

*** THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**
AND
THE HON'BLE SRI JUSTICE CHALLA KODANDARAM
+ CONTEMPT CASE No.933 of 2009

% Dated 17-07-2015

K. Mallaiah and others.

.... Petitioners

Vs.

\$ Sandeep Kumar Sultania and others.

.... Respondents

! Counsel for the petitioners: Sri G. Madhusudhan Reddy

^ Counsel for respondents: Sri G. Narender Reddy, Smt. C. Vani Reddy, Sri G. Anandam, G.P. for Panchayat Raj & Rural Development, Sri M. Ram Mohan Reddy, G.P. for School Education, Standing Counsel for TG-MPPS GPPS, Advocate General (Telangana).

<GIST:

> HEAD NOTE:

? Citations:

- 1) (2012) 1 SCC 273
- 2) (2006) 5 SCC 1
- 3) (1980) 3 SCC 311
- 4) (2003) 1 SCC 644
- 5) 1972(1) All.E.R 997
- 6) 2002(4) SCC 21
- 7) (2008) 14 SCC 561
- 8) 1995 Cri.L.J.1261 (Punjab & Haryana HC DB
- 9) 1967(1) An.W.R.129
- 10) 2005(6) SCC 98
- 11) 2006(1) SCC 613
- 12) (2004) 7 SCC 261)
- 13) (1999) 7 SCC 569
- 14) (2007) 7 SCC 689
- 15) 1995 Supp (2) SCC 130
- 16) (1999) 1 SCC 16
- 17) (1988) 4 SCC 592
- 18) (1995) 3 SCC 507
- 19) (2012) 4 SCC 307
- 20) AIR 1969 SC 189
- 21) AIR 1960 SC 190
- 22) (1999) 2 SCC 537
- 23) (2010) 12 SCC 770
- 24) AIR 1987 SC 1491

- 25) AIR 1961 SC 1367
- 26) AIR 1954 Pat 513
- 27) AIR 1957 Pat 528
- 28) (1972) (3) All ER 101 (House of Lords)
- 29) (2003) 11 SCC 1
- 30) (1972) 3 All ER 101
- 31) (1999) 4 All ER 486
- 32) 2000(8) SCC 512
- 33) 1986 (2) A.L.T. 131
- 34) (2013) 11 SCC 332
- 35) (2004) 8 SCC 683
- 36) (2014) 7 SCC 280
- 37) AIR 1972 SC 1197
- 38) AIR 1996 SC 1925
- 39) AIR 2009 SC 2214
- 40) (2010) 11 SCC 493
- 41) (2001) 8 SCC 650
- 42) AIR 1955 SC 19
- 43) AIR 1969 Cal 1
- 44) (2003) 5 SCC 376
- 45) (1984) 3 SCC 405
- 46) 1974 AC 273
- 47) AIR 1967 AP 299
- 48) AIR 1954 SC 743
- 49) (1995) 6 SCC 249
- 50) AIR 1979 SC 1536
- 51) AIR 1958 Calcutta 474
- 52) (2000) 2 SCC 367
- 53) 1995(1) SCC 421
- 54) (1995) 3 SCC 757
- 55) 2000(6) SCC 120

**HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND**

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CONTEMPT CASE No.933 OF 2009

JUDGMENT: (Per Hon''ble Sri Justice Ramesh Ranganathan)

The order of this Court dated 03.02.2009, violation of which has resulted in the present contempt proceedings being instituted, was passed in W.P. No.1686 of 2009, a Writ Petition filed in public interest and a public interest litigation. The proceedings, in a public interest litigation, are of greater significance than in other cases. These are matters which come up for hearing before the Court on a grievance raised by the public at large or by public-spirited citizens. Courts are called upon to interfere, in the exercise of their extra-ordinary jurisdiction, to ensure maintenance of the rule of law, where the State and its instrumentalities fail to discharge their statutory functions or act contrary to larger public interest. These cases have an impact in rem on larger sections of society, and not in personam simpliciter. (**Maninderjit Singh Bitta v. Union of India**^[1]). Compliance

with the orders of the Court, in such cases, is imperative.

Despite the order of this Court in W.P. No.1686 of 2009 dated 03.02.2009, directing that construction be stopped forthwith, and a contempt case being filed later on 29.06.2009 for violation of the said order, construction of the subject building continued for nearly two years thereafter. None of the respondents herein dispute that the order of this Court dated 03.02.2009 has been violated. Each of them either deny being aware of the order of this Court dated 03.02.2009, or disclaim knowledge of construction having continued after 03.02.2009 till it was completed in March, 2011, and the building inaugurated on 11.05.2011.

I. CONTEMPT OF COURT: ITS SCOPE:

Disobedience of orders of the Court strikes at the very root of the rule of law on which the judicial system rests. If the judiciary is to perform its duties, function effectively, and remain true to the spirit with which they are entrusted with certain sacred duties, the dignity and authority of the Court should be respected and protected. (**Maninderjit Singh Bitta^[1]; T.N. Godavarman Thirumulpad (102) v. Ashok Khot^[2]**). Rule of law is the foundation of democratic society and the judiciary is its guardian. The Court has the duty of protecting the interest of the public in the due administration of justice and, as such, is entrusted with the power to commit for contempt of court, not in order to protect its dignity against insult or injury as the expression '**contempt of court**' may seem to suggest, but to protect and vindicate the right of the public that the administration of justice shall not be prevented, prejudiced, obstructed or interfered with. If orders of the Court are disobeyed with impunity by those who owe an obligation to society to preserve the rule of law, not only would individual litigants suffer, but the whole administration of justice would be brought into disrepute. (**Advocate General, State of Bihar v. M.P. Khair Industries^[3]; Bijay Kumar Mahanty v. Jadu^[4]**).

"**Contempt of Court**", an unfortunate and misleading phrase, suggests that it exists to protect the dignity of the judges. Nothing could be farther from the truth. The power exists to ensure that justice shall be

done. The public at large, no less the individual litigant, have an interest, and a very real interest, in justice being effectively administered. Unless it is so administered the rights, and indeed the liberty, of the individual would perish. (**Jennison v. Baker**^[5]). The Contempt of Courts Act secures confidence of the people in the administration of justice. If an order, passed by a competent court, is clear and unambiguous, disobedience or breach of such an order would amount to contempt of court. There can be no laxity, as otherwise orders of court would be the subject of mockery. (**Anil Ratan Sarkar v. Hirak Ghosh**^[6]; **Patel Rajnikant Dhulabhai v. Patel Chandrakant Dhulabhai**^[7]). Every one, howsoever high he may be, is bound to implement orders of Court. Those who disregard orders of courts do so at their own peril for no one is above the law. (**Court on its own motion v. N.S. Kanwar**^[8]).

Disobedience of an order of court, whether prohibitive or mandatory, whether made ex-parte or upon hearing both parties, or interim or perpetual, amounts to contempt if it is calculated or tends to interfere with the administration of justice, or brings it into disrespect or disregard (**Jagarmudi Chandramouli v. K. Appa Rao**^[9]). Right or wrong, the order has to be obeyed. Flouting an order of the court would render the party liable for contempt. (**Director of Education, Uttaranchal v. Ved Prakash Joshi**^[10], **Union of India v. Subedar Devassy PV**^[11], **Prithawi Nath Ram v. State of Jharkhand**^[12]). The power, to punish for contempt, is exercised to prevent perversion of the course of justice. (**Kapildeo Prasad Sah v. State of Bihar**^[13]). Once a direction is issued by a competent court, it has to be obeyed and implemented without reservation. The only remedy available to a party, who suffers an order, is to challenge it in accordance with law. The order cannot be rendered ineffective, by not complying with the directions on specious pleas, as it would seriously affect and impair administration of justice. (**Karnataka Housing Board v. C. Muddaiah**^[14]; **Patel Rajnikant Dhulabhai**⁷).

Any interference with the course of justice, or any obstruction caused in the path of those seeking justice, is an affront to the majesty of law and the conduct of interference/obstruction is punishable as contempt of court. If the act complained of causes hindrance in the discharge of, or tends to obstruct or interfere with, the due course of justice, the conduct complained of constitutes contempt of court, (**Ram Autar Shukla v. Arvind Shukla**^[15]), and the power of contempt can be exercised to uphold the dignity of the court and protect its proper functioning. (**ITAT v. V.K. Agarwal**^[16]). Public interest demands that there should be no interference with the judicial process, and the effect of the judicial decision should not be pre-empted or circumvented. (**Reliance Petrochemicals Ltd. v. Proprietors of Indian Express Newspapers Bombay (P) Ltd.**,^[17]).

The following conditions must be satisfied before a person can be held to have committed civil contempt: (i) there must be a judgment, decree, direction, order, writ or other process of a court (or an undertaking given to a court); (ii) there must be disobedience to such judgment, decree, direction, order, writ or other process of a court (or breach of undertaking given to a court); and (iii) such disobedience of the judgment, decree, direction, order, writ or other process of a court (or breach of undertaking) must be wilful. (**Patel Rajnikant Dhulabhai**⁷). Civil contempt arises where the power of the Court is invoked and exercised to enforce obedience to the orders of the court. (**Delhi Development Authority v. Skipper Construction**^[18]).

Courts are called upon to exercise their contempt jurisdiction with twin objects in mind. Firstly, to punish those who have disobeyed or not carried out the orders of the court i.e. for their past conduct. Secondly to pass such orders, including imprisonment by use of the contempt jurisdiction, to ensure compliance with its orders in future. (**Maninderjit Singh Bitta**¹). The purpose, for which contempt proceedings are initiated, is to ensure compliance with the order passed by the court, and to punish the contemnor for his audacity in challenging the majesty of the law.

(**Kanwar Singh Saini v. High Court of Delhi**^[19]). Where there has been willful disobedience of an order of the Court, and a measure of contumacy on the part of the defendants, then “**civil contempt**”, what is called “**contempt in procedure**”, bears a two fold character, implying as between the parties to the proceedings merely a right to exercise and a liability to submit to a form of civil execution, but as between the party in default and the State, a penal or disciplinary jurisdiction to be exercised by the Court in the public interest. (**Jennison**⁵).

The order of this Court, in W.P.No.1686 of 2009 dated 03.02.2009, necessitated compliance not only by those who were parties to the Writ Petition, but also by those, who even if they were not parties thereto, were aware of the order of this court dated 03.02.2009 on their being informed thereof, or were made aware of the order of this court dated 03.02.2009 by others. Before examining who, among the eleven respondents in this contempt case, were aware of the order of this court dated 03.02.2009, and which of them had wilfully violated the said order, it is necessary to take note of certain events leading upto the filing of this contempt case on 29.06.2009, and beyond.

II. FACTS IN BRIEF:

The petitioners are residents of Challoor village, Veenavanka Mandal, Karimnagar District. A government school was established in Challoor village to cater to the educational needs of the children thereat. The school building was located in a part of the land of an extent of Ac.3.24 guntas, and the remaining extent was earmarked for the school playground. The Challoor gram panchayat passed a resolution on 22.08.2008 allotting a part of the land, set apart for the school playground, to the 6th respondent-Mahila Swasakti Sangham.

