

**Court No. - 10**

**Case :-** CONTEMPT APPLICATION (CIVIL) No. - 7387 of 2019

**Applicant :-** Pradeep Kumar Jain

**Opposite Party :-** Smt. Ritu Goyal, District Inspector Of Schools And Another

**Counsel for Applicant :-** Akank Kumar Jain

**Hon'ble Mahesh Chandra Tripathi,J.**

By interim order dated 18.9.2019 passed in 14276 of 2019 filed by the applicant, the Court directed as under:

"Contention of the learned senior counsel is that the approval was granted was the DIOS vide approval order dated 23rd January 2017 thereafter the Joint Director (Secondary) Education, Agra Division, the Chairman of the Regional Level Committee vide his letter dated 27th June 2017, addressed to the DIOS, Firozabad as well as Finance and Accounts Officer, Secondary Education, Firozabad and Manager/Principal of the respondent no.6 institution, has directed for necessary action and has provided that the payment of the salary of the petitioner is permitted to be made with effect from the date of his joining. In pursuance thereto the Manager of the Committee of Management has issued an appointment letter in favour of the petitioner on 28.6.2017 and in pursuance thereto the petitioner has joined as Assistant Clerk in the respondent no.6 institution on 1.7.2017 and since then he is discharging his duties as Assistant Clerk in the said institution.

By the impugned order passed by the DIOS, Firozabad dated 12.2.2018 the DIOS has passed the order in pursuance of the direction issued by this Court in Writ Petition No. 56285 of 2017 and has held that the appointment of the petitioner as well as other assistant clerk namely Rajat Jain is illegal as according to the DIOS there was only one post vacant on the date of appointment, letter/order issued by the respondent-authorities.

Learned senior counsel has pointed out that the order impugned is bad as such has been passed by the DIOS mechanically without application of mind. He has submitted that when the DIOS has admittedly recorded a categorical finding that the person who was appointed as Assistant Clerk, namely one Amit Kumar, under the Harness Rules, has been promoted on the post of senior clerk on 31.3.2017, that is much prior to the date of issuance of the letter of appointment in favour of the petitioner than the DIOS cannot say that there was no post of Assistant Clerk on the date of appointment of the petitioner.

The matter requires consideration.

In view of the aforesaid, let the respondents will pay the regular salary to the petitioner.

List this petition before appropriate Court in the 3rd week of November 2019."

It has been averred in the affidavit filed in support of the application that a certified copy of the aforesaid order was

submitted for compliance before the opposite parties but the opposite parties have wilfully not complied with the order and, thus, have committed civil contempt liable for punishment under Section 12 of the Contempt of Courts Act, 1971.

Prima facie a case of contempt has been made out. However, considering the facts and circumstances of the case, one more opportunity is afforded to the opposite parties to comply with the aforesaid order of the Court within two weeks from the date of production of a certified copy of this order.

The applicant shall supply a duly stamped registered envelope addressed to the opposite parties and another self-addressed stamped envelope to the office within one week from today. The office shall send a copy of this order along with the self-addressed envelope of the applicant with a copy of contempt application to the opposite parties within one week thereafter and keep a recorded thereof.

The opposite parties shall comply with the directions of the writ court and intimate him of the order through the self-addressed envelop within a week thereafter.

With the aforesaid observations, this application is disposed of at this stage with liberty to the applicant to move a fresh application, if the order is not complied with by the opposite parties within the stipulated time as aforementioned.

**Order Date :- 8.11.2019**

RKP