



2026:CGHC:24841

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CONT No. 618 of 2026

Arvind Kumar Goyal S/o Late Shri Om Dutt Goyal Aged About 59 Years R/o A-21, Rama Life City, Sakri, P.S. Sakri, Bilaspur, Distt. Bilaspur, Chhattisgarh.

... Petitioner(s)

versus

1. National Highways Authority Of India Through Chairman, Sector 10, Dwarka, New Delhi.
2. Santosh Kumar Yadav Chairman NHAI, Sector 10, Dwarka, New Delhi.
3. Pradeep Kumar Lal Regional Officer, Nhai, Regional Office, Raipur, Chhattisgarh.
4. Mukesh Kumar Parghaniya Project Director, Project Implementation Unit Bilaspur, Distt. Bilaspur, Chhattisgarh.
5. Vishal Chauhan Member Admin, Nhai, Sector 10, Dwarka, New Delhi.
6. Reena Baba Saheb Kangale Secretary, Department Of Revenue And Disaster Management Mantralaya Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh.
7. Sanjay Agrawal Collector, Bilaspur, Chhattisgarh.
8. Manish Sahu Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Bilaspur, Distt. Bilaspur, Chhattisgarh.

... Respondent(s)

Order reserved on	:	16 th June, 2026
Final order delivered on		19 June, 2026
Final order uploaded on		19 June, 2026

For Petitioner	:	Mr. B.P. Sharma along with Mr. M.L. Saket, Advocate
For Respondent	:	Ms. Sakshi Bajpai, P.L.

Hon'ble Shri Bibhu Datta Guru, Judge
C A V Order

1. The seminal issue falling for consideration in the instant contempt petition is -

Whether the present contempt proceedings are proceedings in personam requiring impleadment of the alleged contemnor in his individual capacity, or whether they can be maintained against the Authority itself?

2. The instant petition arises out of the alleged defiance of the order dated 08.10.2024 passed by this Court in WPC No.529 of 2023 (*Arvind Kumar Goyal v State of Chhattisgarh & Others*) wherein it was directed that the grievance of the petitioner as projected be redressed by the respondent/ National Highways Authority (for short 'NHAI') within a period of 90 days from the date of receipt of copy of this order.
3. In the case at hand, the petitioner impleaded one of the respondent

as “National Highways Authority Of India Through Chairman, Sector 10, Dwarka, New Delhi” as party/respondent No.1 despite the fact that the contempt petition is maintainable only against an individual and not against the State or entity.

4. In this regard, learned counsel for the petitioner submits that the present contempt petition has been filed alleging defiance of the order passed by this Court and that the NHAI, being the contemnor, is liable to be proceeded under Section 12(5) read with the Explanation appended thereto of the Contempt of Courts Act, 1971 (for short, "the Act of 1971"). According to learned counsel for the petitioner, in view of the provisions contained in Section 12(5) read with the Explanation thereto of the Act of 1971, NHAI is a necessary party and can be proceeded.
5. I have heard learned counsel for the petitioner.
6. The petitioner herein has filed this contempt petition impleading NHAI through its Chairman as respondent No.1 alleging that the order passed in WPC No. 529 of 2023 has been disregarded by it.
7. At this juncture it is worthy to quote Section 12 (5) of the Act of 1971:-

12. Punishment for contempt of court.---

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(5) Notwithstanding anything contained in subsection (4), where the contempt of court referred to therein has been committed by a company and it is proved that the contempt has been committed with

the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of such director, manager, secretary or other officer.

Explanation. For the purposes of sub-sections (4) and (5),-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

8. In a case of alleged defiance of the order of the Court, the allegation must be against particular officer or officers of the State/Authority and where an order was passed against the State in a duly constituted proceedings restraining the State/Authority and it is alleged by the contempt petitioners/complainants that there has been contempt by breach of that order, the contempt petitioners will have to take out the rule for contempt against the particular officer or officers who has or have disobeyed that order and in such a petition for contempt rule must be asked against individual and not against the State/Authority, but before an individual officer of the government can be held to be liable, it must be established that he was a person in-charge of the subject matter to which the order alleged to have been disobeyed relates, and principle contained in Article 300 of the Constitution of India which provides for

proceedings by way of suit against the State or Union of India cannot be applied to contempt proceedings.

9. The Division Bench of the Calcutta High Court in the case of **Tarafatullah Mandal & others v. S.N. Maitra and others (AIR 1952 Calcutta 919)** has held that contempt proceeding to be proceeding in *personam*. Paragraph 36 of the said decision reads as under :-

"36. A proceeding in contempt is by its nature a proceeding in personam. A contempt proceeding, therefore, cannot be, allowed to acquire the character of a representative proceeding. One of the respondents described in the petition for Rule is in the form: "The State of West Bengal represented by S. Banerjee, Secretary, Department of Land and Land Revenue." That I think is wholly an unjustified procedure and cannot be permitted....."

