

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Contempt Case (Civil) No.210 of 2014**

1. Dr. (Smt.) Yasmin Khan W/o Irfan Khan Aged About 46 years
Associate Professor, Chhattisgarh Institute Of Medical Science,
Bilaspur, R/o Ware House Road, Near Nova Office, Street No.
2, Kududand, P.S. Civil Lines, Bilaspur, Civil & Revenue District
Bilaspur C.G.

---- Petitioner**Versus**

1. Shailendra Singh S/o Shri Badri Singh Aged About 37 Years
Caste Gond, R/o Near Radha Krishna Mandir, Jabadapara, New
Sarkanda, P.S. Sarkanda, Civil & Revenue District Bilaspur C.G.

---- Respondent

For Petitioner : Shri Devesh Kela, Advocate.

Respondent/Contemnor is not noticed.

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**ORDER****22/07/2015**

1. Heard on admission.
2. By filing the instant Contempt Case (Civil) under Section 12 of the Contempt of Courts Act, 1971 (hereinafter referred to as the 'Act') read with Article 215 of the Constitution of India, the Petitioner prays that Court be pleased to initiate contempt

proceedings against the Respondent and punish him according to law.

3. Facts of the case in brief are that the Respondent had filed Writ Petition (S) No.5940/2006 against the Petitioner and Guru Ghasidas University, through its Registrar for the relief mentioned in paragraph 7 of the writ petition as per Annexure P/1. On 25.1.2008, the Respondent made a submission before the Court for withdrawal "in the light of the order dated 15th January, 2008, passed by the Health and Family Welfare Department, Govt. of Chhattisgarh, nothing survives in this matter. As such, the petitioner seeks to withdraw this petition". The Counsel appearing for the other side (i.e. present Petitioner and Guru Ghasidas University), submitted "no objection to the above submission". The coordinate Bench of this Court in view of the above, ordered for dismissal of the petition as withdrawn. Thereafter, the present Petitioner preferred Writ Petition (S) No. 897/2008 before the High Court for the relief and quashment of order dated 15.1.2008 as the same is void and inoperative. Writ Petition (S) No. 897/2008 was dismissed as withdrawn on 13.12.2013. The Respondent filed one Writ Petition (S) No. 3041/2013 against the Petitioner and 3 others claiming that the Respondents be directed to disclose the authority under which she is holding the post of Reader in CIMS, Bilaspur and to remove her from the post of Reader and further be pleased to restrain Respondents 1 to 3

from regularization in the services of Respondent 4 by quashing Annexures P1 and P2. The Respondent on 13.12.2013 prayed through his Counsel that “learned counsel for the Petitioner seeks permission of the Court to withdraw the writ petition with liberty to move again as and when occasion arises”. As prayed, the writ petition was dismissed as withdrawn with the aforesaid liberty. Thereafter, again the Respondent filed Writ Petition (S) No.494/2014 against the Petitioner and 4 other Respondents for the same relief as claimed in Writ Petition (S) No. 3041/2013, which is still pending. The present petitioner is being represented and taking part in the hearing of Writ Petition (S) 494/2014, filed on 24.1.2014. During the pendency of the Writ Petition (S) No.494/2014, the Respondent wrote a letter of request to the Director, Medical Education, Government of Chhattisgarh, Raipur, Annexure P12. As per information, no action has been taken by the Director, Medical Education till date. It is submitted that the Respondent also gave a notice to Principal Secretary, Health and Family Welfare Department, Government of Chhattisgarh praying to take action against Dr. Subir Mukharjee, Director, Medical Education Raipur for his wrong and wilful recommendation of regularization of services of Dr. Yasmin Khan.

4. Heard Learned Counsel for the Petitioner on admission.

5. Learned Counsel for the Petitioner duly supported the instant Contempt Case (Civil) on the grounds urged in the petition

and submitted that the petition may be admitted for hearing and contempt proceedings be drawn against the Respondent. Learned Counsel further added that the act of the Respondent comes within the purview of Section 2 (b) of the Act.

6. In order to appreciate the arguments advanced on behalf of the Petitioner on Motion stage regarding admission of the petition, perused the material on record.

7. During the course of arguments Learned Counsel for the Petitioner is not in a position to state as to whether Annexures P12 and P13 were ever filed before the hearing of Writ Petition (S) No.494/2014.

8. On close scrutiny, it appears that in all the writ petitions prayer for their withdrawal has been made on what so ever grounds is a part of the record. Writ Petition (S) No.494/2014 is still pending and the Respondent made any prayer or sent any notice to Director, Medical Education for certain request has to be filed in the above mentioned Writ Petition. The allegation is during the pendency of the above mentioned writ petition, Annexures P12 and P13 are made to pressurize and prejudice to the other Respondents. This Court failed to understand why the Annexures, P12 and P13 were not filed by the Petitioner in the writ petitions. If the Petitioner has failed to file the Annexures P12 and P13 with prayer whatsoever, the Court concerned would have

passed a suitable order regarding the alleged neutralization affect of Annexures P12 and P13. A bare perusal of Annexures P12 and 13 shows that in any way those letters and the notice sent through the Counsel written by the Respondent lower down the dignity of the Court or equally does not demonstrate that it amounts to contempt of Court as per definition given in Section 2 (b) of the Act. Learned Counsel for the Petitioner specifically pointed out civil contempt or other process of Court demonstrated under Section 2 (b) of the definition clause of the Act.

9. On due consideration, prima facie it does appear a case of contempt of Court wherein cognizance should be taken against the Respondent. Even if the other ingredients of Section 2 (b) of the Act are considered, I do not find that the Respondent had wilfully disobeyed to any judgment, decree, direction, order, writ or wilfully made breach of undertaking given to the Court. It is pertinent to mention that while praying for withdrawal the Respondent in Writ Petition (S) No.3041/2013 in the order dated 13.12.2013 specifically mentioned that he seeks to withdraw the writ petition with liberty to move again as and when occasion arises. There is no appreciation of the Court for Writ Petition (S) No.494/2014 that it is filed beyond the scope as prayed by the instant Respondent during withdrawal of Writ Petition (S) No.3041/2013.

10. On due consideration, I am of the view that the Petitioner had failed to demonstrate regarding any civil contempt prima facie committed by the Respondent/Contemnor. This is not a case where it be admitted for consideration. Consequently, the instant Contempt Case (Civil) ought to be and be dismissed at the motion stage itself.

11. The Contempt Case (Civil) is dismissed.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE