

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

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**Contempt Case No.1367 of 2015**

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**Between:**

Vegetable Commission Agents Welfare Association  
(Reg.No.3955/90) Gudimalkapur, Hyderabad,  
Rep. by its Secretary R. Manik Prabhu

\_\_\_\_\_. .. Petitioner

And

Mr. Parthasaradhi,  
Secretary, Food and Agriculture Department,  
Secretariat Buildings, Saifabad, Hyderabad and others.

.. Respondents

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DATE OF PRONOUNCEMENT OF ORDER: **25.04.2016**

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**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

1. Whether Reporters of Local newspapers  
may be allowed to see the Judgments? : YES
2. Whether the copies of judgment may be  
marked to Law Reporters/Journals? : NO
3. Whether their Ladyship/Lordship wish to  
see the fair copy of the Judgment? : NO

**HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO**

**Contempt Case No.1367 of 2015**

**Order:**

This Contempt Case is filed alleging non-implementation of the order dated 05.12.2014 passed by this Court in WP No.24834 of 2010.

2. The Writ Petition was filed challenging the action of the respondents in not extending the benefit given to the vegetable traders of Bowenpally and flower traders of Gudimalkapur in spite of directions of this Court in WP No.1350 of 2000 dated 21.12.2002 and for consequential relief that the members of the petitioner association are entitled for the allotment of their respective shops at Gudimalkapur vegetable market on out-right sale basis on par with other markets of Hyderabad.

3. The Writ Petition was filed by the petitioner-Association whose members were carrying on vegetable business as commission agents in the vegetable market at Karwan. The State Government took a decision to shift the vegetable market from Karwan to Gudimalkapur by constructing a new market yard by acquiring about Ac.22.00 in Survey Nos.295/1 to 295/4 belonging to Balaji Trust. The land was divided into three parts for vegetable market, flower market, betal market and fruit market. Pursuant to the request made by the respondents for shifting their business, all traders shifted their trade to Gudimalkapur in the year 1991. The open spaces were allotted to the members of the petitioner-Association initially and high level platforms were constructed thereafter. Later, it was decided to raise walls in between the pillars to make shops and allot to the traders. They were directed to deposit a sum of Rs.10,000/- each initially and thereafter a sum of Rs.15,000/-. They paid the said amount. After completion of construction, when the third respondent demanded rent for each shop located in an extent of 25 sq. yards at the rate of Rs.1875/- per month, they filed WP No.1350 of 2000 challenging the action of the respondents in demanding rent and sought a direction to give the shops on long lease of 99 years or on outright sale basis as was done

in the case of other market yards in Hyderabad. In those circumstances, this Court disposed of the said Writ Petition, by an order dated 21.10.2002 and a portion of the order reads as follows.

“Accordingly, the members of the Petitioner Association are directed to make representation to the 1<sup>st</sup> respondent Government for allotment of the shops to them either on outright sale basis or on long term rent basis or even with reference to the quantum of rent also; and on such representations, the 1<sup>st</sup> respondent is directed to consider the claims of such members of the Petitioner Association and pass appropriate orders, within a period of three months from the date of such representation.”

4. Pursuant to the said order, the members of the petitioner-Association submitted a representation and have been paying rents. In spite of the same, when no orders were passed while passing orders in GO Ms. No.261, dated 24.10.2009 for flower market business people, the above Writ Petition No.24834 of 2010 was filed for the relief stated as above. No counter affidavit was filed on behalf of the respondents 1 and 2 and a counter affidavit was filed on behalf of the third respondent stating that the members of the petitioner-Association were in arrears of payment of rent. A reply was filed denying the said averments.

5. