

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

L.P.A.No.4 of 2014

Between:

Shri Radhakrishna Mathur, IAS,
S/o Shri Prem Shankar Mathur,
Secretary to Government,
Ministry of Defence, Union of India,
South Block, New Delhi.

... Appellant

And

I.Ravi Kumar,
S/o Singaraiah,
R/o Yerrabalem Post and Village,
Cumbam Mandal, Prakasam District,
Andhra Pradesh.

... Respondent

DATE OF JUDGMENT PRONOUNCED: 30.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE S.RAVI KUMAR

- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
- 2 Whether the copies of judgment may be marked to Law Reports/Journals Yes/No
- 3 Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

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

AND

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

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+ L.P.A.No.4 of 2014

% Dated 30-07-2015

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Shri Radhakrishna Mathur, IAS

.... Appellant

Vs.

\$ I. Ravi Kumar

.... Respondent

! Counsel for the Appellant: Sri S.Satyanarayana Prasad,

Learned Senior Counsel for the appellant

^ Counsel for respondent: Party-in-person (I. Ravi Kumar)

<GIST:

> HEAD NOTE:

? Citations:

1. AIR 1994 SC 853
2. (1996 6 SCC 291
3. (2006) 5 SCC 399
4. (2001) CrI.L. J. 4123
5. (2007) 14 SCC 165
6. (1982) 2 SCC 440
7. (2010) 10 SCC 320
8. (1998) 1 SCC 1
9. (2008) 3 SCC 542

10) (1996) 6 SCC 587

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE S.RAVI KUMAR

-

L.P.A.No.4 of 2014

-

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

This appeal, under clause 15 of the letters patent, is preferred against the order passed in C.C.No.1899 of 2013 dated 05.11.2014 whereby the Learned Single Judge directed the appellant, if necessary, to review his earlier order.

The respondent's services, as an adhoc lecturer in the department of computer sciences in the National Defence Academy, Khadakwasla, Pune, were terminated by order dated 19.06.2000. Aggrieved thereby, the respondent herein filed O.A.No.433 of 2000 before the Central Administrative Tribunal, Mumbai (hereinafter called the "Tribunal"). The said O.A. was dismissed by the Tribunal by its order dated 30.01.2001. The respondent filed W.P.No.1928 of 2012 before the Bombay High Court challenging the order of the Tribunal. By its order dated 03.06.2003, the Bombay High Court dismissed the said Writ Petition. S.L.P (Civil).No.12941 of 2003 was filed thereagainst by the respondent, which was dismissed by the Supreme Court by its order dated 17.11.2003. The respondent sought review of the said order and the Supreme Court, by its order dated 10.02.2004, dismissed the review petition also.

Having failed in his attempts to get relief from either the Bombay High Court or the Supreme Court, the respondent herein invoked the jurisdiction of the High Court of

Andhra Pradesh filing W.P.No.20337 of 2004 wherein he sought a writ of mandamus to declare the action of the appellants, in dismissing him from service as a lecturer from the National Defence Academy, as illegal and arbitrary. The order of dismissal, under challenge in W.P.No.20337 of 2004, was the very same order of termination dated 19.06.2000 which was subjected to challenge before the Tribunal, the Bombay High Court and the Supreme Court.

In his order in W.P.No.20337 of 2004 dated 11.02.2005, a Learned Single Judge of this Court held that, against the order of dismissal dated 19.06.2000, the respondent had filed an appeal before the competent authority on 14.06.2004, which was rejected by order dated 17.07.2004; the reasons given in the appellate order were not correct; neither was the respondent heard nor was there any consideration of the matter on merits; the rejection of the appeal was not supported by any valid reasons; in view thereof, and especially with regards the pleas as raised in the appeal grounds, it was necessary for the appellate authority to go into the merits of the appeal and dispose it of on merits in accordance with law after giving notice and opportunity; and, in view of the same, the matter required to be considered afresh on merits. The writ petition was allowed setting aside the impugned orders, and the matter was remanded to the 2nd respondent for fresh disposal on merits and in accordance with law, after giving notice and opportunity to both the sides. The entire exercise was directed to be completed within a period of two months from the date of receipt of a copy of the order.