10. In the above stated judgment, the Calcutta High Court has deprecated the practice of impleading the State in the contempt proceeding and made the following observation in paragraph 4 :-

"4. As the practice of impleading the State as represented by some particular individual is becoming common in contempt proceedings, it seems necessary to point out what the correct procedure is. Nothing can be less accurate or more ridiculous than to ask that a particular State should itself be committed to prison, or that the State should be regarded as personified in, some individual officer nominated by the complainant, and should be committed to prison in the person of that officer. The State is not a minor, or a lunatic, or a Hindu deity that it can 'be represented by anyone in the manner sought to be done in the present petition. Nor is it a body corporate. Even when the Union of India, or

one of the component States is sought to be made a party, it is to be impleaded in the manner and the name indicated in the Constitution itself. To implead the Union, or one of the States as represented by some particular officer, whether in Civil or Criminal proceedings, is not warranted by any provision of law, and so far as Criminal Proceedings are concerned, is particularly inappropriate....."

11. The High Court of Madras in the case of **R. Muthukrishnan Vs. The Collector Of Tiruvallur District (AIR 2011 Madras 186)** held thus at para 10 :-

10. From the aforesaid provisions, it is manifestly clear that in a petition for initiation of contempt, a person against whom contempt is alleged must be made party respondent in person. The word 'Person' means a human being, a natural person and not a juristic person, because a human being can commit contempt of court, and not an authority. It is well settled that a command to a Corporation or to the State or its Authority is, in fact, a command to those persons who are officially responsible for the conduct of its affairs. The person holding the post being informed of the order of the Court for compliance or fails to take appropriate action within their power, they are guilty of disobedience and may be punished for contempt.

12. Rule 349 of the High Court of Chhattisgarh. (Contempt of Court Proceedings) Rules, 2007 states as under:-

"349. (1) Every petition, motion or reference made under rule 348 shall contain in precise language the statement setting forth the facts constituting the contempt of which the person charged as alleged to be guilty and shall specify the date or dates on which the contempt is alleged to have been committed.

(2) When the petitioner relies upon any document or documents in his possession he shall file them along with the petition.

(3) Every petition for taking action under the Act, shall be supported by an affidavit and shall comply with the provisions of rules relating to filing procedure, documents, and affidavits provided in these Rules."

13. From careful perusal of the above quoted rule, it would appear that the contempt petitioner is required to clearly state the name of the person charged/contemnor who is alleged to be guilty of the contempt of order of the Court and also required to specify, the date or the dates, on which contempt is allegedly committed by the person charged.
14. It is noteworthy to mention here that the Court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party, which is alleged to have committed deliberate default in complying with the directions in the judgment or order.
15. The requirement of impleading the concerned officer is not a mere technical formality. Contempt jurisdiction is quasi-criminal in nature and a finding of wilful disobedience carries serious civil consequences. Before a person is called upon to answer a charge of contempt, the Court must be satisfied that such person was entrusted with the duty to comply with the order and that the alleged non-compliance is attributable to his deliberate act,

omission or neglect. Unless the officer responsible for implementation of the order is identified and brought before the Court, the jurisdiction to examine the existence of wilful disobedience cannot be effectively exercised.

16. As far as the contention of the learned counsel for the petitioner that in view of the provisions contained under Section 12(5) read with explanation appended thereto of the Act, 1971, the NHAI is a necessary party is concerned, the NHAI being the Authority, a command to the authority or the body Corporate/State is, in fact, a command to those persons who are officially responsible for the conduct of its affairs. The persons holding the posts, who are alleged to be failed to comply with the order, have already been impleaded as a party respondent to the present contempt proceeding. The command to the authority/body corporate cannot be made in a contempt proceeding, as the contempt proceeding is by its nature, a proceeding in *personam* and the authority/body corporate cannot be prosecuted under the Act of 1971. Thus, in view of the well settled provisions of law as stated above, the NHAI, is not a necessary party in the instant petition.

17. In view of the discussion made herein-above and the settled position of law that contempt proceedings are proceedings in *personam*, as such this Court is of the considered opinion that once the officers who are alleged to be responsible for the compliance of

the order of the Court have been impleaded in their individual capacity, the NHAI, being a statutory authority and a juristic entity, is neither a necessary nor a proper party to the contempt proceedings. The liability for contempt, if any, is required to be examined against the concerned officer(s) responsible for the alleged disobedience and not against the Authority itself. Consequently, the impleadment of the NHAI as a contemnor/respondent No.1 is held to be not maintainable and the contempt petition, as presently framed, deserves to be and is accordingly **dismissed**.

18. However, liberty is reserved in favour of the petitioner to institute a fresh contempt petition by arraying only the concerned person(s)/officer(s) who alleged to have wilfully flouted the order dated 8.10.2024 passed by this Court in WPC No.529 of 2023, if so advised.

Sd/-

(Bibhu Datta Guru)
Judge

HEAD NOTE

A proceeding in contempt is by its nature, a proceeding in *personam* and the authority/body corporate cannot be prosecuted under the Contempt of Courts Act, 1971.