Writ Petition No.1686 of 2009 was filed in public interest on 02.02.2009. In the affidavit filed in support thereof, the 7th petitioner stated that the Gram panchayat had passed a resolution on 22.08.2008 allotting the place, earmarked for the playground of a government school, to certain organisations; the playground was being used by the school children to

play games; any loss of the playground would adversely affect the student community; the gram panchayat lacked jurisdiction to allot land earmarked for the play ground of a government school; representations were submitted by them to the District Education Officer, and the District Panchayat Officer, informing them that any construction on the school playground would affect school children for all times to come; as their representations fell on deaf ears, they were invoking the jurisdiction of this Court; apart from the 6th respondent, there were others who were also making construction in the playground of the school; and respondents 1 to 5 were obligated to protect the school playground. By way of interlocutory relief, the petitioners sought a direction from this Court to the respondents to stop construction. This Court passed the following order on 03.02.2009:-

“Ad-interim relief to the effect that *Status quo* shall be maintained. No construction shall be put up and, if any construction is started, it should be stopped forthwith”.

In the present contempt case, filed on 29.06.2009, the 7th petitioner stated that the 6th respondent had started making construction after the interim order was passed by this Court; he had submitted a representation to the respondents enclosing a copy of the order dated 03.02.2009; inspite of the directions of the High Court, the respondents had again started construction of the building in the place earmarked for the school playground; and they were filing photographs to show the extent to which the subject building was constructed.

Administrative sanction for Rs.1.80 lakhs, for construction of the subject building, was accorded by the proceedings of the Chief Executive Officer, Zilla Parishad dated 27.11.2008, and for Rs.1.60 lakhs by proceedings dated 13.04.2010 (refer: counter of the 11th respondent). While the construction had just commenced when W.P.No.1686 of 2009 was filed and the interim order was passed on 03.02.2009, by the time the Contempt Case was filed nearly four months thereafter on 29.06.2009, construction of the subject building continued, pillars were laid on all four sides, and the outer wall of the ground floor was raised on two sides. (refer: affidavit filed in support of the contempt case, and the photographs

enclosed thereto). The Executive Engineer (PR) recorded measurements, in the measurement book, between 18.12.2008 to 20.07.2009 with regards construction of the subject building, and effected payment to the contractor as under:

Sl. No	Cheque No.	Date	Net amount	Date of drawl	MB No.
1.	984181	28.07.2009	42761	03.08.2009	878/BK/2008
2.	95813	24.09.2009	87101	03.10.2009	878/BK/2008
3.	186564	17.05.2010	88643	20.05.2010	185/BK/2006
4.	291822	25.04.2011	62424	28.04.2011	185/BK/2006
5.	848664	17.08.2012	127038	25.08.2012	341/AK/2011

(refer: counter-affidavit of the 1st respondent dated 21.08.2014). Construction of the walls of the subject building continued in May, 2009 (refer: letter addressed by the 7th petitioner to the District Collector and the District Panchayat Officer on 01.06.2009). The very fact that measurement was recorded between 18.12.2008 to 20.07.2009 goes to show that construction of the subject building continued after the order of this Court dated 03.02.2009, and even after the contempt case was filed on 29.06.2009. While the subject building was constructed upto the lintel level prior to 17.07.2009, construction beyond the lintel level of the building continued after 17.07.2009 (refer: counter-affidavits of respondents 10 and 11). Construction of the building was again undertaken during Dasara Vacations of October, 2009 till the school reopened, and was thereafter continued in the month of May, 2010 when the school was closed for summer vacations. (refer: counter affidavit of the 5th respondent-headmaster dated 20.09.2013). Construction of the building continued even in November, 2009 (refer: counter-affidavit of the 4th respondent-Panchayat Secretary). By 30.11.2010, construction of the subject building was completed upto roof level (refer: letter addressed by the Executive Engineer (PR) to the 7th respondent on 30.11.2010). Construction of the subject building was completed by March, 2011 and it was ready to be handed over to the concerned department (refer: letter of the Executive Engineer (PR) dated 23.03.2011). The building, which was constructed in complete disregard of the order of this Court dated

03.02.2009, was inaugurated by the Minister for Higher Education and a Member of Parliament on 10.05.2011. It is disconcerting not only that the order of this Court dated 03.02.2009 was violated, but also that, even after the Contempt Case was filed on 29.06.2009, construction of the building continued for nearly two years thereafter till it was completed in March, 2011, and was inaugurated on 10.05.2011.

Of the six respondents in W.P.No.1686 of 2009, the first respondent was the District Collector, Karimnagar; the second respondent was the District Educational Officer, Karimnagar; the third respondent was the District Panchayat Officer, Karimnagar; the fourth respondent was the Gram Panchayat, Challoor represented by its Secretary, Veenavanka Mandal, Karimnagar District; the fifth respondent was the Government School, Challoor represented by its Head Master; and the sixth respondent was the Mahila Swasakti Sangham, Challoor represented by its President. In the Contempt Case, as originally filed by the petitioner, the six respondents were (1) Sri Sandeep Kumar Sultania, District Collector, (2) Sri N. Rameshwara Raju, District Educational Officer, Karimnagar, (3) V. Venkateshwarlu, District Panchayat Officer, Karimnagar, (4) Syed Maqbool Raza, Panchayat Secretary, (5) K. Raja Mouli, Head Master of the School, and (6) Sri Hari Chand, President of the Mahila Swasakti Sangham. The first respondent-Sri Sandeep Kumar Sultania - continued to be the District Collector, Karimnagar till 04.04.2010. The 2nd respondent-Sri N. Rameshwara Raju, worked as the District Educational Officer, Karimnagar from 20.02.2008 to 12.06.2011 and retired from service as the Deputy Director on 30.09.2012. The 3rd respondent-Sri V. Venkateshwarlu - worked as the District Panchayat Officer, Karimnagar District till he was transferred to Khammam on 17.04.2010. He also retired from service later.

Smt. K. Lalitha, President of Sri Poojitha Samaikya Sangham, Challoor and Sri J. Narayan Goud, Sarpanch were impleaded as respondents 6 and 7 by the order of this Court dated 25.07.2014. Smt. G.D. Aruna, IAS, Smt. Smitha Sabharwal, IAS, Sri E. Dasharatham, Superintending Engineer (PR), and Sri A.B. Vara Prasad, Executive

Engineer (PR) were impleaded as respondents 8 to 11 by the order of this Court dated 05.09.2014. Smt. G.D. Aruna, IAS (8th respondent) worked as the District Collector, Karimnagar from 04.04.2010 till 17.04.2011; and Smt. Smitha Sabharwal, IAS, worked as District Collector, Karimnagar from 18.04.2011 to 13.06.2013. Sri E. Dasharatham, worked as Executive Engineer (PR), Karimnagar till 17.07.2009 and Sri A.B. Vara Prasad, worked as Executive Engineer (PR) from 17.07.2009 onwards till construction of the subject building was completed in March, 2011.

III. CONTENTS OF THE AFFIDAVIT AND COUNTER- AFFIDAVITS FILED IN THE CONTEMPT CASE:

In examining the question as to which of the eleven respondents in this contempt case are guilty of contempt, it is necessary, at the outset, to note the contents of the affidavit filed by the petitioners in support of the contempt case, and the counter-affidavits filed by the respondents in reply thereto. In the affidavit, filed in support of the Contempt Case, the 7th petitioner stated that they had made repeated representations to the respondent authorities bringing it to their notice that construction had not been stopped in the playground of the school. Along with the Contempt Case, the 7th petitioner enclosed the letter addressed by him to the District Collector and the District Panchayat Officer on 01.06.2009, copies of which were received by the office of the District Collector and the office of the District Panchayat Officer on the same day i.e, on 01.06.2009. In the said letter, the 7th petitioner stated that, in the vacant land, the Mahila Sangham had marked the plan and had raised the basement. He requested them to direct the concerned to stop the encroachment and the illegal construction, and save the land of the school.

In his counter-affidavit dated 21.08.2014, Sri Sandeep Kumar Sultania, the 1st respondent-District Collector, Karimnagar stated that, on the representation of the Mahila Swasakti Sangham, he had accorded administrative sanction for construction of the Mahila Swasakti Sangham building on 03.09.2007; the High Court had passed an interim order on 03.02.2009; a copy of the said order was received by him on 28.02.2009,

and immediately a note dated 28.02.2009 was issued to the District Educational Officer, Karimnagar District, the District Panchayat Officer, Karimnagar, the Sarpanch, Challoor Gram Panchayat, the Head Master of the School and the President of the Sangham directing them to comply with the order of this Court; the District Panchayat Officer, Karimnagar had instructed the Panchayat Secretary, the Sarpanch, and the Mandal Parishad Development Officer on 07.03.2009 to take necessary action as per the High Court order; a copy of the said order was marked to the Chief Executive Officer, Zilla Praja Parishad; the Panchayat Secretary had issued a notice to the President of the 6th respondent on 07.03.2009 to stop construction of the building, in the premises of the school, immediately and, if any further construction of the building was raised, it should be treated as a violation of the order of the High Court for which they would alone be responsible; the District Panchayat Officer had addressed letter dated 07.03.2009 to the District Educational Officer, and the Head Master of the school, to stop construction of the building and to ensure that *status quo* is maintained; a copy of the said proceedings was marked to the Panchayat Secretary, the Sarpanch, the Mandal Praja Parishad Development Officer, and the Chief Executive Officer, Zilla Praja Parishad; the Panchayat Secretary had reported to the District Panchayat Officer, by his letter dated 07.03.2009, that construction of the building had been stopped in compliance with the High Court order; the District Panchayat Officer had enquired in the village on 15.07.2009 about the stage of the work of the building; he had, in his letter dated 15.07.2009 addressed to the Government Pleader, High Court, stated that when he inspected the spot, along with the Divisional Panchayat Officer, *status quo* was being maintained and the construction position was as it was on the day i.e. 07.03.2009; the District Panchayat Officer is a very senior functionary in the district, and his report was relied upon by him; the contempt case notice dated 22.07.2009 was received by him on 06.08.2009; on receipt of the notice, the District Panchayat Officer had filed a counter-affidavit, both for himself and on behalf of the other respondents, stating that the Panchayat Secretary had informed, vide his letter dated 07.03.2009, that the construction was stopped; necessary steps were

taken by him to stop construction in terms of the order of the High Court dated 03.02.2009; the Sarpanch, Challoor Gram Panchayat is also the Chairman of the School Development Committee, and the Chairman of the works committee of the gram panchayat; he was aware of the order of the High Court, but had willfully carried out construction work, and received payment; it is evident from the letter addressed by the Sarpanch to the Deputy Educational Officer dated 20.02.2010 that, though the stay order of the High Court was in force, the building was almost completed; the Sarpanch had also further requested that the building be handed over to the Mahila Swasakti Sangham; though clear instructions were issued, the contractor who is the Sarpanch (Chairman of Works Committee) had willfully carried out the work violating the High Court order; despite the facts being brought to his notice by the petitioner, the Executive Engineer (PR), had violated the order of the High Court, and had made payment to the contractor-Sarpanch (Chairman of the Works Committee); the Executive Engineer (PR), who is the executing agency, did not bother about the *status-quo* order of the High Court, and did not stop the work even after being informed by the petitioner; he recorded the measurement book between 18.12.2008 to 20.07.2009, and effected payment to the contractor; the Executive Engineer (PR), who is the executive agency and who is aware of the High Court order, did not restrain the contractor from making further construction; on the contrary, he recorded the measurement book, and made payment; the Executive Engineers (PR) were E. Dasharatham and A.B.V. Prasad; the Extension Officer (PR & RD) had conducted an enquiry, and had reported to the Divisional Panchayat Officer on 19.11.2010, that the Panchayat Secretary had failed to implement the High Court order, he had simply issued notice to the Grama Samaikya Sangam, he had failed to stop the building construction, and he had also not informed the same to the competent authority; in view of the said report, the Panchayat Secretary had been placed under suspension vide proceedings dated 29.12.2012; he had made all possible efforts to stop the construction, and had instructed all the concerned officers including the Chief Executive Officer, Zilla Praja Parishad, who is the controlling agency for the Panchayat Raj Department in the District, to

strictly implement the order of the High Court; and he was tendering his unconditional apology.

In the additional counter-affidavit filed on 21.01.2015, the 1st respondent submitted that, after the present contempt case was filed, he was transferred from Karimnagar to Hyderabad on 04.04.2010; he had filed a detailed counter-affidavit in the contempt case in August, 2014; he had requested the District Panchayat Officer, Karimnagar to furnish photostat copies of the material/documents pertaining to the present contempt proceedings, and the correspondence made by all officers at all levels; the District Panchayat Officer had obtained the entire record from Challur Gram Panchayat, and had furnished the relevant papers to him; on perusing the entire record, he thought it fit to bring it to the notice of this Court, the contents of the letter dated 20.02.2010; and he had taken photostat copies of the letter dated 20.02.2010 addressed by the Sarpanch, Challur Gram Panchayat to the Deputy District Educational Officer, Karimnagar as the contents of the said letter were very important for the purpose of adjudication of the present contempt case.

In his counter-affidavit dated 20.09.2013, Sri N. Rameshwar Raju, the then District Educational Officer, Karimnagar, stated that he worked as the District Educational Officer, Karimnagar from 20.02.2008 to 12.06.2011; he received a copy of the interim order dated 03.02.2009 on 19.02.2009, and took action to implement the order of the High Court; he had instructed the head master of the school, by proceedings dated 25.03.2009, to stop the illegal construction work of the Mahila Mandali Building in the play ground of the school with the help of the police immediately, and submit a compliance report to him for taking further necessary action; in obedience to the order of the Court dated 03.02.2009, he addressed a letter to the Sub-Inspector of Police on 11.06.2009, and to the Superintendent of Police on 12.06.2009, requesting them to stop the illegal construction work in the play ground of the school; and the Chief Executive Officer, Zilla Parishad was the custodian of the building and the lands of the school under the Zilla Parishad/Mandal Praja Parishad management. In his counter affidavit dated 10.04.2013, Sri K. Lingaiah,

the District Educational Officer (after Sri N. Rameshwar Raju, stated that the District Educational Officer, by his letter dated 09.10.2009, had appointed an enquiry officer regarding the illegal construction of the building; the Deputy Educational Officer had visited the school, and had conducted an enquiry; prompt action had been taken to stop the illegal construction work; and the Mandal Educational Officer, Veenavanka had informed that the work was completed despite all action taken by them.

in his counter-affidavit dated 16.07.2009, the 3rd respondent (District Panchayat Officer, Karimnagar) stated that a copy of the order of this Court, in W.P. No.1686 of 2009 dated 03.02.2009, was received in his office on 05.03.2009; he had, thereafter, issued letter dated 07.03.2009 to the Secretary, Challoor Gram Panchayat informing him that the direction of the High Court dated 03.02.2009 should be implemented, and to take immediate steps to stop further construction; in reply, the Secretary of the Gram Panchayat had informed him on 07.03.2009 that the 6th respondent was directed to stop further construction, he had initiated follow-up action to maintain status quo, the President of the 6th respondent was suitably instructed in this regard not to continue with construction, if any, undertaken on the school playground land; the District Educational Officer, Karimnagar and the Head Master of the school had been directed to take all possible efforts to ensure that construction, if any, on the school playground was stopped, and to report compliance; the 2nd respondent was pursuing with the Tahsildar, Veenavanka Mandal to ensure that the illegal construction thereon was stopped; and, as follow-up action was taken to maintain status quo on the orders passed by the High Court dated 03.02.2009, there was no violation of the order of the Court.

In his additional counter-affidavit filed in November, 2014. the 3rd respondent (i.e Sri V.Venkateswarlu, Retired District Panchayat Officer) stated that, upon receipt of the order of the High Court dated 03.02.2009, he had addressed letter dated 07.03.2009 to the Panchayat Secretary intimating him of the order passed by the High Court on 03.02.2009; he had also instructed the Panchayat Secretary to take necessary steps for its implementation; a copy thereof was marked to the Sarpanch, Challoor

Gran Panchayat, the Mandal Parishad Development Officer, Veenavanka Mandal, the petitioner and the Chief Executive Officer of the Zilla Parishad; he had also addressed a letter on the same day, i.e., on 07.03.2009, to the District Educational Officer, Karimnagar District, and to the Head Master of the School, enclosing a copy of the order of the High Court dated 03.02.2009; he had asked them to forthwith take necessary steps to stop the construction, and to take photographs showing the construction on that day; he had, thereafter, asked them to take necessary steps for implementation of the order, and to maintain *status quo*; the Panchayat Secretary had also issued a notice to the President of the 6th respondent asking them to stop construction forthwith; he had also warned that, in the event construction was continued, the same would be treated as an offence under the Contempt of Courts Act; the Panchayat Secretary had informed him of compliance of the order of the High Court; upon instructions from the Learned Government Pleader, he had inspected the spot on 15.07.2009, along with the Divisional Panchayat Officer, Karimnagar; during spot inspection, he had observed that the *status quo* order of the High Court had been implemented in true letter and spirit; during inspection, the villagers, the Sarpanch, the Panchayat Secretary, the Head Master of the school, and the officer bearers of Mahila Swasakti Sangham were present; he had made it clear that there should not be any construction henceforth; he had informed the facts to the Learned Government Pleader on the same day; he is unaware of the payment made to the contractor as it appears to have been made by the concerned department; there is no synchronization between one department and another; it appears that payment had been released in favour of the contractor; he could not be held responsible for the alleged payment; on his transfer to Khammam as the District Panchayat Officer, he was relieved from services at Karimnagar on 17.04.2010; during his tenure as the District Panchayat Officer, Karimnagar he had taken immediate steps for implementation of the order of the High Court; and he had not disobeyed the orders of the Court.

In his counter-affidavit dated 11.08.2009, the 4th respondent-

Panchayat Secretary (i.e Syed Maqbool Raza) stated that, pursuant to the order of this Court dated 03.02.2009, he had issued a notice to the 6th respondent on 07.03.2009 to stop construction work; he had also informed the Head Master of the school; on 07.03.2009 he had informed the District Panchayat Officer (3rd respondent) about the action taken by him pursuant to the order of the High Court; construction was raised upto roof level before the interim order was passed by the High Court; and he had not violated the order of the High Court.

In his counter-affidavit dated 20.09.2013, Sri K. Raja Mouli, the Head Master of the School (4th respondent) stated that, on receipt of the High Court order dated 03.02.2009, and as per the District Educational Officer's letter dated 25.03.2009, he had submitted a representation to the Sub-Inspector of Police on 12.06.2009 requesting them to stop construction forthwith; the 6th respondent had stopped the work on receipt of the Court order; however, in the month of October during Dasara vacations, the 6th respondent again started the work temporarily, till reopening of the school; thereafter they stopped the work; again in the month of May, 2010 during summer holidays, they had carried out the remaining construction work and had completed the same; immediately upon coming to know about the said construction work, he brought it to the notice of his superior officer at the Mandal Level i.e., the Mandal Educational Officer by his letter dated 21.10.2010; subsequently the said building was inaugurated by the concerned Minister; he had the highest regard for the order of the High Court; and he was discharging his legitimate duties honestly and sincerely.

In her counter-affidavit dated 05.09.2014, Smt. Kampelli Lalitha (the 6th respondent and the President of the Mahila Sangham) stated that she was the President of the 6th respondent from 05.12.2006 to 04.03.2011; the interim order dated 03.02.2009 was not served on her, and she had no notice thereof; she has been impleaded by name only on the directions of this Court; in the affidavit, filed in support of the contempt petition, there is no allegation of willful violation against her; the representation allegedly

made by the petitioner, after the order passed by this Court, was to Sri Hari Chand, President of the Mahila Swasakti Sangham; she did not receive any such representation; she did not take any steps in the construction process; she had no role or power to carry out the construction or supervise the same; she was not associated with payment for the construction in question; she did not give any direction for construction in violation of the interim order; she has passed 10th class in telugu medium, and is now working as an Anganvadi Ayah in Challur village; and she is a humble lady from the lower strata of society.

In his counter-affidavit dated 05.09.2014, Sri J. Narayana Goud (7th respondent) stated that he is the Sarpanch of Chellur Gram panchayat; he was neither a party to the Writ Petition nor to the contempt case; the order dated 03.02.2009 was not served on him; he did not receive any representation from the petitioner informing him about the interim order; after construction was almost completed, he had approached the Executive Engineer (PR) for payment of the bills; the Executive Engineer had instructed him to approach the Deputy District Educational Officer, and get clearance from him in order to get payment; he had approached the Deputy District Educational Officer, Karimnagar who got prepared a letter, purporting to have been written by him and addressed to the Deputy District Educational Officer; the Deputy District Educational Officer had asked him to sign the letter and submit it; on reading the letter, from the penultimate para, he found a reference to the stay order of the Court, and obstruction of the work; he had objected to the said contents as he was not aware of any prohibitory orders of the Court; the Deputy District Educational Officer stated that, unless he signed the letter as prepared by him, he would not get payment; only upon going through the letter dated 20.02.2010, did he come to know about the interim order passed by the High Court, and not earlier; the Superintending Engineer (PR) and the Executive Engineer (PR), due to political pressure, exerted pressure on him continuously to complete the construction work as the concerned Minister was stated to be interested in early completion of the work; they never told him that he should stop the work in view of the interim order; the local MLA and MP were frequently visiting and exhorting him to complete

the work at the earliest; and he had no intention to violate the order of the High Court.

In her counter-affidavit Smt. G.D. Aruna, I.A.S (8th respondent) stated that she worked as the District Collector, Karimnagar from 04.04.2010 to 17.04.2011; during her tenure as the District Collector, Karimnagar neither the funding agencies i.e., the District Rural Development Agency and the Zilla Parishad nor the executing agency i.e., Executive Engineer, Panchayat Raj or other official respondents, had brought to her notice the interim order passed in W.P. No.1686 of 2009 dated 03.02.2009 or regarding construction of the Mahila Swashkthi Sangham building taking place at Challur village; during her tenure as the District Collector, Karimnagar, she did not sanction any work nor did she release any funds to any agency; she was not aware of the pendency of the Writ Petition or of the interim order passed by this Court, or that the construction of the building was in violation of the order; she has the highest regard for the orders of Court; and she has not violated the order of the High Court.

