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CASE COMMENT: BK MISHRA VS BHEMSEN DIXIT*~Umang Shewani¹**Citation: 1972 AIR 2466 ; 1973 SCR (2) 495**Supreme Court Case: 29 September, 1972**Petitioner: Bradakanta Mishra, Ex Commissioner of Endowments**Respondent: Bhimsen Dixit**Bench: S.N Diwedi, J.M. Shehlat, Y.Y Chandrachud***BRIEF FACTS AND ISSUES:***FACTS*

BK Mishra, the appellant served as a District Judge at one point and is a member of the State of Orissa's Superior Judicial Service. He was also the Orissa Commissioner of Hindu Religious Endowments at the time. The establishment of the Commissioner's office was stipulated in the Orissa Hindu Religious Endowments Act. Pursuant to the provisions of section 27 within the same act, the Additional Assistant Commissioner of Hindu Religious Endowments designated an interim trustee for two deities situated in Sanabagalpur village. Nevertheless, the individual overseeing the deities contested the decision by invoking section 41 of the identical act, contending that the circumstances of the case did not fall under the purview of the act, given that the deities were consecrated through a private endowment. Subsequently, the objection was dismissed. He declared that it was a public endowment without conducting an investigation as required by section 41, although the objector afterward submitted a revision under section 9 of the same statute before the appellant.

During the revision hearing, the appellant was presented with the mentioned High Court decision; however, the appellant disregarded it and proceeded to reject the revision. Subsequently, the applicant lodged a writ petition in the High Court challenging this decision. Upon considering the applicant's case, the Division Bench issued a notice to the applicant for potential contempt of the High Court. The High Court took exception to the following sentence occurring at the end of

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paragraph 2 in his order "Further, against the order we have moved the Supreme Court, and as such, the matter can be safely deemed to be sub-judice."²

ISSUES RAISED

Whether BK Mishra, the appellant is guilty of contempt of court?

LEGAL ASPECTS

JUDGEMENT

It has been found that during the period between the dismissal of the objection by the Additional Assistant Commissioner and the commencement of the revision by the objector, a similar case was brought before the Orissa High Court. In the case of Bhramarbar Santra and others v. State of Orissa and others, the High Court ruled that the Assistant Commissioner lacked the authority to appoint an interim trustee until conducting an inquiry according to section 41 of the Act and determining the absence of a hereditary trustee for the religious institution, as provided under section 27 of the Act. This precedent was presented during the hearing of the revision by the applicant.

However, it was discovered that the appellant had provided inaccurate information in the order, leading to contempt of court charges. The appellant had conveyed the notion that "we" were involved as a litigant in a pending case in the Supreme Court, when in reality there were no pending matters in the Supreme Court apart from a petition awaiting resolution in the High Court that sought certification for an appeal to the Supreme Court based on the Bhramarbar Santra's Case decision. This behavior was found to be a breach of Article 227 of the Constitution, as it displayed a lack of decorum and impartiality expected of a quasi-judicial authority and eroded respect for established legal principles. The High Court's judgment of finding the appellant in contempt was deemed appropriate.

² INDIAN KANOON, <https://indiankanoon.org/doc/642993/> (last visited Feb. 22, 2023)

LAWS AND CASES INVOLVED

The disobedience towards the court by acting in a way that undermines its authority, fairness, and dignity is known as contempt of court. It designates behavior that tends to cast doubt on the legitimacy of the court's authority and the legal system. It also designates a deliberate disdain or disobedience of the court's order. It is customary to hold lesser courts accountable for contempt of court when they ignore a superior court order that stays proceedings because they are acting in defiance of the prior court's authority. The disobedient act is intended to erode public support for the superior court and put the upholding of law and order in danger.

According to Article 227 of the Constitution, the High Court has the authority to supervise all courts and tribunals within the State. The appellant, who serves in a quasi-judicial capacity, is likewise under the High Court's supervision. As a result, he must abide by the High Court's rulings and cannot do so by advancing illogical or factually incorrect arguments. The appellant's actions, in which he disregarded the High Court's earlier ruling, caused confusion in the administration of justice, which in turn undermined the High Court's interpretation of the law and diminished its constitutional power.

The judiciary is built on the public's trust and confidence in the justice administration system. This trust and confidence, as well as the independence of the judiciary from other influences, are intended to be maintained by the court's ability to punish disobedience. For a nation like India, which was built on the idea of the rule of law and requires the supremacy of the law, the recognition of contempt of court and the capacity to punish contempt is essential because the judiciary is viewed as the last bastion of hope and justice for its people. Criminal and civil contempt are the two categories of contempt that can exist.

Criminal contempt of court is generally described as conduct that would typically be seen as constituting "contempt of court," such as severely disrupting a court proceeding, yelling at the judge, or declining to testify in front of a grand jury. The most prevalent instance of civil contempt of court is when someone violates a court order and damages a private party's rights. The purpose of contempt jurisdiction is to protect the majesty and dignity of legal institutions and to prevent any damage to their reputation in the public eye.

The public's faith in the justice system is brutally injured and the offender must be punished if defamatory words or writings lead the common man to lose respect for a judge working in the course of his judicial duties. In essence, the law of contempt protects the courtroom rather than the judge who sits in it.³

CRITICAL ANALYSIS

The case highlights how a judicial officer with 23 years of experience violated section 27 of the Orissa Hindu Religious Endowments Act by appointing interim trustees, which goes against the ethics that a judicial officer should uphold. This case also emphasizes the importance of deontological ethics, which dictate that judicial officers have a duty to follow all laws stated in the constitution, setting a good example for society.

The appellant's actions caused confusion in the administration of justice by failing to adhere to the High Court's earlier ruling. Such actions are understood to undermine the law of contempt because they erode respect for the legislation established by the High Court and harm the constitutional authority of the High Court. These actions not only weaken the High Court's constitutional authority and respect but also the rule of law, causing uncertainty and confusion in the administration of justice.

The highest judicial authority reasserted its previously articulated stance, affirming that it would be illogical to propose that a Tribunal overseen by a High Court could disregard the legal pronouncements made by the High Court. The Apex Court emphasized that if such disregard were permitted for a Tribunal, it could set a precedent for all lower courts to follow the same course of action. Unlike the explicit provision present for the Supreme Court, no specific provision exists for lower courts, and thus the adherence to the laws laid down by the governing High Court is inherently understood as part of the supervisory authority bestowed upon a higher Tribunal. Furthermore, the Apex Court highlighted that the act of complying with the established legal

³ Sakshi Deo, What Happens When One Wilfully Disobeys a Court Order? <https://juriscentre.com/2021/06/17/what-happens-when-one-wilfully-disobeys-a-court-order/> (2021)

principles is inherent in the supervisory role of a higher Tribunal, which encompasses all the Tribunals under its jurisdiction.

Should the Tribunals choose to defy the directives of their respective supervising High Courts, it would inevitably result in chaos in the administration of justice, severely undermining the esteem accorded to the legal system.

So, being a judicial officer and disobeying the law and the ethics undermines respect in the eyes of law which leads to confusion in the administration of justice.

