

**Court No. - 43**

**Case :-** CONTEMPT APPLICATION (CIVIL) No. - 2858 of 2020

**Applicant :-** Co-Operative Federation Ltd.

**Opposite Party :-** Ratan Kumar Jaiswal

**Counsel for Applicant :-** Ram Gopal Tripathi

**Hon'ble Vivek Agarwal,J.**

1. Heard Sri Ram Gopal Tripathi, learned counsel for the applicant and Sri Rakesh Prasad, learned counsel for the respondent.

2. Petitioner has filed this contempt petition alleging non-compliance of order dated 20.08.2019 passed in Writ C No. 25436 of 2019 (Ratan Kumar Jaiswal vs. State of U.P. and Others), the Division bench of this Court disposed of the petition in the following terms:-

*"Heard Sri Rakesh Prasad, learned counsel for the petitioner and Sri Ram Gopal Tripathi, learned counsel for the respondent no. 3.*

*On account of shortage in the supply of custom made rice, the recovery citation dated 5.3.2019 has been issued in the name of the petitioner demanding a sum of Rs.29,55,862/- as the cost of the shortage of the custom made rice.*

*Learned counsel for the petitioner submits that the petitioner is ready to make the payment provided some installments are fixed.*

*Since, the citation has already been issued, we do not consider it appropriate to fix installment at all and leave it open for the petitioner to approach Managing Director U.P. Co-operative Federation Ltd. for the fixation of installments, if any. In case, any such representation is made, the Managing Director may consider it in accordance with law.*

*The writ petition is **disposed off.**"*

3. Now a contempt petition has been filed by the U.P. Co-operative Federation Ltd. through its Managing Director praying that contempt proceedings be initiated against the opposite party and summon him under Section 12 of the contempt of Courts Act for willfully, deliberately and intentionally disobeying the judgment and order dated

20.08.2019 passed by this Hon'ble Court in Writ C No. 25436 of 2019.

4. Sri Rakesh Prasad submits that his client was a petitioner before the writ court. He had made a request for fixing the installments in regard to the recovery citation issued against him which the Court has declined. Court had directed that if the petitioner so desires, he may approach the respondent, who may if so desire and deem it proper fix the installments.

5. There is no order in favour of the present petitioner, who was respondent in the writ petition.

6. Section 12 of the contempt of court provides for punishment for contempt of court.

7. Section 2 (b) defines "Civil Contempt" means willful disobedience of any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to the Court.

8. Petitioner has not been able to show any of the above ingredients to demonstrate that there is any willful breach on the part of the respondent/alleged contemnor, who had filed the writ petition. Therefore, it is apparent that this contempt petition has been filed obviates all the understanding of provisions of the contempt of Courts Act with a view to harass the petitioner, who had filed the writ petition, which cannot be the purpose of the contempt petition. Since, there is no order, direction or writ in favour of the present petitioner namely, Managing Director U.P. Co-operative Federation Ltd., this contempt petition is bereft of merits and is dismissed with cost of Rs. 25,000/- (twenty five thousand rupees) to be recovered from the Managing Director U.P. Co-operative Federation Ltd. and to be deposited in the High Court Legal Services Authority. It is directed that this cost be deposited within 30 days from today, failing which the Registrar General or his nominee will be authorised to direct the District Magistrate, Lucknow to recover the cost as the arrears of land revenue from the Managing Director U.P. Co-operative Federation Ltd.

9. It is made clear that this cost will not be debited to the account of the petitioner namely, U.P. Co-operative Federation Ltd. and will be personally payable by the Managing Director U.P. Co-operative Federation Ltd. because it was for him to understand the provisions of the contempt of Courts Act and file the petition.

10. In case, he has been wrongly advised by the concerned

counsel, then he will be free to take appropriate action against such counsel after giving him opportunity of hearing.

11. In above terms, petition is ***dismissed***.

**Order Date :- 5.10.2020**

Vikram/-