

**ORDER SHEET**  
**West Bengal Administrative Tribunal**

Present.-  
The Hon'ble Mrs. Urmita Datta (Sen)  
&  
The Hon'ble Dr. A. K. Chanda

Case No. **CCP – 14 of 2018**

*Mr. Anil Verma, IAS, the Principal Secretary,  
Department of Health & Family Welfare,  
Government of West Bengal & Another.*

*Dr. Basab Bagchi*

Versus

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<u>07</u> 19/03/2018	<p><b><i>For the Applicant</i></b> : <i>Mr. Dibyendra Narayan Ray,</i> <i>Mr. Sankha Ghosh,</i> <i>Mr. Ranjit Kumar Mondal,</i> <i>Mr. Biswarup Nandy,</i> <i>Learned Advocates.</i></p> <p><b><i>For the State Respondents</i></b> : <i>Shri Soumendra Narayan Ray,</i> <i>Learned Advocate.</i></p> <p>The Applicant herein, Dr. Basab Bagchi, had earlier moved an application, being O.A. No. 938 of 2017, before this Tribunal praying, inter alia, for a direction upon the Respondents to forthwith issue release order in his favor after accepting his resignation letter dated 30-11-2015 addressed to the Director of Medical Education, Department of Health &amp; Family Welfare, Government of West Bengal. The said application was disposed of by the Tribunal on 01-12-2017 by passing the following order:</p> <p style="text-align: center;"><b>“The Tribunal now feels the Application should be disposed of with a direction that after</b></p>	

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	<p><b>scrutiny of 13-Points Query following the letter of Resignation is complete the Health Department will convey its decision to Dr. Bagchi forthwith. It would be appreciated in the event such endeavour is taken within a period of 6 weeks from the date of communication of this order.”</b></p> <p>The instant application has been filed alleging violation of the aforesaid order dated 01-12-2017. According to the Applicant, he communicated the order on 08-12-2017, but no compliance was made till the date of filing the contempt application.</p> <p>2. Appearing on behalf of the Contempt Petitioner, Mr. Dibyendra Narayan Roy, Ld. Counsel, submitted an order dated 26-02-2018 has since been passed by the Director of Medical Education, Department of Health &amp;</p>	

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	<p>Family Welfare, Government of West Bengal, whereby the prayer of the Applicant for resignation has been rejected. The said order of rejection reads as follows:</p> <p style="text-align: center;"><i>“With the information facts &amp; figures and in accordance with order passed by the Hon’ble Court, the matter is disposed with rejection of the prayer for resignation of dated 30-11-2015 since provision of Rule 34A (1) (b) have not been complied with.”</i></p> <p>3. Ld. Counsel of the Applicant, Mr. Roy contended that the aforesaid order passed by the Director of Medical Education is not a compliance of the order dated 01-12-2017 passed by the Tribunal in the O.A. No. 938 of 2017. The Contemnor O.P.s are, therefore, liable for contempt.</p>	

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	<p>3. Elaborating further, Mr. Roy submitted that the Tribunal, while passing the order dated 01-12-2017 in the original application, had directed the Health Department to convey its decision to Dr. Bagchi on his prayer for resignation forthwith after scrutiny of 13-Points Query following his letter of resignation. Accordingly, the decision of the Health Department, Mr. Roy contended, ought to have been confined to scrutiny of 13-Points Query following the letter of resignation of the Applicant and, therefore, the Health Department transgressed their jurisdiction by rejecting the prayer for resignation of the Applicant on the plea of purported non-compliance of Rule 34 (1) (b) of the service rules. As such the rejection of the prayer for resignation of the Applicant by the Director of Medical Education amounts to violation of the direction passed by the Tribunal in O.A. No. 938 of 2017 for which the Contemnor O.P.s are liable for contempt. In this context, Mr. Roy cited a</p>	

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	<p>number of cases, namely, <i>R. M. Ramaul Vs. The State of Himachal Pradesh (AIR (1991) Sc 1171, paragraphs 2 &amp; 3), Anil Ratan Sarkar &amp; Ors. Vs. Hiral Ghosh &amp; Ors. ((2002) 4 SCC 21), T.N. Godavarman Thirumulpad Vs. Ashok Khot &amp; Anr. ((2006) 5 SCC 1, paragraphs 3, 4, 21 and 23), Maninderjit Singh Bitta Vs. The Union of India &amp; Ors. ((2012) 1 SCC 273, paragraphs 16,19, 20to 29)</i> in support of his submission.</p> <p>4. Mr. Soumendra Narayan Roy, Ld. Counsel for the Contemnor O.P.s, objected to the contention of the Applicant on the ground that there is nothing in the direction dated 01-12-2017 of the Hon'ble Tribunal to preclude the Health Department from taking their decision in the matter in accordance with the extant rules. As such there is no irregularity or illegality in the impugned order dated 26-02-2018 passed by the Director of Medical Education. In case the Applicant is aggrieved</p>	

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	<p>by this order, he may, if he so desires, seek relief in accordance with law by filing a separate application before the appropriate forum.</p> <p>5. We have heard the submissions of the Ld. Counsels of both sides and have also perused the materials on record. On going through the order dated 01-12-2017 passed by this Tribunal in the original application, we do not find any express direction upon the Respondents therein that they shall have to confine themselves to the scrutiny of 13-Point Query only and that other relevant parameters cannot be taken into account while taking the decision on the prayer of the Applicant for resignation from service. Even on careful consideration, we find no prohibition/restraint, express or implied, in the order of the Tribunal to compel the Health Department to take their decision on the prayer of the Applicant for resignation ignoring the extant rules on</p>	

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	<p>the subject. Furthermore, we are all governed by rule of law. It, therefore, hardly stands to reason that it was the intent of the Tribunal to direct the Health Department to take their decision without following the rules, particularly when there was no such specific direction of the Tribunal in its order dated 01-12-2017. It is well settled that <i>a judgement must be construed as if it had been rendered in accordance with law (State of Karnataka &amp; Ors. Vs. C. Lalitha ((2006) 2 SCC 747). In Gajraj Singh Vs. State of U.P. ((2001) 5 SCC 762) also, it has been held by the Hon'ble Apex Court that:</i></p> <p style="text-align: center;"><i>“A doubt arising from reading a judgement of the Court can be resolved by assuming that the judgement was delivered consistently with the provisions of law and therefore a course or procedure in departure from or not in conformity with statutory provisions cannot be said to have been intended or laid down by the Court unless it</i></p>	

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	<p data-bbox="395 622 880 667"><i>has been so stated specifically.”</i></p> <p data-bbox="300 792 1168 1438">6. Therefore, In the light of the principles laid down by the Hon’ble Apex Court in the aforementioned cases as outlined above, we are not inclined to accept the submission on behalf of the Contempt Petitioner that the order dated 26-02-2018 passed by the Director of Medical Education is in violation of the direction dated 01-12-2017 passed by the Tribunal in the original application.</p> <p data-bbox="300 1563 1168 2123">7. The case laws cited by Mr. D. N. Roy, outlined in paragraph 3 above, primarily underscore the need and importance to secure compliance of Court’s orders so as to ensure the rule of law. It has been emphasized in these judgements that there can be no laxity in taking appropriate action against a contemnor who has violated a Court order. The said citations, however, in our</p>	



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Mihir	<p>opinion, are not quite relevant in the present context as in the instant case there is no apparent violation of the direction of Tribunal passed in the O.A. No. 938 of 2017.</p> <p>8. In view of the above, having regard to the facts of the case and the materials on record, we are of the opinion that the direction dated 01-12-2017 passed by this Tribunal in O.A. No. 938 of 2017 has been complied with and as such the instant contempt application is dropped. However, the applicant is at liberty to challenge the decision of the authority, by way of filing a fresh original application if so advised.</p> <p>9. The matter is thus disposed of. No costs.</p> <p style="text-align: center;"><b>Dr. A. K. CHANDA</b> <b>MEMBER(A)</b></p> <p style="text-align: center;"><b>URMITA DATTA (SEN)</b> <b>MEMBER(J)</b></p>	

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