

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

Contempt Petition No. 2786 of 2014
in
W.P.No.23570/2006

M. Senthilvel .. Petitioner

Vs.

1. Mr. Gagan Deep Singh Bedi I.A.S.,
Government of Tamil Nadu
rep. By its Secretary
Revenue Department
Fort St. George
Chennai - 600 009.
2. Mr. Sridhar I.A.S.,
The Special Commissioner and
Commissioner for Revenue Administration
Chepauk, Chennai - 600 005.
3. Mr. M. Ravikumar I.A.S.
The District Collector
Tuticorin District. .. Respondents

PRAYER: This Contempt Petition is filed praying to punish the respondents herein for willfully disobeying the order of this Hon'ble Court dated 06.04.2010 made in W.P. No. 23570 of 2006 and pass further orders.

For Petitioners : Mr. K. Raja
For Respondents : Mr. R. Govindasamy, AGP

O R D E R

This Contempt Petition has been filed by Mr. M. Senthivel, to punish the respondents herein for their

willful disobedience of the order passed by this Court dated 06.04.2010 made in W.P. No. 23570 of 2006, even after a lapse of more than four years.

2. Mr. K. Raja, learned counsel appearing for the petitioner taking support from the judgment of the Hon'ble Apex Court in ***Pallav Sheth vs. Custodian & Ors., reported in CDJ 2001 SC 447***, in order to maintain the present contempt petition from being hit by limitation of one year as contemplated under Section 20 of the Contempt of Court Act, on the ground that there was a continuing wrong committed by the respondents, would submit that provisions of Section 20 do not bar this Court from taking action, after expiry of one year, as the power of the Court conferred under Article 215 of the Constitution of India cannot be stultified or curtailed by reading Section 20 of the Contempt of Court Act.

3. Adding further, he contended that the power of the High Court to commit for contempt of itself contained in Article 215 of the Constitution cannot be abrogated, for the simple reason that Section 20 can be regarded at best but it still cannot bind the High Court exercising inherent powers under Article 215 of the Constitution. Even if Section 20 was applicable proceedings are initiated by filing of an application and

that will have to be considered on the basis of the reasoning as to why the person in whose favour order has been passed, has come to this Court seeking execution of the order belatedly. The period of limitation will begin to run from the date of knowledge in cases where the contempt has been concealed by fraud or dishonest conduct of the contemnor like in the present case.

4. Learned counsel appearing for the petitioner, further added that when this Court by order dated 06.04.2010 allowed the W.P. No.23570 of 2006 giving a specific and conspicuous direction holding that when the Tribunal had passed an order in the year 2001, namely, eight years after the reversion order, the petitioner has been promoted as Assistant and then subsequently he was further promoted as Revenue Inspector, as such the respondents are further directed to implement the order of the Tribunal by duly promoting the petitioner to the post to which he is entitled to, the respondents for the first time gave him promotion on 04.10.2011 in G.O. (2D) No.389 Revenue Department. Even after passing the aforesaid Government order dated 04.10.2011, giving promotion to the petitioner to the post of Assistant, he was given one another promotion to the post of Deputy Tahsildar by issuing another G.O. (2D) No.256 Revenue (Service 3(2)) Department dated 04.03.2014. Since the respondents have

been granting promotion on piecemeal basis, there was no occasion for the petitioner to come to this Court. However, finally when the petitioner was not given the full benefit of the direction given by this Court, he had to file the present contempt petition, belatedly. Therefore, the limitation as put against the petitioner under Section 20 of the Contempt of Court Act cannot be viewed very seriously, for, ultimately this Court has to see the implementation of the order passed by this Court, he pleaded.

5. But, this Court finds very difficult to accept the said proposition. When this Court had passed an order, almost 4½ years ago, on 06.04.2010 in W.P. No. 23570 of 2006, giving a direction to the respondents to implement the order passed by the Tribunal duly promoting the petitioner to the post to which he is entitled to, he was keeping quiet too long. However, he was given promotion to the post of Assistant on 04.10.2011 by G.O. (2D) No. 389 Revenue Department. When the petitioner was given promotion to the post of Assistant, he should have worked out his remedies as on 04.10.2011, that the promotion due to him is the post of Deputy Tahsildar. But the petitioner having accepted the said promotion to the post of Assistant given in G.O. (2D) No.389 Revenue Department dated 04.10.2011 and the further promotion to the post of Deputy

Tahsildar by another G.O. (2D) No.256 Revenue (Service 3 (2)) Department dated 04.03.2014, only after accepting the said order, the petitioner has come to this Court at his own convenience.

6. A perusal of the affidavit filed in support of the contempt petition and other documents also show that the petitioner does not appear to have made any representation till completion of one year from the date of the order so as to overcome the one year limitation as contemplated under Section 20 of the Contempt of Court Act. In fact, the ratio laid down by the Hon'ble Apex Court in ***Pallav Sheth vs. Custodian & Ors., reported in CDJ 2001 SC 447***, also shows that filing of an application or petition for initiating proceedings for contempt is more important. As mentioned above, the petitioner has not made any representation before the expiry of one year. Secondly, as rightly contended by learned counsel appearing for the petitioner, High Court can always take action for contempt even after expiry of the one year, by exercising the powers conferred under Article 215 of the Constitution of India, since there can be no legislation indicating the manner under Article 215 of the Constitution. But the said power can be exercised validly and diligently on a person who has been diligently pursuing his legal right. But in the present case, this Court is not inclined to exercise its

inherent powers under Article 215 of the Constitution of India for two reasons. Firstly, the petitioner has approached this Court after 4½ years from the date of the order. Secondly, he has been given two promotions in the meanwhile.

7. In view of the above, the Contempt Petition is closed.

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SD/
DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER(O.S.)

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SS/CO/03/06/2015

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