



\$~33

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+

Date of Decision:13.05.2025

% **LPA 302/2025 & CM APPL. 28577/2025**

SHRI V SRINIVAS SECRETARY, GOVERNMENT OF INDIA,
DEPARTMENT OF PENSION AND PENSIONERS WELFARE

.....Appellant

Through: Mr. Vikramjit Banerjee, ASG with
Mr. T. P Singh, Sr. Central Govt.
Counsel, Mr. Abhishek Singh, Adv.
with Mr. Samin Ansari, Under
Secretary in person.

Versus

ALL INDIA S 30 PENSIONERS ASSOCIATION PRESIDENT
GOVERNING BODY

.....Respondent

Through: Mr. Varun Singh and Ms. Kajal S.
Gupta, Ms. Bhumi Sharma, Advs.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

DEVENDRA KUMAR UPADHYAYA, CJ. (ORAL)

1. This Letters Patent Appeal instituted under Clause X of the Letters Patent seeks exception to an order dated 08.04.2025 passed by the learned Contempt Judge in CONT. CAS(C) NO. 1188/2024 and other connected matters, whereby a reference has been made by the learned Contempt Judge to the Division Bench in respect of a clarification of the order dated 20.03.2024, alleging contempt of which the contempt petition was filed.



2. Learned Contempt Judge has expressed his view that passage of the Finance Act, 2025 had necessitated the said clarification to be considered by the Division Bench which had passed the order dated 20.03.2024 on the issue as to the whether the Finance Act, 2025 shall obliterate and eclipse the order passed by the Court, thereby giving authority to the Central Government to recognize and endorse the distinction between various categories of the pensioners.

3. For the aforesaid purpose, the learned Contempt Judge has referred the matter to the Division Bench, subject to orders of the Chief Justice. The record reveals that the matter was placed before the Chief Justice, whereupon the contempt petition along with the reference has been referred to the Division Bench for clarification of the order dated 20.03.2024.

4. It has been argued by learned ASG, Mr.Vikramjit Banerjee, representing the appellants that such a reference made by the learned Contempt Judge is beyond the scope and jurisdiction of Section 12 of the Contempt of Courts Act, 1971 for the reason that the only jurisdiction available to the learned Contempt Judge while entertaining and deciding the petition filed under Section 12 of the Contempt of Courts Act, 1971, is to ascertain, as to whether the order or the judgment passed by the Court has been flouted or disobeyed deliberately. In his submissions, any other order of a nature which does not decide the issue as to whether judgment or the order of the Court has been disobeyed or flouted, would lie outside the scope of jurisdiction of the learned Contempt Judge under Section 12 of the Contempt of Courts Act, 1971. In this view, the submission is that the impugned order, having been passed without jurisdiction, needs to be set



aside.

5. On the other hand, learned counsel representing the respondent has drawn our attention to the judgment of the Hon'ble Supreme Court governing maintainability of Intra-Court appeals against orders passed by the learned Contempt Judge in the case of *Midnapore Peoples Coop. Bank Ltd. and Others v. Chunilal Nanda and Others, 2006 SCC OnLine SC 628*. He has stated that barring in the situations as contemplated and culled out by the Hon'ble Supreme Court in *Midnapore (supra)*, any Intra-Court appeal against an order passed by the learned Contempt Judge would not be maintainable. In his submissions, he states that the order under challenge herein does not qualify as an order of the nature as mentioned in *Midnapore (supra)* so as to call for any interference in the order passed by learned Contempt Judge in this Intra-Court appeal.

6. Having heard the learned counsel representing the parties, we are of the opinion that the instant Intra-Court appeal would be maintainable for the reason that the order under challenge herein appears to be clearly beyond the scope of the contempt jurisdiction available to the learned Contempt Judge under Section 12 of the Contempt of Courts Act, 1971. It is also to be noticed that, apart from exercising the contempt jurisdiction under Section 12 of the Contempt of Courts Act, 1971, this Court, being Court of Record in terms of Article 215 of the Constitution of India, 1950, is also possessed of certain powers of contempt. However, for exercising the powers even under Article 215 of the Constitution of India, the contours within which the contempt jurisdiction can be exercised, has to be traced to Section 12 of the Contempt of Courts Act, 1971.



7. So far as the submission of the learned counsel representing the respondent as to the maintainability of the instant Letters Patent Appeal on the strength of the judgment rendered by the Hon'ble Supreme Court in *Midnapore (supra)* is concerned, we may notice that in para 11, the law relating to the exercise of Intra-Court appeal jurisdiction has been summarized. Para 11 of the *Midnapore (supra)* is quoted herein below:-

“11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarised thus:

I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of “jurisdiction to punish for contempt” and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions.

V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute



between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).

The first point is answered accordingly.”

8. From a perusal of the judgment rendered by the Hon'ble Supreme Court in *Midnapore (supra)*, what we find is that, an Intra-Court appeal would be maintainable against an order passed by the learned Contempt Judge in a situation where the order appealed against touches upon or decides any of the rights of the parties, or it issues any directions beyond the judgment or order in respect of which the contempt is being alleged before him.

9. The reasoning behind the law laid down by the Hon'ble Supreme Court in *Midnapore (supra)* is understandable.

10. Learned Contempt Judge while exercising his jurisdiction and powers under Section 12 of the Contempt of Courts Act, 1971, does not exercise any power otherwise available to him under Article 226 of the Constitution of India. The only issue which needs to be attended to by learned Contempt Judge in such matters is to see as to whether the judgment or order passed by the Court has been flouted or disobeyed, and in case the learned Contempt Judge finds that disobedience of the order or the judgment is deliberate he can pass appropriate orders for punishing the contemnor.

