

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 14.03.2016****CORAM****THE HONOURABLE MR.JUSTICE T.RAJA****Contempt Petition No.1139 of 2015**

Balaiya

Petitioner

Vs

K.Gandhi

The President

Edakudi Vadapathi Village Panchayat

Edakudi Vadapathi Village

Sirkali Taluk, Nagapattinam District

Respondent

Contempt Petition filed under Section 11 of the Contempt of Courts Act to punish the respondent for his wilful disobedience to the orders of this Court dated 06.01.2014 made in WP.No.14062 of 2009 in accordance with law.

For Petitioner : Mr.S.Sounthar

For Respondent : Mr.M.Rajaraman

ORDER

This Court, by order dated 06.01.2014 in WP.No.14062 of 2009, directed the respondent / Contemnor herein to pay the monthly salary including arrears payable to the petitioner within a period of three weeks from the date of receipt of a copy of the order dated 06.1.2014. Since the said order dated 06.01.2014 has not been complied with by the respondent/Contemnor, the writ petitioner has filed the present contempt petition.

2. When the matter was taken up for hearing on 21.7.2015, learned counsel for the respondent sought two weeks time for paying the salary and arrears. Subsequently, at the instance of the learned counsel for the respondent/Contemnor, the matter was adjourned from time to time for reporting compliance. However, the respondent has not complied with the order dated 06.01.2014. Therefore, this Court issued statutory notice to the Contemnor on 15.12.2015. Since there was no response even after the issuance of statutory notice, on 17.11.2015, this Court, passed the following order:-

"The suspension order dated 12.03.2009 passed by the Contemnor/the President of Edakudi Vadapathi Village Panchayat, Sirkali Taluk, placing the petitioner - Mr. Balaiya, under suspension was set aside by order of this Court dated 6.1.2014 in W.P.No.14062 of 2009 with a direction to the said President, as directed by the Block Development Officer, Sirkali, in his letter dated 11.9.2012, to pay the monthly salary including arrears payable to the petitioner, within a period of three weeks from the date of receipt of a copy of that order.

2. Since the said order was not complied with by the Contemnor/the President of Edakudi Vadapathi Village Panchayat, Sirkali Taluk, the present Contempt petition has been filed to initiate contempt proceedings against him. After issuing notice, out of Rs.1,57,482/-, the petitioner was paid with a sum of Rs.50,000/- alone leaving the balance amount Rs.1,07,482/- as unpaid.

3. Mr.A.Muthukumar, learned counsel had also entered appearance on behalf of the contemnor. After some time, he had made a submission that his instruction was not properly appreciated by the contemnor. On this score, he sought permission to withdraw his appearance on behalf of the Contemnor from the proceedings.

4. Thereafter, a statutory notice was issued to the contemnor on 15.12.2015 and it was served on the Contemnor on 8.1.2016. Hence, the Registry was directed to print the name of the contemnor in the cause list on 15.2.2016. Consequently, his name was printed in the cause list today. In spite of receipt of notice and having printed his name in the cause list, he has not chosen to appear either in person or through a counsel before

this Court. Therefore, this Court is constrained to issue a Non-Bailable Warrant against the Contemnor and accordingly, it is ordered.

5. The jurisdictional police is directed to execute the warrant and report the matter on 14.03.2016.

Call the matter on 14.03.2016."

3. When the matter is taken up today, Mr.S.Venkatesan, Deputy Superintendent of Police, Sirkali, Nagapattinam District, produced the Contemnor before this Court.

4. Mr.S.Sounthar, learned counsel for the petitioner submitted that pursuant to the statutory notice issued by this Court, the Contemnor paid a sum of Rs.50,000/-. Subsequently, on account of the issuance of NBW, the balance sum of Rs.1,07,482/- has also been credited to the account of the writ petitioner. However, the learned counsel would submit that since the calculation has not been done by the petitioner perfectly, he may be given an opportunity to work out his further calculation before the respondent and a direction may also be issued to the respondent to pay the balance amount based on the said calculation.

5. The Contemnor, who was produced before the Court by the jurisdictional police, requested this Court to accept the affidavit filed by him seeking unconditional apology for disobeying the order of this Court. This Court feels that mere accepting unconditional apology tendered by him would be mere wasteful exercise at this stage. The petitioner, being the President of the Panchayat, ought to have responded to the order of this Court either appearing in person or through counsel. But he has not done so till this Court issued NBW against him. However, considering the fact that the entire amount has been paid by the Contemnor and also the fact that the Contemnor is the President of the Panchayat, this Court is inclined to accept the apology tendered by the Contemnor, however on imposing cost of Rs.25,000/-. Accordingly, the unconditional apology tendered by the Contemnor is accepted subject to the payment of cost of Rs.25,000/- payable by him to the credit of the writ petitioner, within a period of three weeks from the date of receipt of a copy of this order. The submission made by the learned counsel for the petitioner regarding re-calculation cannot be sustained as he has already worked out the amount at Rs.1,57,482/-.

6. With the above observation and direction, the contempt petition is closed. The Contemnor is set at liberty and his personal appearance is dispensed with.

Post after three weeks for reporting compliance.

ga

SD/
DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

CO/01/04/2016

To

K.Gandhi

The President

Edakudi Vadapathi Village Panchayat

Edakudi Vadapathi Village

Sirkali Taluk, Nagapattinam District

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