In her counter-affidavit, the 9th respondent stated that she worked as the District Collector, Karimnagar from 18.04.2011 to 13.06.2013; the District Panchayat Officer had circulated the file to her on 24.12.2012 explaining the details of the case, and seeking orders on the lapses committed by the Panchayat Secretary of Challur Gram Panchayat; as per the report of the Extension officer (PR&RD) dated 19.11.2010, the Panchayat Secretary, Challur Gram panchayat had not implemented the order of the High Court in W.P. No.1686 of 2009 dated 03.02.2009; the District Panchayat Officer had recommended that the Panchayat Secretary be placed under suspension, and he be appointed as the enquiry officer to conduct an enquiry; she had approved the same on 27.12.2012; orders were issued placing the Panchayat Secretary under suspension, vide proceedings dated 29.12.2012, for the lapses committed by him including for non-implementation of the order of the High Court dated 03.02.2009; in the month of December, 2012, she had enquired with the District Panchayat Officer about the stage of construction of the Mahila

Swashakthi Sangham Building at Challur; the District Panchayat Officer had informed that the construction of the building was already completed, and the same was inaugurated on 10.05.2011 by the Member of Parliament and the Minister for Higher Education; and the building is being used by the Mahila Sangham. The 9th respondent further stated that she was not aware of the interim order of the High Court dated 03.02.2009, or regarding the disputed construction of the building, till the file was circulated to her on 24.12.2012 by the District Panchayat Officer, Karimnagar; the inauguration of the building was also not known to her as it was an unofficial programme arranged by the MP and the Minister; and she has not violated the order of the High Court.

In his counter-affidavit dated 15.10.2014, the 10th respondent Sri E. Dasharatham, (the erstwhile Executive Engineer, Panchayat Raj Department) stated that he was not arrayed as a respondent in the Writ Petition; he was not aware of the passing of an interim order by this Court on 03.02.2009; neither the District Collector nor the District Educational Officer, or District Panchayat Officer or the Head Master of the Government School or the Gram Panchayat Secretary, who were the official respondents in the Writ Petition, had intimated him of the *status quo* order passed by this Court; he was not served any court order; as such he had executed the construction work as usual, and had completed construction work upto lintel level only; subsequently, further construction was executed by his successor Sri A.B. Vara Prasad (i.e., respondent No.11) who completed the remaining work; from the inception of the execution of the building till its completion, he was not aware of the filing of the Writ Petition or the interim order granted by the Court to maintain *status quo*; if the order of the High Court was communicated, or brought to his knowledge, he would have stopped the work forthwith and would have complied with the order passed by the Court; there is no willful or deliberate intention on his part to violate the order of the Court; till he received the contempt notice, he was unaware of the pendency of the Writ Petition or the interim order granted by this Court directing the respondents to maintain *status quo*; due to communication gap, the construction work was executed by him; he has great respect for the orders of Court; and he has not willfully violated Court

orders.

In his counter-affidavit dated 15.10.2014, Sri A.B. Vara Prasad (respondent No.11) stated that he worked as the Executive Engineer, (PR) Karimnagar; he was not made a party to W.P. No.1686 of 2009, and as such was not aware of passing of the *status quo* order by this Court; none of the official respondents in the Writ Petition informed him of the *status quo* order passed by this Court; he was also not served a copy of the order of the Court; he had, therefore, executed the construction work as usual, and had completed the left over construction work above the lintel level; by the time he assumed office on 17.07.2009 as Executive Engineer, his predecessor had already commenced construction work and had completed it upto lintel level; had his predecessor noticed the same, and had he informed him about the *status quo* order, he would have stopped construction forthwith; he was neither aware of the filing of the Writ Petition nor the interim order passed by this Court; there is no willful or deliberate intention on his part to violate the order passed by this Court; till he received the contempt notice, he was unaware of the pendency of the Writ Petition as well as the interim order passed by this Court; and he has not violated the orders of Court.

IV. CONTEMPT PROCEEDINGS ARE QUASI-CRIMINAL IN NATURE - IN AN UNCLEAR CASE, THE ALLEGED CONTEMNOR IS ENTITLED TO BENEFIT OF DOUBT:

In examining the question whether there is contempt of court or not, the court is both the accuser as well as the judge of the accusation. It behoves *the court to act with as great circumspection* as possible, making all allowances for errors of judgment. It is only when a clear case of contumacious conduct, not explainable otherwise, arises that the contemnor must be punished. Punishment under the law of contempt is called for *when the lapse is deliberate* and in disregard of one's duty and in defiance of authority. *To take action in an unclear case is to make the law of contempt do duty for other measures and is not to be encouraged.*

(Debabrata Bandhopadhyaya v. State of W.B. ^[20]—(Kanwar Singh

Saini¹⁹⁾ . There must be a clear-cut case of intentional obstruction of administration of justice, to bring the matter within the ambit of the provisions of the Contempt of Courts Act. Contempt proceedings are quasi-criminal in nature, and the standard of proof is the same as in other criminal cases. The alleged contemnor is entitled to the protection of all safeguards/rights, including benefit of doubt. (**Kanwar Singh Saini¹⁹⁾**).

Mere disobedience of an order is not enough to hold a person guilty of civil contempt. The element of willingness is an indispensable requirement to bring home the charge within the meaning of the Act.

(**Patel Rajnikant Dhulabhai⁷⁾**; **S.S. Roy v. State of Orissa^[21]**; **Indian**

Airports Employees' Union v. Ranjan Chatterjee^[22]; **Anil Ratan**

Sarkar⁶⁾). Contempt of a civil nature can be held to have been made out only if there has been a wilful disobedience of the order. The Court should not proceed on assumptions, as the Contempt of Courts Act places emphasis on the existence of the ingredient of wilful disobedience, before a person can hauled up for the charge of contempt of a civil nature.

(**Dinesh Kumar Gupta v. United India Insurance Co. Ltd.,^[23]**). A

proceeding for civil contempt would not be available to proceed against a party, who acts in good faith without any motive to defeat or defy the order

of the Court, for contempt of court. (**Dinesh Kumar Gupta²³⁾**).

Unintentional disobedience would not suffice. Even if the disobedience is established, absence of wilful disobedience on the part of the contemnor will not justify his being held guilty. Casual or accidental or unintentional acts of disobedience, which negate any suggestion of contumacy, would not render the contemnor liable for punishment. (**Dinesh Kumar Gupta²³⁾**;

Ahmed Ali v. Supdt., District Jail^[24]; **B.K. Kar v. High Court of**

Orissa^[25]; **State of Bihar v. Rani Sonabati Kumari^[26]** and **N. Baksi v.**

O.K. Ghosh^[27]).

The 9th respondent Smt. Smita Sabharwal joined as the District Collector, Karimnagar on 18.04.2011, after construction of the subject building was completed in March, 2011. While she was, no doubt, holding

office when the building was inaugurated on 10.05.2011, there is no material on record to show that she was aware of the inauguration, as her name is not even reflected in the inauguration plaque. The 9th respondent took action against the Panchayat Secretary, for violation of the order of this Court dated 03.02.2009, and placed him under suspension by order dated 29.12.2012. It cannot, therefore, be said that the 9th respondent has wilfully and deliberately violated the order of this Court. We see no reason, therefore, to take action against her under the Contempt of Courts Act.

Sri E. Dasaratham, the 10th respondent, was the Executive Engineer (PR), Karimnagar till 17.07.2009, and is not a party to the Writ Petition. There is no material on record to show that any of the official respondents, or even the petitioner, had intimated him of the order of this Court. In the absence of any material on record to show that he was aware of the order of this Court dated 03.02.2009, and as he was not a party to the Writ Petition, it cannot be said that he has wilfully or deliberately violated the order of this Court dated 03.02.2009. We see no reason, therefore, to take any action against him under the Contempt of Courts Act.

V. WILFUL DISOBEDIENCE OF THE ORDER OF COURT WOULD AMOUNT TO CONTEMPT OF COURT:

The answer to the question, whether the act tantamounts to wilful disobedience and a lame excuse is offered in order to subvert compliance of the court order, will depend on the facts and circumstances of the particular case. (**Dinesh Kumar Gupta**²³). That the order of this Court dated 03.02.2009 was violated with impunity for more than two years thereafter, till construction was completed in March, 2011, is itself proof that the violation was wilful and deliberate. The questions, which necessitate examination is (i) which of the respondents were made known or were aware of the order of this Court dated 03.02.2009 and yet, by their action or inaction, had wilfully violated the order of this Court; and (ii) the nature of punishment to be imposed on them.

Effective administration of justice would require some penalty to be

imposed for disobedience of orders of the Court if disobedience is more than casual, accidental or unintentional. (**Heatons Transport Ltd. v. Transport and General Workers Union**^[28]; **N.S. Kanwar**⁸). In exercise of its contempt jurisdiction, the Court is primarily concerned with an enquiry whether the contemnor is guilty of intentional and wilful violation of the orders of the court. (**Maninderjit Singh Bitta**¹). The wilful element is an indispensable requirement to bring home the charge within the meaning of the Act. (**Anil Ratan Sarkar**⁶). "Wilful means an act or omission which is done voluntarily and with the specific intent to do something the law forbids or with the specific intent to fail to do something the law requires to be done, that is to say, with the purpose of either disobeying or disregarding the law. (**Patel Rajnikant Dhulabhai**⁷; **Ashok Paper Kamgar Union v. Dharam Godha**^[29]). Wilful would exclude casual, accidental, bona fide or unintentional acts or genuine inability to comply with the terms of the order. Whether or not disobedience is willful depends on the facts and circumstances of each case. Even negligence and carelessness can amount to disobedience. (**Kapildeo Prasad Sah**¹³).

If a party who is fully in the know of the order of the Court, or is conscious and aware of the consequences and implications of the Court's order, ignores it or acts in violation thereof, it must be held that the disobedience is wilful. It may not be possible to prove the actual intention behind the act or omission. A Court can approach the question only objectively, and it may presume the intention from the act done as every man is presumed to intend the probable consequence of his act. (**N.S. Kanwar**⁸). To establish contempt of court, it is sufficient to prove that the conduct was willful and that the contemnor knew of all the facts which made it a breach of the order. It is not necessary to prove that he appreciated that it did breach the order. (**St. Helen's Ltd. v. Transport & General Workers' Union**^[30]; **Adam Phones Ltd v. Goldschmidt**^[31]). While the jurisdiction exercised in cases of contempt is quasi-criminal in nature and the court must be satisfied, on the material before it, that contempt of court was in fact committed, such satisfaction may be derived

from the circumstances of the case. (**Ram Autar Shukla v. Arvind Shukla**¹⁵; **Bank of India v. Vijay Transport**^[32]). For the purposes of judging 'civil contempt', intention or mens rea is not relevant. The question is only whether the breach was on account of willful disobedience i.e, whether it was not casual or accidental and unintentional. (**V.C. Govindaswami Mudali v. B.Subba Reddy**^[33]).

Of late, Courts are coming across several instances where senior government officers display scant regard for orders of the court, and offer lame excuses for its violation. (**Gurminder Singh Kang v. Shiv Prasad Singh**^[34]). It has become a tendency with government officers to somehow or the other circumvent the orders of the court taking recourse to one justification or the other even if, ex facie, they are unsustainable. This tendency of undermining the court order should not be countenanced. (**Maninderjit Singh Bitta**¹; **E.T. Sunup v. C.A.N.S.S. Employees Assn.**^[35]).

Bearing these aspects in mind let us now examine which of the respondents have wilfully violated the order of this Court dated 03.02.2009 and have, thereby, committed contempt of court. Sri Sandeep Kumar Sultania, the District Collector, Karimnagar when the order, in W.P. No.1686 of 2009 dated 03.02.2009, was passed was required not to violate the order of this Court dated 03.03.2009, and to ensure its compliance. This obligation did not come to an end merely by his addressing letters to his subordinates asking them to comply with the order of this Court. The 1st respondent continued to remain the District Collector, Karimnagar till he was transferred therefrom on 04.04.2010. As noted hereinabove, construction of the building continued not only after the interim order was passed by this Court on 03.02.2009, but even after the contempt case was filed on 29.06.2009, including in the months of October, November and December, 2009. While the 1st respondent cannot be held responsible for the construction made in May, 2010, as he was already transferred by then, his understanding, that his obligations to comply with the order of this Court ceased on his addressing letters to his

subordinates, is flawed. It was his obligation to ensure that, in compliance with the order of this Court dated 03.02.2009, the construction of the Mahila Mandali building was stopped and *status quo* as on 03.02.2009, with respect to construction, was maintained.

The assertion of the 1st respondent that he was led to believe by the report of the District Panchayat Officer dated 15.07.2009, that the construction was stopped, is not supported by any material on record. The letter addressed by the District Panchayat Officer on 15.07.2009 was to the Government Pleader of the High Court, and not to the District Collector. A copy of the said letter dated 15.07.2009 was not even marked to the District Collector. It is clear from the additional counter-affidavit filed by him on 21.01.2015 that, it is only in connection with his being required to file a counter-affidavit in the contempt case in August, 2014, the 1st respondent had requested the District Panchayat Officer to furnish documents which, evidently, included the letter addressed by the District Panchayat Officer to the Government Pleader on 15.07.2009. The 1st respondent has not referred to the contents of any other report of the District Panchayat Officer, in support of his claim of having been led to believe that construction of the subject building was stopped. The inaction on the part of the 1st respondent, and his carelessness and negligence which resulted in the order of this Court dated 03.02.2009 being violated, is not casual, accidental, bonafide, unintentional or on account of genuine disability. It would, therefore, amount to wilful disobedience of the orders of Court.

After receipt of a copy of the order of this Court on 19.02.2009, Sri N.Rameshwar Raju, the 2nd respondent, directed the Head Master of the school, by letter dated 25.03.2009, to stop the illegal construction work. A copy of the letter dated 01.06.2009, addressed by the 7th petitioner to the District Collector, was also submitted to the District Educational Officer on the same day i.e. on 01.06.2009. On receipt of the petitioners letter dated 01.06.2009, the second respondent addressed a letter to the Sub-Inspector of Police on 11.06.2009, and to the Superintendent of Police on 12.06.2009 respectively asking them to stop the illegal construction. Just

like the 1st respondent, the 2nd respondent also remained content by addressing letters to the Head Master of the school and to the police officials. What is also a matter of concern is that, in his counter-affidavit, the 2nd respondent should suppress the fact that he had, by proceedings dated 09.10.2009, caused an enquiry. Neither the contents of the enquiry report nor the conclusion arrived at pursuant thereto have been placed on record. After the enquiry was caused on 09.10.2009, it would have come to light that construction was still being continued, and action should have been taken at least then. The fact that an enquiry was conducted was suppressed from this Court, as no action was taken even thereafter to stop construction. Government officials cannot absolve themselves of their obligations to comply with the order of the Court, and rest content by relegating their responsibility to their subordinates/others, merely by addressing letters asking them to comply with the order of the Court. While the initial efforts made by the 2nd respondent, in requesting the headmaster and police officials to comply with the order of the Court, is in order, his carelessness and negligence thereafter is evident from his omission to take action, despite receipt of the petitioner's letter dated 01.06.2009, the filing of the contempt case on 29.06.2009, and the enquiry caused by him in October, 2009, is disconcerting. There is no material on record to show what action the 2nd respondent took after the contempt case was filed on 29.06.2009 complaining of continued violation of the order of this Court, and that the construction of the building was being continued even thereafter. It is clear that the 2nd respondent has also violated the order of this Court. His omission to comply with the order of the Court, not being casual or accidental or bonafide or unintentional or on account of genuine disability, would amount to wilful violation of the order dated 03.02.2009, and his having committed contempt of court.

The building, which was constructed, is in a part of the playground of the school of which Sri K.Rajamouli, the 5th respondent, was the Head Master. In his counter-affidavit dated 20.09.2013, the 5th respondent admits being aware of the order of this Court dated 03.02.2009, and submits that, on receipt of the letter of the District Educational Officer dated

25.03.2009, he had submitted a representation to the Sub-Inspector of Police requesting him to stop construction forthwith. He also admits that the construction of the subject building was taken up during Dasara Vacation in October, 2009 and, thereafter, again in May, 2010. Yet, he chose not even to bring these facts to the notice of his superiors or, by way of a miscellaneous petition, to the notice of this Court. It is only when the construction was nearing completion that he claims to have addressed a letter to the mandal educational officer on 21.10.2010. The 5th respondent failed to take any action to stop construction, despite being aware of the fact that the order of this Court was being violated. His omission to comply with the order of the Court, not being casual or accidental or bonafide or unintentional or on account of genuine disability, would amount to wilful disobedience of the order of this Court.

Smt.K.Lalitha, the 6th respondent, disclaims knowledge of the interim order passed by this Court dated 03.02.2009 when, in fact, the Legal Cell of the District Collector issued note dated 28.02.2009 informing her of the interim order passed by this Court on 03.02.2009. Thereafter, the Panchayat Secretary addressed a letter to her on 07.03.2009 informing her of the Court order. She seeks to take advantage of the fact that the petitioners had wrongly mentioned the name of the President of the 6th respondent-Mahila Sangham as Sri Hari Chand, and the subsequent correction of the cause title in the Contempt Case. She was well aware of the order passed by this Court, and that the building was continued to be constructed by the Sarpanch ever after the interim order of this Court. The fact, however, remains that funds were released by government officials, the construction was supervised by the Engineering Wing of the Panchayat Raj Department, and the 6th respondent had no role to play in this regard. Her contention that she did not take any steps in the construction process does appear to be true. Though she was aware of the order of this Court, the 6th respondent did little to inform the authorities concerned of the continued violation of the order of this Court dated 03.02.2009. Her omission to comply with the order of the Court, not being casual or accidental or bonafide or unintentional or on account of genuine

disability, would amount to wilful disobedience of the order of the Court, necessitating punishment being imposed on her under the Contempt of Courts Act.

Smt.G.D.Aruna, I.A.S, the 8th respondent, worked as the District Collector, Karimnagar from 04.04.2010 to 17.04.2011. As noted hereinabove, she took charge of the office of the District Collector more than a year after the order of this Court dated 03.02.2009. The fact, however, remains that the said order of this Court dated 03.02.2009 continues to remain in force till date, and the District Collector is a party to the Writ Petition. The violation of the order of this Court continued for nearly a year during the period when the 8th respondent held the office of the District Collector, as the construction of the subject building was completed only in March, 2011.

It was the responsibility of the 8th respondent, as the District Collector, to ensure that she was apprised by her subordinates of the orders of Court. Except to state that she was not informed, no action appears to have been taken by her against her subordinates for their alleged failure to inform her of the order of this Court. Accepting the submission of the 8th respondent, that failure of her subordinates to inform her of the order of this Court would absolve her of contempt, would require this Court to refrain from taking action, under the Contempt of Courts Act, whenever there is a change in office and a new officer is appointed in the place of the earlier incumbent. Whoever be the District Collector, during the period when the order of this Court was in force, is responsible for its violation. It is difficult to accept the submission of the eighth respondent that she was unaware of the order of this Court as her name is reflected in the inauguration plaque laid in connection with the inauguration of building on 10.05.2011. Her failure to comply with the order of the Court, not being casual or accidental or bonafide or unintentional or on account of genuine disability, would amount to wilful disobedience of the orders of Court.

In his letter addressed to the Government Pleader on 15.07.2009, Sri V.Venkateswarlu (the 3rd respondent-District Panchayat Officer) stated that he had directed the Panchayat Secretary, Challoor Gram Panchayat to

comply with the High Court order, to stop the construction, and to maintain *status quo*; pursuant to the telephonic instructions, he had proceeded to Challoor Gram Panchayat and had inspected the spot on 15.07.2009, along with the Divisional Panchayat Officer, Karimnagar; during spot inspection it was observed that *status quo* was being maintained, and the construction position was as it was on 07.03.2009; the villagers, Sarpanch, Panchayat Secretary and the Head Master of the School, including the office bearer of the Mahila Swasakti Sangham, were present during the spot inspection; and no construction was taken up after 07.03.2009.

In his counter-affidavit dated 16.07.2009, filed both on behalf of the District Collector and himself, the third respondent suppressed the fact of his having visited the construction site on 15.07.2009 to ascertain the extent of construction. It is only after a counter-affidavit was filed by the 1st respondent on 21.08.2014 and by Sri K. Lingaiah (the District Educational Officer) on 10.04.2013, referring to the inspection caused by the District Panchayat Officer on 15.07.2009, that an additional counter-affidavit was filed by the 3rd respondent in November, 2014 referring to his inspection on 15.07.2009. What is even more disconcerting is that the 3rd respondent-District Panchayat Officer sought to mislead this Court stating that, as on 15.07.2009, the status quo order passed by this Court on 03.02.2009 had been implemented in its true letter and spirit. While he has asserted in his additional counter-affidavit, that he had asked the 2nd and the 5th respondents, by his letter dated 07.03.2009, to stop construction and take photographs showing the construction on that day, he has neither placed copies of such photographs before us nor has he furnished details of the extent the building was constructed by 03.02.2009 or, for that matter, the extent of construction thereafter till 15.07.2009.

It is evident from the letter of the petitioner to the 3rd respondent on 01.06.2009, and the photographs enclosed along with the contempt case, that construction of the building continued after the order of this Court dated 03.02.2009. The counter-affidavit of the 1st respondent refers to measurement, of the construction of the building, having been taken between 18.12.2008 and 20.07.2009. The counter-affidavits of

respondents 10 and 11 show that the building was constructed upto lintel level by 17.07.2009. It is evident that the District Panchayat Officer has sought to suppress the fact that construction of the subject building continued even after the order of this Court dated 03.02.2009, and to mislead this Court by contending otherwise, only to avoid being punished under the Contempt of Courts Act. As the 3rd respondent, who was aware of the order of this Court dated 03.02.2009, and of its consequences and implications, has failed to ensure its compliance and, in addition, has sought to mislead this Court, he must be held to have wilfully disobeyed the order of Court and to have committed contempt of court.