In his affidavit, filed in support of W.P.No.20337 of 2004, the respondent herein suppressed facts, and made no reference of his having invoked the jurisdiction of the Tribunal, the Bombay High Court and the Supreme Court. Sri I.Ravi Kumar, the respondent- party in person, would draw our attention to the counter affidavit filed by the appellant herein in W.P.No.20337 of 2004, and to the reply affidavit filed by him thereto, to contend that these facts were brought to the notice of the Court. Sri S.Satyanarayana Prasad, Learned Senior Counsel for the appellant, would however submit that neither the counter-affidavit nor the reply affidavit relate to the Writ Petition but to the review petition filed thereafter. While it is not clear whether the counter-affidavit relied upon by the respondent was filed in W.P.No.20337 of 2004, the very fact that the reply affidavit refers to the review petition makes it clear that the reply could not have been filed in W.P.No.20337 of 2004. It is not in dispute that the affidavit, filed in support of W.P.No.20337 of 2004, makes no reference to any of the

aforesaid orders nor does the order passed by the Learned Single Judge, in W.P.No.20337 of 2004 dated 11.02.2005, take note of any of these orders.

Consequent upon the order passed in W.P.No.20337 of 2004 dated 11.02.2005, an appellate order dated 16.07.2005 was passed. The respondent herein filed C.C.No.519 of 2005 alleging violation of the order passed in W.P.No.20337 of 2004 dated 11.02.2005. A Learned Single Judge of this Court, in his order in C.C.No.519 of 2005 dated 27.07.2005, held that this was a classic case where the powers of the court had been misused, and orders in W.P.No.20337 of 2004 dated 11.02.2005 were obtained by playing fraud on this Court. The Learned Judge, after referring to the order of the Tribunal, the order of the Bombay High Court, and to the dismissal of the Special Leave Petition by the Supreme Court, observed that the respondent herein had filed W.P.No.20337 of 2004 suppressing all these facts; W.P.No.20337 of 2004 was disposed of at the stage of admission setting aside the order dated 19.06.2000, and the matter was remanded to the 2nd respondent for fresh disposal on merits; the order had attained finality before the Supreme Court; the respondent, suppressing these facts, had filed W.P.No.20337 of 2004 as a party in person, and had obtained orders at the stage of admission; though the respondents were represented by counsel in the writ petition, it was the duty of the petitioner (respondent herein) to state all relevant and material facts; and the respondent herein had obtained orders from this Court in W.P.No.20337 of 2004 dated 11.02.2005 suppressing facts. C.C. No.519 of 2005 was dismissed as devoid of merits.

While matters stood thus, the respondents in W.P.No.20337 of 2004 filed Review W.P.M.P.No.13053 of 2005 in W.P.No.20337 of 2004 seeking review the order passed in W.P.No.20337 of 2004 dated 11.02.2005. The Learned Single Judge took note of the submission that, subsequent to dismissal of W.P. No.20337 of 2004, an order had been passed on 16.07.2005. The Learned single judge observed that, in view thereof, no orders need be passed in the Review Petition. While dismissing the Review Petition, the Learned Single Judge left it open to the respondent herein, who had appeared as a party in person, to file fresh proceedings challenging the subsequent order dated 16.07.2005.

Alleging violation of the order passed in W.P.No.20337 of 2004 dated 11.02.2005, the respondent herein again filed C.C.No.567 of 2006, though C.C.No.519 of 2005

filed earlier, alleging violation of the very same order in W.P. No.20337 of 2004 dated 11.02.2005, had been dismissed by a Learned Single Judge by his order dated 27.07.2005. In his order in C.C.No.567 of 2006 dated 03.08.2006, another Learned Single Judge took note of all the earlier orders including the order passed in C.C.No.519 of 2005, and held that the contempt case before him was a case where the powers of the Court had been grossly misused by the respondent herein by suppressing material facts, and by filing petition after petition. The Learned Single Judge held that, in view of the fact that further orders had already been passed on 16.07.2005 after issuance of notice to the respondent herein, there was absolutely no violation as pleaded by him. C.C.No.567 of 2006 was dismissed.

Having failed in his attempt to have the appellant herein punished under the Contempt of Courts Act, and as C.C. No.567 of 2006 was dismissed by order dated 03.08.2006, the respondent herein filed W.P. No.23150 of 2006 questioning the appellate order dated 16.07.2005. In his order, in W.P.No.23150 of 2006 dated 10.11.2006, the Learned Single Judge took note of the dismissal of the respondent herein from service, the order of the Tribunal, the order of the Bombay High Court, the order of the Supreme Court in S.L.P (Civil) No.12941 of 2003, the order in W.P. No.20337 of 2004 and the order passed in C.C.No.567 of 2006. Thereafter the Learned Single Judge observed that, as the Special Leave Petition preferred by the respondent herein before the Supreme Court was dismissed, it was not open to him to question the said order by again filing a writ petition; notwithstanding the same he had filed W.P. No.20337 of 2004, which culminated in the matter being remanded for fresh disposal; in view of the directions of this Court in W.P.No.20337 of 2004, the appellate order dated 16.07.2005 was passed confirming the earlier order of termination; and, in view of the order passed by the Bombay High Court as affirmed by the Supreme Court, there was no illegality in the order dated 16.07.2005. The Learned Single Judge found no valid ground to admit the writ petition, and dismissed it as devoid of merits.

The respondent herein filed yet another contempt case in C.C. No.52 of 2011 alleging violation of the very same order passed in W.P. No.20337 of 2004 dated 11.02.2005. By his order in C.C. No.52 of 2011 dated 06.07.2012, a Learned Single Judge of this Court, after taking note of all the earlier orders, also took note of the submission of the respondent herein, relying on the judgment of the Supreme Court

in **S.P. Chengalvaraya Naidu v. Jagannath**, that fraud vitiated all judicial acts. The Learned Judge held that the Tribunal and the Bombay High Court had not committed any error, and there was no impropriety in the orders passed by them; and these orders could not be held to have been vitiated in any manner so as to ignore them completely. The Learned Single Judge found no merit or justifiable reason to entertain the contempt case, and dismissed it.

The respondent herein did not rest there. He filed Contempt Miscellaneous Application Nos.241, 242 and 243 of 2013, in C.C. No.52 of 2011 in W.P.No.20337 of 2004, seeking recall of the earlier orders passed in C.C.No.52 of 2011 dated 06.07.2012, C.C. No.519 of 2005 dated 27.07.2005, C.C. No.567 of 2006 dated 03.08.2006, and the order in W.P. No.23150 of 2006 dated 10.11.2006, and to declare them as void, a nullity and as non est. By his order in Contempt M.A.Nos.241 to 243 of 2013 dated 28.03.2013, the Learned Single Judge expressed his inability to understand the judgment, rendered in W.P. No.20337 of 2004 dated 11.02.2005, as meaning anything other than remanding the matter to the appellate authority since, in the opinion of the Learned Judge, no reasons had been assigned by the appellate authority while rejecting the appeal; he did not find any pronouncement, or any reflection on the merits of the order of dismissal, in the judgment rendered in W.P. No.20337 of 2004; the exercise indulged in by the respondent herein, as demonstrated in the present set of petitions, was a clear case of abuse of the judicial process; indulgence was shown by Courts towards parties who prefer to appear in person and present their cases; and he was therefore constrained to dismiss these applications. While observing that, for the extraordinary amount of time consumed by the respondent herein most unproductively, he would have considered imposing costs on him, the Learned Single Judge, however, took a lenient view and refrained from doing so.

The respondent herein filed W.P.M.P. No.22825 of 2013 in Review W.P.M.P. No.13053 of 2005 in W.P. No.20337 of 2004 requesting the Learned Single Judge to modify the order passed in W.P.No.13053 of 2005 dated 02.09.2005 deleting the directions issued therein that ***“it shall be open for the respondent who has appeared as party in person to file fresh proceedings challenging the subsequent order dated 16.07.2005”***. In his order dated 09.07.2013, the Learned Single Judge held that, as the respondent herein had asked to delete the said portion of the order, it was for him to take a decision whether or not to challenge the

proceedings dated 16.07.2005; and, since he himself was requesting to delete the sentence from the order dated 02.09.2005, the said sentence stood deleted from the order dated 02.09.2005. W.P.M.P. No.22825 of 2013 was allowed accordingly. Consequent upon the order passed in W.P.M.P. No.22825 of 2013 dated 19.07.2013 the respondent herein no longer had the liberty to question the subsequent order passed by the appellate authority dated 16.07.2005 the challenge to which, in any event, had been rejected by the Learned Single Judge in W.P. No.23150 of 2006 dated 10.11.2006.

The respondent herein filed C.A.(SR) No.621 of 2013 to review the earlier order passed in C.C. No.519 of 2005 dated 27.07.2005. As noted hereinabove a Learned Single Judge, by his order dated 27.07.2005, had dismissed C.C.No.519 of 2005 holding that the respondent herein had played fraud on the Court, and had thus obtained the order in W.P. No.20337 of 2004 dated 11.02.2005. Even if it were to be presumed that this Court has the power to review the order passed by it in a Contempt Case, which itself is not beyond doubt, the order in C.C. No.519 of 2005 dated 27.07.2005 was neither reviewed nor set aside in C.A. No.621 of 2013, though the respondent herein had sought review thereof. Yet the Learned Single Judge, by his order in C.A. No.621 of 2013 dated 15.07.2013, directed the appellant herein to dispose of the appeal filed by the respondent, if any, pending with them on merits as early as possible. This direction was issued, in C.A.No.621 of 2013 dated 15.07.2013, notwithstanding all the orders referred to hereinabove. Emboldened by the said order, the respondent herein filed C.C. No.1899 of 2013 alleging violation of the order passed in C.A. No.621 of 2013 in C.C. No.519 of 2005 dated 15.07.2013. The Learned Single Judge (who passed the order in C.A.No.621 of 2013 date 15.07.2013), passed an elaborate order in C.C. No.1899 of 2013 dated 11.02.2014 considering the matter on merits, including the respondent's appointment, his termination from service, the various orders referred to hereinabove and, thereafter, directed the appellant herein to dispose of the appeal filed by the respondent within a period of sixty days from the date of receipt of a copy of the order. The respondent herein was directed to file a fresh appeal before the appellant within two weeks from the date of receipt of a copy of the order and if, for any reason, the appeal papers were not available with him, the appellant was directed to dispose of the fresh appeal filed by the respondent within the time stipulated in the order. With the said observations C.C. No.1899 of 2013 was closed.

C.A.(SR) No.3329 of 2014 in C.C. No.1899 of 2013 was filed by the respondent seeking resumption of the contempt proceedings in C.C. No.1899 of 2013 and, in his order dated 16.06.2014, the Learned Single Judge observed that, originally, an order was passed in C.A. No.621 of 2013 dated 15.07.2013; alleging non-compliance of the order, C.C. No.1899 of 2013 had been filed; a detailed order was passed in C.C. No.1899 of 2013 on 11.02.2014 giving fresh directions in view of the peculiar circumstances of the case; the order dated 15.07.2013, and the order dated 11.02.2014, were alleged to have been violated; and, therefore, the contempt proceedings were maintainable. While directing that the matter be listed on 02.07.2014, the Learned Single Judge directed the respondent to send a copy, of the fresh appeal filed by him before the appellant, to the Learned Standing Counsel for the Central Government within two weeks. It would be inappropriate for us to sit in judgment over, or to express any opinion on, the validity of the order passed in C.C. No.1899 of 2013 dated 11.02.2014, as it is under challenge in L.P.A.(SR) No.12153 of 2014.

To continue the narration, it needs to be noted that, in compliance with the order passed in C.C. No.1899 of 2013 dated 11.02.2014, an appellate order was passed on 22.08.2014 rejecting the appeal preferred by the respondent. In his order, in C.A. (SR) No.3329 of 2014 in C.C. No.1899 of 2013 dated 28.08.2014, the Learned Single Judge yet again passed an order on merits, and directed the appellant herein to fix a date for hearing of the appeal and, after giving an opportunity to the respondent to argue the appeal in person, to pass appropriate orders on or before 07.10.2014 failing which he should appear in person before the Court on 07.10.2014.

The appellant herein chose to comply with this order also and, by his order dated 27.09.2014, rejected the appeal preferred by the respondent. C.C. No.1899 of 2013 was listed before the Learned Single Judge who, by his order dated 16.10.2014, observed that the appellant should pass appropriate orders implementing the orders of the Court failing which the appellant herein should file a detailed affidavit explaining the reasons. Thereafter C.C. No.1899 of 2013 was listed again before the Learned Single Judge who, by his order dated 05.11.2014, directed the appellant to be present before him on 18.11.2014. The appellant was further directed to examine the matter in detail before filing the affidavit and, if necessary, to review his earlier order. The Contempt Case was directed to be listed on

18.11.2014. It is this order, in C.C. No.1899 of 2013 dated 05.11.2014, which is under challenge before us in L.P.A.No.4 of 2014.

Sri S. Satyanarayana Prasad, Learned Senior Counsel appearing on behalf of the appellant, would submit that the Learned Single Judge has assumed jurisdiction where none existed; the series of orders passed by him in C.C. No.1899 of 2013 was not for violation of any order passed in a Writ Petition; C.C. No.1899 of 2013 was filed alleging violation of the order passed in C.A. No.621 of 2013 in C.C. No.519 of 2005 dated 15.07.2013; C.A. No.621 of 2013, in turn, was filed to review the order passed in C.C. No.519 of 2005 dated 27.07.2005; without even reviewing the order in C.C.No.519 of 2005, or setting aside the order passed therein on 27.07.2005, the Learned Single Judge kept on issuing directions periodically; no power is conferred on this Court, under the Contempt of Courts Act, to pass orders on merits; while this Court could examine whether its earlier order was wilfully and deliberately violated and, if so, to impose punishment it could not, while exercising jurisdiction under the Contempt of Courts Act, pass any order on merits; C.C.No.1899 of 2013, as filed, was an abuse of process of the Court; the indulgence shown by this Court had emboldened the respondent to repeatedly invoke its jurisdiction under the Contempt of Courts Act by filing one Contempt Case after another; the Learned Single Judge could not have entertained applications under the Contempt of Courts Act, when no order was passed by him, much less an order which the appellant herein had violated; and as the Learned Single Judge has passed an order on merits and has, by his order dated 05.11.2014, directed the appellant herein to review his earlier order, an appeal, under Clause 15 of the Letters Patent, is maintainable. Learned Senior Counsel would rely on **J.S. Parihar v. Ganpat Duggar** and **Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda** in this regard.

On the other hand Sri I. Ravi Kumar, the respondent-party-in-person, would submit that Rule 12 of the Contempt of Court Rules requires every case of civil contempt to be posted before the Judge or Judges by whose judgment the contempt is allowed; as he had alleged violation of the order passed in W.P.No.20337 of 2004 dated 11.02.2005, the Contempt Case should have been listed before Justice B. Prakash Rao whose order was alleged to have been violated; the Contempt Case was, however, listed before Justice K.C.Bhanu; the Learned Judge lacked jurisdiction to

hear the Contempt Case; his order is a nullity and is required to be set aside; this Court, exercising jurisdiction under the Contempt of Courts Act, has the inherent power to review its orders; Rule 17 of the Contempt of Court Rules enables the Learned Single Judge to also refer a Contempt Case to a Division Bench; Rule 27 of the Contempt of Courts Rules requires the Court to pass such orders as the justice of the case requires; the Learned Single Judge, by his order in C.C. No.1899 of 2013 dated 05.11.2014, had exercised his powers under Rule 27 of the Contempt of Court Rules to ensure that justice was done to him; the very fact that the Learned Judge, in his order in C.C. No.1899 of 2013 dated 11.02.2014, had taken note of all the earlier orders is itself proof that he had reviewed the order passed in C.C. No.519 of 2005; as the earlier orders are vitiated by fraud, this Court has the power to declare such order to be a nullity; this Court should not permit technicalities to come in the way of justice; the appellant cannot file an intra-Court appeal under Clause 15 of the Letters Patent; and their only remedy is to invoke the jurisdiction of the Supreme Court if they are aggrieved by the order of the Learned Single Judge in C.C. No.1899 of 2013 dated 05.11.2014. The respondent party-in-person places reliance on a Division Bench judgment of the Gauhati High Court in **Sashi Prakash v. Government Pensioners**.

The question whether an appeal, under Clause 15 of the letters patent, would lie against the order passed by the Learned Single Judge, in CC No.1899 of 2013 dated 05.11.2014, is not res-integra. As noted hereinabove the Learned Single Judge, while directing the appellant to be present before him, also directed him to review his earlier order. The direction to the appellant, to review his earlier order, is an order on merits and is not an order passed in the exercise of the power to punish for contempt. In **J.S. Parihar**², the Supreme Court held that, once an order is passed by the Government, a fresh cause of action arises for which redressal is required to be sought in an appropriate forum; the order may be wrong or may be right or may or may not be in conformity with the directions of the High Court; that would, however, be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review; and such an order cannot be considered to be in wilful violation of the orders of the Court. In **Midnapur Peoples' Co-operative Bank Ltd**³, the Supreme Court held that if the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in contempt proceedings, the aggrieved person is entitled to challenge the said order

in an intra-court appeal if the order is of a Learned Single Judge and there is a provision for an intra-court appeal, or by seeking special leave to appeal to the Supreme Court under Article 136 of the Constitution of India. In **Special Deputy Collector v. N. Vasudeva Rao**, the Supreme Court, following its earlier judgment in **Midnapur Peoples' Co-operative Bank Ltd**³, held that a letters patent appeal was maintainable. Clause 15 of the Letters Patent provides for an intra-court appeal and, consequently, an appeal under Clause 15 of the Letters Patent is maintainable against the order passed in C.C. No.1899 of 2013 dated 05.11.2014.

The respondent contends that this Court has the inherent power, under Article 215 of the Constitution of India, to review its earlier orders; and the Learned Single Judge was, therefore, justified in entertaining C.A. Nos.621 of 2013 in CC No.1899 of 2013 which was filed seeking review of the order passed in C.C. No.519 of 2005 dated 27.07.2005. It is no doubt true that the Division bench of the Gauhati High Court, in **Sashi Prakash**⁴, held that the High Court has the inherent power, under Article 215 of the Constitution of India, to review its earlier order passed in a contempt case. It is not necessary for us to examine whether or not such a power is available to the High Court while exercising jurisdiction under the Contempt of Courts Act, for, even if we were to presume that such a power inheres in the High Court, the fact remains that the order passed in C.C. No.519 of 2005 dated 27.07.2005 continues to remain in force, as it has neither been reviewed nor set aside in C.A. No.621 of 2013 till date. While the Learned Single Judge may have taken note of the order passed in C.C. No.519 of 2005 dated 27.07.2005 in his order in C.C. No.1899 of 2013 dated 11.02.2014, he has neither reviewed nor set aside the order passed in C.C. No.519 of 2005 dated 27.07.2005. The Learned Single Judge could, obviously, not have set aside the said order when the respondent's earlier request to recall the said order was negated by another Learned Single Judge by his order in Contempt Miscellaneous Application Nos.241, 242 and 243 of 2013 dated 28.03.2013.

It cannot also be lost sight of that the proceedings instituted by the respondent afresh, in C.A. No.621 of 2013 and CC No.1899 of 2013, is not for violation of any order passed by the Learned Single Judge. In an application, seeking review of the order dismissing the contempt case filed earlier, the respondent has obtained a series of orders from the Learned Single Judge which orders could not have been passed in the exercise of the jurisdiction conferred under the Contempt of Courts

Act. Rule 12 of the Contempt of Court Rules requires every case of civil contempt to be heard by the Judge whose order is alleged to have been violated. Earlier a Division bench of this Court, by its order in LPA No.184 of 2002 dated 24.09.2003, had observed that the directions of the Chief Justice not to post contempt cases before the Learned Judges whose orders had been violated or flouted, but before the judges who had the regular provision to hear contempt cases, ran counter to Rules 12 and 15 of the Contempt of Court Rules and could not be sustained in law. On the matter being carried in appeal, the Supreme Court granted stay. Consequently the order of the Chief Justice directing contempt cases to be listed before a Judge, other than those whose order was violated, continued to remain in force till the Full Court, in its meeting held on 27.12.2006, approved the report of the committee of Judges dated 15.11.2006 to follow Rule 12 of the Contempt of Court Rules.

The Chief Justice is the master of the roster. He has full power, authority and jurisdiction in the matter of allocation of business of the High Court which inheres in him in the very nature of things. (**State of Maharashtra v. Narayan Shamrao Puranik**). The Chief Justice enjoys a special status, and has jurisdiction to decide which case will be heard by which Bench. (**State of U.P. v. Neeraj Chaubey**). The Chief Justice of the High Court *alone* has the right and power to decide how benches of the High Court are to be constituted: which Judge is to sit alone and which cases he can and is required to hear as also as which Judges shall constitute a Division Bench and what work those benches shall do. Judges of the High Court can sit alone or in Division Benches and do such work as may be allotted to them by an order of, or in accordance with the directions of, the Chief Justice. In the matter of constitution of benches, and making of the roster, he alone is vested with the necessary powers. (**State of Rajasthan v. Prakash Chand; Divine Retreat Centre v. State of Kerala; Inder Mani v. Matheshwari Prasad**).

