parties, the case is taken up for consideration sitting singly.

In this contempt application, the applicant has alleged that the contemnor / opposite party has not complied with the directions of this Tribunal in the order dated 02.12.2021 in O.A. 573 of 2019. From the records it appears that the reasoned order was passed on 28.10.2022 in terms of the directions of this Tribunal dated 24.07.2009 in OA 521 of 2009, dated 21.06.2010 in OA 294 of 2010, dated 02.12.2021 in OA 573 of 2019, dated 02.12.2021 in OA 273 of 2019 and dated 02.12.2021 in OA 531 of 2019.

Dr. Anil Kumar Gupta points out that not only the directions were not complied in full, but even the Tribunal was not satisfied with the full compliance of the directions. Dr. Gupta refers to a particular observation of this Tribunal in order dated 30.08.2022 in C.C.P. 42 of 2022 and C.C.P. 43 of 2022. On the other hand, Mr. Soumendra Narayan Ray, learned counsel for the alleged contemnor / opposite party submits that all the directions of this Tribunal in several applications as noted above have been fully complied. He draws attention to the compliance report signed by Dr. Siddhartha Niyogi, the Director

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of Health Services and explains how the different directions have been complied with by referring to the specific relevant notings in the reasoned order. In response to the Tribunal's observation dated 30.08.2022 that the compliance report dated 28.06.2022 was not in full compliance, Mr. Ray refers to another set of documents which was filed earlier in this Tribunal. In particular, he refers to the second set of compliance report signed by the Director of Health Services on 17.10.2022 and submits that, as can be seen from this report, the directions have now been fully complied.

After hearing the submissions from both sides and taking into account the facts in this application, the Tribunal has to see and consider whether directions in four different applications have been complied by the respondent authority or not. The primary issue of compliance or non-compliance is disputed by both the sides. On one hand Dr. Gupta, the applicant, vehemently opposes acceptance of such compliance report that directions have not been complied. On the other hand, Mr. Ray, learned counsel for the respondents is of very strong opinion and submits that by passing two reasoned orders, dated 28.06.2022 and 17.10.2022, the State respondent has fully complied. It is also to be appreciated that, today in this Tribunal, instead of six members, only one-Member Bench (Administrative) has been functioning for the past one and half years which is already loaded with so many cases.

Therefore, in the opinion of this Tribunal, it would be fair and necessary that this matter be heard by a Bench comprising two Members (one Judicial and one Administrative). In view of the nature of this application and the constraints faced by this Single-Member Bench, let this matter be placed before and heard by a Bench comprising two members (Judicial and Administrative) under the heading "Hearing" on 19.09.2024.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)