As stated by him in his counter-affidavit dated 15.10.2014, Sri A.B. Varaprasad, the eleventh respondent, worked as the Executive Engineer (PR) Karimnagar from 17.07.2009 onwards. By his letter dated 27.10.2010, the 7th petitioner informed the 11th respondent that, despite the interim order of the High Court, illegal construction of the building was being continued. He requested that the bills, relating to the concerned work, be stopped in view of the order of the *status quo* passed by the High Court. A copy of the said letter dated 27.10.2010 was delivered at the office of the Executive Engineer (PR) on the same day, and receipt thereof was acknowledged. By his letter dated 17.11.2009, the 7th petitioner informed the eleventh respondent that construction of the Mahila Mandali building was started in the land of the primary school, and some work had been done; the said land was necessary for construction of additional classrooms; as such stay orders were obtained from the High Court, and construction work of the Mahila Mandali building was to be stopped. The 7th petitioner requested the 11th respondent to provide information, among others, whether, after stoppage of construction of the Mahila Mandali building located in school area, there was any possibility to allot the same to the Urdu medium school or as an additional class room to the school or Anganwadi School or library; whether there was any possibility of construction of the Mahila Mandali building in some other convenient and undisputed place; and whether the funds which were earlier sanctioned by him, for construction of the Mahila Mandali building, could be permitted for

its construction at some other undisputed land.

In reply thereto the eleventh respondent, by his letter dated 30.11.2009, furnished information with regards construction of the Mahila Mandali building in Challoor village, including that the construction of the building was completed upto roof level and, with the permission of the District Collector, the said building would be allotted as additional class room or Anganwadi school or library building; the Mahila Mandali building would be constructed somewhere else with the permission of the District Collector; and construction permission would be given, if permitted.

In his counter-affidavit dated 21.08.2014, the District Collector stated that, despite the facts being brought to his notice by the petitioner, the Executive Engineer (PR) had violated the order of the High Court, and had made payment to the contractor-Sarpanch (Chairman of the Works Committee); the Executive Engineer (PR), who is the executing agency, did not bother about the *status-quo* order of the High Court, and did not stop the work even after being informed by the petitioner; and, though he was aware of the High Court order, the Executive Engineer (PR) did not restrain the contractor from making further construction.

It is evident that the 7th petitioner had informed the 11th respondent, by his letter dated 17.11.2009, that stay order had been obtained from the High Court for stopping construction of the Mahila Mandali building. Receipt of the said letter dated 17.11.2009 is acknowledged by the eleventh respondent in his reply letter dated 30.11.2009. The 11th respondent was aware of the order of this Court atleast from 17.11.2009 when the 7th petitioner informed him thereof by way of an application filed under the Right to Information Act. Yet, as the executing agency, he permitted construction to be continued and also sought to mislead this Court stating on oath that he was unaware of the order of this Court. His assertion of not being aware of the High Court order is false, and has been made only to avoid being proceeded against under the Contempt of Courts Act. As noted hereinabove, construction of the building continued till March, 2011 and, for the period from 17.07.2009 till March, 2011, it was the 11th respondent who was the executing agency for construction of the

subject building. It is evident that, despite being aware of the order of this Court, the 11th respondent chose not to take any action to stop the construction. His failure to comply with the order of the Court, not being casual or accidental or bonafide or unintentional or on account of genuine disability, is a wilful violation of the order of this Court.

It is the case of Sri Syed Maqbool Raza, the Panchayat Secretary, Challoor Gram Panchayat, (the 4th respondent) that he had informed the District Panchayat Officer, by his letter dated 07.03.2009, that the construction of the building had been stopped in compliance with the High Court order; he had informed the District Panchayat Officer, by his letter dated 30.03.2012, that the subject building was constructed with the funds of department of woman and child welfare, the zilla parishad and the collector's special funds; though it was to the knowledge of the president of the sixth respondent and the contractor, that a case was pending in the Court regarding construction on the site, still construction was carried out; he had immediately responded, and had issued notice to them through the Village Panchayat Officer; and still the contractor carried out the work during night time, and had completed the same.

The Executive Officer, P.R. Division, Veenavanka informed the Divisional Panchayat Officer, by his letter dated 19.11.2010, that the Panchayat Secretary had stated, in the enquiry caused by him, that he and Sarpanch had issued notice dated 07.03.2009 to the 6th respondent to obey the order of the High Court and to stop construction work, the construction was stopped by the time he received the stay order of the High Court, construction was undertaken and completed on the days when he was on leave from 24.11.2009 to 27.11.2009 suffixing holidays on 28.11.2009 and 29.11.2009, and the said work was undertaken during night time, and not during the day. The Executive Officer concluded that the Panchayat Secretary had served the notice on the 6th respondent as a mere formality and there was no evidence of any initiative on his part to stop construction, he did not intimate the work status to his competent higher officers to take necessary action, and he had failed to file a case against the construction supervisor, and take steps to stop further

construction. By proceedings dated 29.12.2012, Smt. Smita Sabharwal, I.A.S, the then District Collector, Karimnagar, placed the Panchayat Secretary under suspension for having failed to implement the order of this Court dated 03.02.2009.

The 4th respondent-Panchayat Secretary, Challoor Gram Panchayat could not have been unaware of the building being constructed by the Sarpanch, Challoor gram panchayat with whom he was working. He also falsely stated, in his counter-affidavit dated 11.08.2009, (evidently to support the stand of the District Panchayat Officer), that construction was completed upto roof level before the interim order was passed by this Court on 03.02.2009. As stated hereinabove, pillars were laid and walls on two sides were raised after the interim order was passed by this Court and, even by 17.07.2009, construction was only upto the lintel level. It is only in December, 2009, more than 9 months after the interim order dated 03.02.2009, that the building was constructed upto the roof level.

The report of the Executive Officer dated 19.11.2012 records the submission of the Panchayat Secretary that the building was constructed during nights, and on the days when he was on leave from 24.11.2009 to 29.11.2009. Even if this highly exaggerated claim were to be believed, the Panchayat Secretary should have, atleast thereafter, brought these facts to the notice of his superior officers, and should have informed them that construction of the subject building was not stopped, and the order of this Court dated 03.02.2009 continued to be violated. In his report dated 19.11.2010, the Executive Officer (PR) has opined that the Panchayat Secretary had served the notice dated 07.03.2009 as a mere formality, he did not take any initiative to stop the construction, and he did not intimate the work status to his superiors for taking necessary action. The omission of the 4th respondent to comply with the order of the Court, not being casual or accidental or bonafide or unintentional or on account of genuine disability, would amount to wilful disobedience of the order of this Court dated 03.02.2009.

A note dated 28.02.2009 was issued by the District Collector, among others, to Sri J.Narayan Goud, the 7th respondent-Sarpanch

Challoor Gram Panchayat, directing that the order of the High Court should be complied with, and the Legal Cell of the District Collector's Office should be intimated immediately. The District Panchayat Officer, by his letter dated 07.03.2009, directed the Panchayat Secretary, Challoor Gram Panchayat to duly implement the order of the Court. A copy thereof was marked to the Sarpanch, Challoor Gram Panchayat. The proceedings of the Executive Officer, P.R. Division, Veenavanka dated 19.11.2010 records the Panchayat Secretary as having stated, in the enquiry held by him, that he and Sarpanch had issued notice dated 07.03.2009 to the 6th respondent to obey the orders of the High Court, and to stop the construction work.

In his counter-affidavit dated 05.09.2014, the Sarpanch did not deny receipt of the note dated 28.02.2009 from the District Collector's Legal Cell or of receipt of a copy of the letter dated 07.03.2009 addressed by the District Panchayat Officer to the Panchayat Secretary. He has, guardedly, stated that he did not receive a representation from the petitioner, and that the Superintending Engineer (PR) and the Executive Engineer (PR) did not ask him to stop the work. While the Sarpanch was not a party to the Writ Petition, he was nonetheless required to comply with the order of this Court dated 03.02.2009 on his being made aware thereof both by the District Collector and the District Panchayat Officer. Every person, be it a party to a lis before the court and even otherwise, must obey orders of the Court, in its true letter and spirit, with due respect for the institution. **(Maninderjit Singh Bitta¹).**

In his counter-affidavit dated 21.08.2014, the District Collector stated that the Sarpanch was also the Chairman of the School Development Committee, the Chairman of the Works Committee of the Gram Panchayat and the contractor who executed the work of construction of the subject building; and his letter to the Deputy Educational Officer dated 20.02.2010 showed that, though he was aware of the orders of the High Court, he had willfully carried on construction work, and received payment; and, though clear instructions were issued, the Contractor, who is the Sarpanch and the Chairman of Works Committee, had willfully carried out the work

violating the order of this Court dated 03.02.2009. In the additional counter-affidavit filed on 21.01.2015, the 1st respondent-District Collector stated that, at his request, the District Panchayat Officer had obtained the entire record from the Challur Gram Panchayat, and had furnished the relevant papers to him; on perusing the entire record, he thought it fit to bring to the notice of this Court, the contents of the letter dated 20.02.2010. In his counter-affidavit dated 10.04.2013, Sri K. Lingaiah (the District Educational Officer, Karimnagar, after Sri N. Rameshwara Raju) stated that the action of the Sarpanch in constructing the Mahila Swasakti Sangham Building was against the rules.

By his letter dated 20.02.2010, the Sarpanch informed the Deputy Educational Officer that, after commencement of the construction work of the Mahila Swasakti Sangham building, some persons had caused obstruction to the construction by filing a petition in the Court, and had brought a stay against the opinion of the villagers, and for their political benefit; they had stopped the construction work in many ways; and, as per the wishes of the public, the construction work of the building was almost completed, even after facing all obstacles. The Sarpanch requested that the building, which was almost completed, be handed over to the Mahila Swasakti Sangham.

Sri J. Narayana Goud, the 7th respondent-Sarpanch, sought to explain the circumstances in which the letter dated 20.02.2010 came into being, stating, in his counter-affidavit dated 05.09.2014, that, after construction was almost completed, he had approached the Executive Engineer (PR) for payment of the bills; the Executive Engineer had instructed him to approach the Deputy District Educational Officer, and get clearance from him in order to get payment; he had approached the Deputy District Educational Officer, Karimnagar who got prepared a letter, purporting to have been written by him and addressed to the Deputy District Educational Officer; the Deputy District Educational Officer had asked him to sign the letter and submit it; on reading the letter from the penultimate para, he found a reference to the stay order of the Court, and obstruction of the work; he had objected to the said contents as he was not aware of any prohibitory orders of the Court; the Deputy District

Educational Officer stated that, unless he signed the letter as prepared by him, he would not get payment; only upon going through the letter dated 20.02.2010, did he come to know about the interim order passed by the High Court, and not earlier; and the Superintending Engineer (PR) and the Executive Engineer (PR), due to political pressure, exerted pressure on him continuously to complete the construction work as the concerned Minister was stated to be interested in early completion of the work.

It is evident that the justification offered by the Sarpanch in his counter-affidavit dated 05.09.2014, for his admission in the letter dated 20.02.2010 of being aware of the order of this Court dated 03.02.2009 and of his deliberate violation thereof, is only to avoid being punished for contempt. If as is now contended, that he was forced to sign the letter dated 20.02.2010, nothing prevented the Sarpanch from informing the authorities soon thereafter of the circumstances under which he had signed the said letter. His silence for more than four and half years thereafter, till he filed his counter-affidavit on 05.09.2014, and that too only after these facts were brought to the notice of this Court by the District Collector in his counter-affidavit dated 21.08.2014, belies his claim of having signed the letter dated 21.02.2010 under threat of non-payment of the bills for the work executed by him. His brazen act of continued construction of the subject building, despite being informed of the order of this Court dated 03.02.2009, for more than two years thereafter till its completion in March, 2011 must be sternly dealt with. No lenience can be shown for such flagrant disobedience of, and the wilful and deliberate violation of, the orders of this Court.