As it is the prerogative of the Chief Justice to allot cases to Puisne judges, C.C. No.519 of 2005 was listed before Justice K.C. Bhanu in accordance with the directions of the Chief Justice, even though it was not his order which was violated. As this practice of posting contempt cases before a particular Judge, and not necessarily the Judge whose order was violated, continued till the earlier procedure was restored in the Full Court meeting held on 27.12.2006, it is evident that the order passed in C.C. No.519 of 2005 dated 27.07.2005 is not without jurisdiction. In any

event the application filed to recall the said order having been dismissed, and the order passed in C.C. No.519 of 2005 not having been reviewed, the Learned Single Judge could not have entertained a contempt case afresh.

Reliance placed by the respondent on Rule 17 and 27 of the Contempt of Court Rules is also misplaced. Rule 17 empowers the Learned Single Judge to refer a contempt case to a bench of two judges. The jurisdiction conferred on the Single Judge under Rule 17 is discretionary and it is not obligatory that, in each and every case, the Learned Single Judge should refer the contempt case, listed before him, to a Division bench. Rule 27 of the Contempt of Court Rules enables the Court to pass such orders, in a contempt case, as justice of the case requires. Rule 27 does not enable the Learned Single Judge to sit in judgment over the earlier orders passed in contempt proceedings or to pass orders on merits or issue directions to the respondents in the contempt case other than in the exercise of jurisdiction to punish for contempt. It does not also enable the respondent to file one contempt case after another alleging violation of the very same order in the writ petition or for the alleged violation of a direction issued in a contempt application. The Learned Single Judge, in his order in C.C. No.519 of 2005 dated 27.07.2005, opined that the respondent herein had abused the process of Court, and had played fraud on the Court in obtaining orders in W.P. No.20337 of 2004 dated 11.02.2005. Subsequently also, yet another Learned Single Judge in Contempt Miscellaneous Applications Nos.241 to 243 of 2013 dated 28.03.2013 while faulting the respondent for wasting precious Court time, took a lenient view, and chose not to impose costs despite observing that the extraordinary amount of time, consumed by the respondent unproductively, justified imposition of costs.

As noted herein the respondent herein unsuccessfully filed C.C. No.519 of 2005 alleging violation of the order passed in W.P. No.20337 of 2004 dated 01.02.2005. On the said contempt case being dismissed, he filed CC. No.567 of 2006 alleging violation of the very same order in W.P. No.20337 of 2004 dated 11.02.2005. The said contempt case was also dismissed by order dated 03.08.2006, despite which the respondent herein again filed a third contempt case in C.C. No.52 of 2011 which also came to be dismissed by order dated 06.07.2012. The respondent did not rest there. He filed applications in Contempt Miscellaneous Application Nos.241, 242 and 243 of 2013 to recall the order passed in C.C. No.519

of 2005, CC No.567 of 2006, WP No.23150 of 2006 dated 10.11.2006 and CC No.52 of 2011. These applications also came to be dismissed by order dated 28.03.2013, despite which the appellant continued to invoke the contempt jurisdiction of this Court, and sought to reopen issues which had already attained finality, by filing C.A. No.621 of 2013 seeking review of the order passed in CC No.519 of 2005 dated 27.07.2005. He also filed CC No.1899 of 2013 alleging violation of the order passed in C.A. No.620 of 2013 dated 15.07.2013. The repeated directions issued by the Learned Single Judge, in C.C. No.1899 of 2013 thereafter, has resulted in the appellant being forced to pass one appellate order after another. The respondent has abused the process of Court by filing one contempt case after another, despite this Court faulting him for doing so. While we would also have, ordinarily, taken a lenient view, more so as the respondent has appeared in person, his repeated and needless forays into the portals of this Court cannot be countenanced. The order of the Learned Single Judge, in C.C. No.1899 of 2013 dated 05.11.2014, is set aside. LPA No.4 of 2014 is allowed with exemplary costs of Rs.50,000/- (Rupees fifty thousand only) which the respondent shall pay the Government of India within four weeks from today. The miscellaneous petitions pending, if any, shall also stand closed. No costs.

RAMESH RANGANATHAN, J

S. RAVI KUMAR, J

Date:30.07.2015.

Note: L.R. copy to be marked

B/o

JSU/TSY/MRKR