11. Another category of the order which is permissible to be passed by the learned Contempt Judge in such a situation, is an order which can be said to



be in aid of ensuring compliance/obedience of the order passed by the Court. Any direction or order touching upon the rights between the parties cannot be passed under Section 12 of the Contempt of Courts Act, 1971 and such a direction or order would be deemed to have been passed by the Court only in exercise of its jurisdiction under Article 226 of the Constitution of India, and therefore such orders have been held to be appealable in an Intra-Court appeal jurisdiction, by the Hon'ble Supreme Court in *Midnapore (supra)*.

12. The ratio, sum and substance, of the judgment in *Midnapore (supra)* is that any order which lies beyond the scope and jurisdiction of Section 12 of the Contempt of Courts Act, 1971 cannot be passed and if such an order is passed, the same would be appealable even in the proceedings of an Intra-Court appeal.

13. Having observed as above, we now proceed to examine as to whether the learned Contempt Judge has exercised his jurisdiction within the scope of Section 12 of the Contempt of Courts Act, 1971 while passing the impugned order. What we find is that by impugned order, a reference has been made to the Division Bench which had decided the matter earlier by means of the order dated 20.03.2024. The Division Bench once decided the matter by passing the final order dated 20.03.2024, had become *functus officio*, and therefore, in our opinion, it was incumbent upon the learned Contempt Judge to have proceeded to decide the issue as to whether the alleged contemnors are guilty of disobeying or flouting the order dated 20.03.2024. In case, on account of passing of the Finance Act, 2025, an issue between the parties had emerged as to whether the said Finance Act shall eclipse the order dated 20.03.2024, such issue would be an issue which



was open to be raised by either of the parties in an appropriate proceeding.

14. So far as the power of the learned Single Judge to make references to two or more Judges is concerned, we may refer to the provisions of Rule 2 of Chapter 2 of the Delhi High Court (Original Side Rules, 2018) which provides that a Judge, if he thinks fit, can refer a proceeding pending before him or any question of law or practice or procedure to the Chief Justice for constituting a Bench of two or more Judges to decide the same. Rule 2 of Chapter 2 of the Delhi High Court (Original Side Rules, 2018) is extracted hereunder:-

“2. Reference to two or more Judges. – A Judge, before whom any suit, application or other proceeding, interlocutory or otherwise, is pending, may, if he thinks fit, refer to or any question of law, practice or procedure arising therein to the Chief Justice, for constituting a Bench of two or more Judges to decide the same. If only a question has been referred, the Judge shall, after receipt of a copy of the judgment of the Bench so constituted, proceed to dispose of such suit, application or proceeding in conformity therewith.”

15. A perusal of the afore-quoted rule reveals that it is well within the authority and power of the learned Single Judge to refer the proceedings pending before him or any question of law/practice, or procedure arising therein, for constituting a Bench of two or more Judges, to decide the same. The rule further provides that in case only a question has been referred, the Single Judge shall, after receipt of the judgment of the Larger Bench, proceed to dispose of the proceedings which were pending before him.

16. The question, however, in this case which arises is, as to whether the learned Contempt Judge could have made the reference, and further as to whether the reference made by him *vide* impugned order is referable to the



provisions of Rule 2 of the Chapter 2 of the Delhi High Court (Original Side Rules, 2018).

17. The proceedings pending before the learned Contempt Judge in this case were instituted under Section 12 of the Contempt of Courts Act, 1971 and accordingly, if any question touching upon the issue as to whether there has been disobedience or not would have arisen, such an issue of question could have been referred by the learned Contempt Judge, and such a reference would have been referable to the provisions contained in Rule 2 of the Chapter 2 of the Delhi High Court (Original Side Rules, 2018). However, the reference made by learned Contempt Judge in this case is not confined to the said issue. What the learned Contempt Judge has referred for decision by the Division Bench is as to whether the passage of Finance Act, 2025 would eclipse the order dated 20.03.2024 passed by the Division Bench.

18. As observed above, such a clarification was open to be sought by either of the parties to the proceedings before the Division Bench by taking recourse to an appropriate proceeding.

19. For the reasons given above, in our opinion, the order under appeal is without jurisdiction being outside the scope, ambit and jurisdiction of the learned Contempt Judge available to him under Section 12 of the Contempt of Courts Act, 1971.

20. Resultantly, we hold that the appeal is maintainable and deserves to be allowed as well. The appeal, thus, is allowed. The order dated 08.04.2024 passed by the learned Contempt Judge, which is under appeal herein, is



hereby set aside.

21. However, we may observe that it is always open to either of the parties to seek clarification/modification of the order dated 20.03.2024 passed by the Division Bench by moving an appropriate application or taking recourse to any other legal remedy which may be available to them under law, including a challenge to the Finance Act, 2025. In case recourse to any such proceedings are taken by either of the parties, the proceedings of the contempt petition shall stand deferred and shall await the result of such proceedings which may be initiated by either of the parties.

22. We also make it clear that in case no such recourse to seek clarification or modification is taken by either of the parties, the proceedings of the contempt petition shall go on.

23. The present Letters Patent Appeal, along with pending applications, stands disposed of in the aforesaid terms.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

MAY 13, 2025/j