VI. APOLOGY CANNOT BE ACCEPTED AS A MATTER OF COURSE:

It is no doubt true that all the respondents in this contempt case have either sought pardon or have tendered their unconditional apology. Section 12(1) of the Contempt of Courts Act, and the Explanation thereto, enable the Court to remit the punishment awarded for committing contempt of court on an apology being made to the satisfaction of the court. An apology should not be rejected merely on the ground that it is qualified or

tendered at a belated stage if the accused makes it *bona fide*. However a conduct which abuses, and makes a mockery of, the judicial process of the court must be dealt with an iron hand. (**Bal Kishan Giri v. State of U.P.**,^[36]). An apology can neither be a defence nor a justification for an act which tantamounts to contempt of court. An apology can be accepted in cases where the conduct, for which the apology is given, is such that it can be “ignored without compromising the dignity of the court”, or it is intended to be evidence of real contrition. It should be sincere. Apology cannot be accepted in case it is hollow, there is no remorse, no regret, no repentance, or if it is only a device to escape the rigour of the law. Such an apology is merely a “paper apology”. (**Bal Kishan Giri**³⁶).

An apology tendered is not to be accepted as a matter of course, and the court is competent to reject the apology and impose the punishment recording reasons therefor. (**Bal Kishan Giri**³⁶). Even if the apology is not belated, but is found to be without real contrition and remorse, and to have been tendered merely as a weapon of defence, the court may refuse to accept it. If the apology is offered at the time when the contemnor finds that the court is going to impose punishment, it ceases to be an apology and becomes an act of a cringing coward. (**Bal Kishan Giri**³⁶; **Debabrata Bandopadhyay**²⁰; **Mulk Raj v. State of Punjab**^[37], **Hailakandi Bar Assn. v. State of Assam**^[38], **C. Elumalai v. A.G.L. Irudayaraj**^[39] and **Ranveer Yadav v. State of Bihar**^[40]). A mere statement of apology by the contemnor before the court would hardly amount to his purging himself of contempt. The Court must be satisfied of the genuineness of the apology. If the court is so satisfied, and on this basis accepts the apology as genuine, it should pass an order holding that the contemnor has purged himself of contempt. (**Pravin C. Shah v. K.A. Mohd. Ali**^[41]).

An apology is not intended to operate as a universal panacea. (**M.Y. Shareef v. Judges of Nagpur High Court**^[42]; **Pravin C. Shah**⁴¹; **T.N. Godavarman Thirumulpad (102)**²). It is not a weapon of defence forged

to purge the guilty of the offence, but is intended to be evidence of real contrition, the consciousness of a wrong done, of an injury inflicted, and the earnest desire to make such reparation as lies in the wrongdoer's power. (**Delhi Development Authority**¹⁸). Only then is it of any avail in a court of justice. Unless that is done, not only is the tendered apology robbed of all grace but it also ceases to be a full and frank admission of a wrong done, which it is intended to be. (**Hiren Bose, Re**^[43]; **Patel Rajnikant Dhulabhai**⁷). The apology tendered by the contemnor, to be accepted by the Court, should be a product of remorse. (**M.C. Mehta v. Union of India**^[44]). Public interest demands that when a person has interfered with the judicial process, the judicial decision should not be pre-empted or circumvented merely by a conditional or an unconditional apology. While it is open to the Court, in an appropriate case, to accept an unconditional apology based on the factual position, dropping the proceeding of contumacious acts deliberately done, after accepting the apology offered, would be a premium for the flagrant abuse of the judicial process. (**Ram Autar Shukla**¹⁵).

In **L.D. Jaikwal v. State of U.P.**^[45], the Supreme Court observed:-

“.....We are sorry to say we cannot subscribe to the “slap—say sorry—and forget” school of thought in administration of contempt jurisprudence. Saying “sorry” does not make the person taking the slap smart less upon the said hypocritical word being uttered. Apology shall not be paper apology and expression of sorrow should come from the heart and not from the pen. For it is one thing to “say” sorry—it is another to “feel” sorry.....” (emphasis supplied).

The apology tendered by the respondents is neither a product of remorse nor is there any evidence of real contrition on their part. It is but a lofty expression used only to avoid being committed for contempt. Accepting such an apology, in the facts of the present case, would result in the contemnors going scot free after committing gross contempt of Court.

VII. IN NORMAL CIRCUMSTANCES ONLY A SENTENCE OF FINE SHOULD BE IMPOSED – DISTINCTION BETWEEN PASSIVE AND ACTIVE DISOBEDIENCE IS RELEVANT IN THIS CONTEXT:

The next question which arises for consideration is the nature and extent of penalty to be imposed on the respondents-contemnors on their being found guilty of contempt. There is an element of public policy in punishing civil contempt, since the administration of justice would be undermined if the order of a Court of law is disregarded with impunity. (**Patel Rajnikant Dhulabhai⁷; Attorney General v. Times Newspaper Ltd^[46]**). The power to punish for contempt is intended to maintain an effective legal system, and is exercised to prevent perversion of the course of justice. (**Kapildeo Prasad Sah¹³ Patel Rajnikant Dhulabhai⁷**). There are certain well recognized principles which govern the exercise of power and jurisdiction to punish for contempt. The power to commit for contempt will not be used for the vindication of a Judge as a person, but only with a view to protect the interests of the public for whose benefit, and for the protection of whose rights and liberties, the courts exist and function. Another factor which a High Court will take into consideration, in exercising its contempt jurisdiction, is to ascertain whether the contempt is merely technical, slight or trifling in character. If it is so the Court will be satisfied with an expression of genuine regret and will not proceed to inflict punishment on the contemnor. (**Advocate General, Andhra Pradesh, Hyderabad v. V. Ramana Rao^[47]**).

It is not only the *power* but the *duty* of the court to uphold and maintain the dignity of courts and the majesty of law which may call for the extreme step of punishing the person for contempt of court. For proper administration of justice, and to ensure due compliance with the orders passed by it, the Court would not hesitate in wielding the potent weapon of contempt. (**Patel Rajnikant Dhulabhai⁷**). The summary jurisdiction, exercised by Superior Courts, in punishing contempt of their authority exists in order to prevent interference with the course of justice; to maintain the authority of law as is administered in the Court; and thereby protect the public interest in ensuring the purity of administration of justice (**Hira Lal Dixit v. State of U.P.^[48]**).

While awarding sentence on a contemnor, the Court does so to

uphold the majesty of the law and to ensure that the unflinching faith of people in Courts remains intact. If the guilty are let off, and their sentence remitted on grounds of mercy, people would lose faith in the administration of justice. The Court is duty-bound to award proper punishment to uphold the rule of law, however high the person may be. (**J. Vasudevan v. T.R. Dhananjaya**^[49]). There cannot be any laxity, as otherwise law courts would render their orders to utter mockery. Tolerance of law courts there is, but not without limits and only upto a point and not beyond. (**Anil Ratan Sarkar**⁶). The law should not be seen to sit by limply, while those who defy it go free and those who seek its protection lose hope. (**Jennison**⁵).

Under Section 12(1) of the Contempt of Courts Act, save as otherwise expressly provided in the Act or any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both. Under Section 12(3), notwithstanding anything contained in Section 12, where a person is found guilty of civil contempt the Court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in civil prison for such period not exceeding six months as it may think fit. Section 13(a) postulates no punishment for contemptuous conduct in certain cases and, unless the Court is satisfied that the contempt is of such a nature that the act complained of substantially interferes with the due course of justice, the question of imposing punishment would not arise. It is evident from Section 12(3), read with 13(a), of the Contempt of Courts Act, 1971 that the Legislature intended that a sentence of fine should be imposed in normal circumstances, (**Smt. Pushpaben v. Narandas v. Badiani**^[50]), and a sentence of imprisonment should be restricted to cases where the contumacious act is of such magnitude that a mere sentence of fine would not suffice. The jurisdiction in contempt is seldom exercised by courts except when they find that, in addition to failure to comply with their orders, obstruction has been caused to their primary function of administering justice as authorities charged with that function. (**Dulal Chandra Bhar v.**

Sukumar Banerjee^[51]).

It is not enough that there should be some technical contempt of court. It must be shown that the act of contempt had substantially interfered with the due course of justice which has been equated with “**due administration of justice**”. Substantial interference with the course of justice is the requirement for imposition of punishment. The Contempt of Courts Act places an obligation on the Court to assess the situation itself as regards the factum of any interference with the due course of justice or of obstructing the administration of justice. (**Murray & Co. v. Ashok Kr.**

Newatia^[52]). Anyone who deflects the course of judicial proceedings, or sullies the pure stream of the judicial process, must be held to have interfered with the due course of justice, and to have obstructed administration of justice. Such persons must be punished not only for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice.

(**Chandra Shashi v. Anil Kumar Verma**^[53]; **Dhananjay Sharma v. State of Haryana**^[54]).

In this context the distinction between active and passive disobedience must be taken note of. There may be cases of disobedience where the contemnor flouts the orders of the court openly, intentionally and with no respect for the rule of law. In other cases of civil contempt, disobedience may be the consequence of a dormant or passive behaviour on the part of the contemnor. Such would be the case where the contemnor does not take steps, and just remains unmoved by the directions of the court. Even in cases where no positive/active role is directly attributable to a person, still his passive and dormant attitude of inaction may result in violation of the orders of the court, and may render him liable for an action of contempt. (**Maninderjit Singh Bitta**¹). Disobedience of court orders by positive or active contribution, or non-obedience by a passive and dormant conduct, leads to the same result. (**Maninderjit Singh Bitta**¹). It is not the offence of contempt which gets altered by a passive/negative, or an active/positive, behaviour of the

contemnor. It is only a relevant consideration for imposition of punishment, wherever the contemnor is found guilty of contempt of court. (**Maninderjit Singh Bitta¹**).

While Sri Sandeep Kumar Sultania, the 1st respondent, is no doubt guilty of contempt, this Court must, in examining the nature of punishment to be imposed on him, take into consideration the fact that the 1st respondent has, in the counter-affidavits filed by him, placed on record several proceedings which show that the Sarpanch, Challoor Gram Panchayat (respondent No.7), and the Executive Engineer (PR) (respondent No.11), had proceeded with construction in violation of the order of this Court; the Panchayat Secretary (respondent No.4) had suppressed information, regarding construction of the building, from his superiors; and the Sarpanch (respondent No.7) had, in his letter dated 20.02.2010, informed the Deputy District Educational Officer that he had proceeded with construction inspite of the order of this Court and had completed construction of the building. The 1st respondent has, on his own accord, assisted this Court in identifying those officials who have committed gross contempt. This Court would, therefore, not be justified in imposing on him the sentence of imprisonment. It would suffice, instead, if the punishment of sentence of fine of Rs.2,000/- is imposed on him for his wilful disobedience of the order of this Court.

