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Item No.S-1

8.7.2005

MA 752/2005
MA 109/2005
MA 1378/2004
MA 1786/2004
OA 1269/2003
MA 414/2005

Present : Sh. Umesh Chandra Sharma, applicant in person.
Shri M.K. Bhardwaj, proxy for Sh. A.K. Bhardwaj, counsel for
respondents.

MA 1378/2004


Applicant has filed this MA alleging non-compliance of the order dated 11.2.2004. By the above said order, respondents were directed to pass a reasoned and speaking order and decide the show cause notice within a period of two months from the date of receipt of a copy of this order after affording opportunity of hearing to the applicant. It was also stated that if any grievance is, applicant would be at liberty to challenge the same.

2. Counsel for respondents placed on record the speaking order dated 22.6.2005 complying with the directions given in judgement dated 11.2.2004 in OA 1269/2003 wherein they have stated that Hon'ble High Court of Allahabad, Lucknow Bench has remanded MCA No. 205/92 to the prescribed authority for further hearing. Pending decision of the above Authority on the ibid MCA No. 205/92, it is not possible for the department to take any action on the show cause notice dated 19.7.2002 issued to the applicant. Counsel for respondents has submitted that the relief, which the applicant has sought in the MCA was of the same period as was reflected in the show cause notice. Therefore, once the matter itself has been remanded back to the prescribed authority, we would agree with the respondents that unless that matter is decided, department cannot

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pass any further order pursuant to the show cause notice issued by them. In any case, if applicant is aggrieved by the speaking order passed by the respondents now, liberty was already granted to him by this court in its judgement dated 11.2.2004 to challenge the same. Therefore, it would be open to the applicant to challenge this order on the original side. No further orders can be passed at this stage in view of the facts as have been mentioned above.

3. MA is accordingly disposed of.


(S.K. Malhotra)
Member (A)


(Mrs. Meera Chhibber)
Member (J)

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