Since Sri N. Rameshwar Raju, the 2nd respondent, did not play an active part in the construction of the subject building, and his role was of passive indifference and neglect. It would suffice, instead of sentencing him to undergo imprisonment, to impose on him the punishment of sentence of fine of Rs.2,000/-. While Sri K.Rajamouli, the 5th respondent, may not have played an active role in the construction of the building, his passive role in not taking any action, despite being aware of construction being continued, would necessitate his being punished under the Contempt of Courts Act. While a sentence of imprisonment may not be justified, it would be just and proper that he is imposed the punishment of sentence of fine of Rs.2,000/-. Considering the fact that Smt.K.Lalitha (the 6th respondent) is working as an Anganwadi Aaya in Challoor village, and

it does appear that she was merely a figure head President of the Mahila Sangham, it would suffice if, instead of imprisonment, punishment of sentence of fine of Rs.1000/- is imposed on her. As Smt.G.D.Aruna, IAS, the 8th respondent, did not play an active part in the construction of the building, and as she has asserted that she neither sanctioned any work nor did she release any funds during her tenure as the District Collector, Karimnagar, she is imposed the punishment of sentence of fine of Rs.2,000/-.

VIII. FLAGRANT VIOLATIONS, WHICH MAKE A MOCKERY OF THE ORDER OF THE COURT, WOULD NECESSITATE STRINGENT PUNISHMENT BEING IMPOSED:

While Courts are not hypersensitive, and ordinarily impose a sentence of fine as punishment for contempt, respondents 3, 4, 7 and 11 have interfered with the administration of justice, and have made a mockery of the order of this Court. These respondents, by their contumacious acts, have willfully disobeyed the order of the Court. Such open defiance of the order of the Court is contempt of such a nature as to have substantially interfered with the due course of justice for which imposition of a sentence of fine alone would not meet the ends of justice. Such flagrant violation of the orders of the Court must be dealt with sternly. In our considered opinion, on the facts and in the circumstances of this case, imposition of fine on respondents 3, 11, 4 and 7, in lieu of imprisonment, will not meet the ends of justice. (**Patel Rajnikant Dhulabhai**⁷). Where public interest demands, the Court will not shrink from exercising its power to impose punishment even by way of imprisonment, in cases where a mere fine may not be adequate, to let people know that they cannot, with impunity, hinder or obstruct or attempt to hinder or obstruct the due course of administration of justice. (**Hira Lal Dixit**⁴⁸).

While failure of Sri V.Venkateswarlu (3rd respondent-District Panchayat Officer) to comply with the order of this Court, and his resting content with merely addressing letters to his subordinates, may have justified imposing on him the punishment of a sentence of fine alone, his

attempt to mislead this Court by informing the Government Pleader, in his letter dated 15.07.2009, that there was no construction after 03.02.2009, and his false assertion in his additional counter-affidavit filed in November, 2014 that, during inspection on 15.07.2009, he observed that the *status quo* order of the High Court dated 03.02.2009 had been implemented in its true letter and spirit, would require stringent action being taken against him. Unscrupulous and devious methods, adopted to circumvent and defeat orders of courts, must be curbed. (**Rajappa Hanamantha Ranoji v. Mahadev Hannabasappa**^[55]). As the order of this Court has not only been wilfully disobeyed, but the third respondent has also suppressed material facts, and has attempted to mislead this Court, a sentence of imprisonment is warranted. As the 3rd respondent has since retired from service, we consider it appropriate to impose on him the sentence of imprisonment for 15 days and with fine of Rs.2,000/-.

While punishment of fine may have otherwise sufficed, Sri A.B.Varaprasad, the 11th respondent, has also sought to mislead this Court stating that he was unaware of the order dated 03.02.2009, though he was. We consider it appropriate, therefore, to impose on him the sentence of imprisonment for 15 days, and with fine of Rs.2,000/-.

While the District Collector, Karimnagar had, no doubt, placed Sri Syed Maqbool Raja, the 4th respondent, under suspension on 29.12.2012, a deterrent punishment must be imposed on him, not only for his wilful violation of the order of this Court, but also to let government servants know that their wilfully abetting and aiding violation of court orders would result in stringent action being taken against them, as the majesty of the law must be upheld. We consider it appropriate, therefore, to impose on the 4th respondent-Panchayat Secretary the sentence of imprisonment for a period of one month and with fine of Rs.2,000/-.

Not only was Sri J.Narayan Goud, the 7th respondent, aware of the order of this Court dated 03.02.2009, but he also consciously and with the wilful intention of flouting the orders of this Court, proceeded with construction of the subject building for more than two years thereafter till it

was completed in March, 2011. His brazen acts of violation of, and his utter disregard for, the order of this court is an affront to the majesty of law. A sentence of fine alone would not suffice and, considering the gravity of his offence, we consider it appropriate to impose on him the stringent punishment of sentence of imprisonment for a period of two months and with fine of Rs.2,000/-.

IX. CONCLUSION:

Smt. Smita Sabharwal, I.A.S. (the ninth respondent) and Sri E. Dasaratham, Superintending Engineer (PR) (the tenth respondent) cannot be said to have willfully violated the order of this Court dated 03.02.2009 and, consequently, contempt proceedings initiated against them are dropped. Sri Sandeep Kumar Sultania, I.A.S. (the first respondent-District Collector), Sri N. Rameshwar Raju (the 2nd respondent-District Educational Officer), Sri K. Rajamouli (the 5th respondent-Headmaster of the School), Smt. K. Lalitha (the 6th respondent-President of the Mahila Sangham) and Smt. G.D. Aruna, I.A.S. (the 8th respondent-District Collector, Karimnagar) are guilty of wilful disobedience of the order of this Court dated 03.02.2009. Since their disobedience is passive, and their inaction has resulted in violation of the order of the Court, they are imposed a sentence of fine. While respondents 1, 2, 5 and 8 shall pay a fine of Rs.2,000/- each, respondent No.6 shall pay a fine of Rs.1,000/-. These respondents shall pay the fine, as directed hereinabove, within four weeks from today failing which they shall undergo the sentence of imprisonment for three days each.

Sri V. Venkateswarlu (the 3rd respondent-District Panchayat Officer) and Sri A.B. Varaprasad (Executive Engineer (PR)) have not only violated the orders of this Court, but have also misrepresented/suppressed material facts before this Court only to avoid being punished for contempt. They shall be detained in civil prison for fifteen days, and shall pay a fine of Rs.2,000/- each within four weeks from today, failing which they shall undergo the sentence of imprisonment for a further period of three days.

Sri Syed Maqbool Raza, (the fourth respondent-Panchayat

Secretary) has aided and abetted Sri J.Narayan Goud (the 7th respondent-Sarpanch) in proceeding with construction in utter disregard for the order of this Court dated 03.02.2009. He shall be detained in civil prison for a period of one month and shall pay a fine of Rs.2,000/- within four weeks from today failing which he shall undergo imprisonment for a further period of three days. Sri J. Narayan Goud (the 7th respondent Sarpanch) has not only flouted the order of this Court but has also continued with and completed construction of the building in open defiance of the order of this Court. He has, by his brazen acts of obstruction of administration of justice, made a mockery of the order of this Court dated 03.02.2009. He shall, therefore, be detained in civil prison for a period of two months and shall pay a fine of Rs.2,000/- within four weeks from today, failing which he shall undergo imprisonment for a further period of three days.

As required under Rule 32(1) of the Contempt of Court Rules, 1980, respondents 3, 4, 7 and 11 shall be entitled to subsistence allowance, in accordance with their status, during the period of their detention in civil prison. The subsistence allowance for respondents 3 and 11 is fixed at Rs.1,000/- per day, and for respondents 4 and 7 at Rs.750/- per day. The State Government shall bear the cost of the subsistence allowance payable to respondents 3, 4, 7 and 11. The contempt case is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of.

RAMESH RANGANATHAN, J

CHALLA KODANDA RAM, J

Date: 17.07.2015

Note: L.R. copy to be marked.

B/o
MRKR/CS

Dated: 17.07.2015

The learned Advocate General, and the other Counsel for the respondents request that the sentence be kept in abeyance/suspended to

enable these respondents, sentenced by the order in the contempt case, to pursue their appellate remedies.

In view of the oral request, the order in the contempt case sentencing respondents 3, 4, 7 and 11 is suspended for a period of one month.

RAMESH RANGANATHAN, J

CHALLA KODANDARAM, J

17.07.2015
MRKR/CS/TSY

[1] (2012) 1 SCC 273
[2] (2006) 5 SCC 1
[3] (1980) 3 SCC 311
[4] (2003) 1 SCC 644
[5] 1972(1) All.E.R 997
[6] 2002(4) SCC 21
[7] (2008) 14 SCC 561
[8] 1995 Cri.L.J.1261 (Punjab & Haryana HC DB
[9] 1967(1) An.W.R.129
[10] 2005(6) SCC 98
[11] 2006(1) SCC 613
[12] (2004) 7 SCC 261)
[13] (1999) 7 SCC 569
[14] (2007) 7 SCC 689
[15] 1995 Supp (2) SCC 130
[16] (1999) 1 SCC 16
[17] (1988) 4 SCC 592
[18] (1995) 3 SCC 507
[19] (2012) 4 SCC 307
[20] AIR 1969 SC 189

[21] AIR 1960 SC 190
[22] (1999) 2 SCC 537
[23] (2010) 12 SCC 770
[24] AIR 1987 SC 1491
[25] AIR 1961 SC 1367

- [\[26\]](#) AIR 1954 Pat 513
- [\[27\]](#) AIR 1957 Pat 528
- [\[28\]](#) (1972) (3) All ER 101 (House of Lords
- [\[29\]](#) (2003) 11 SCC 1
- [\[30\]](#) (1972) 3 All ER 101
- [\[31\]](#) (1999)4 All ER 486
- [\[32\]](#) 2000(8) SCC 512
- [\[33\]](#) 1986 (2) A.L.T. 131
- [\[34\]](#) (2013) 11 SCC 332
- [\[35\]](#) (2004) 8 SCC 683
- [\[36\]](#) (2014) 7 SCC 280
- [\[37\]](#) AIR 1972 SC 1197
- [\[38\]](#) AIR 1996 SC 1925
- [\[39\]](#) AIR 2009 SC 2214
- [\[40\]](#) (2010) 11 SCC 493
- [\[41\]](#) (2001) 8 SCC 650
- [\[42\]](#) AIR 1955 SC 19
- [\[43\]](#) AIR 1969 Cal 1
- [\[44\]](#) (2003) 5 SCC 376
- [\[45\]](#) (1984) 3 SCC 405
- [\[46\]](#) 1974 AC 273
- [\[47\]](#) AIR 1967 AP 299
- [\[48\]](#) AIR 1954 SC 743
- [\[49\]](#) (1995) 6 SCC 249
- [\[50\]](#) AIR 1979 SC 1536
- [\[51\]](#) AIR 1958 Calcutta 474
- [\[52\]](#) (2000) 2 SCC 367
- [\[53\]](#) 1995(1) SCC 421
- [\[54\]](#) (1995) 3 SCC 757
- [\[55\]](#) 2000(6) SCC 120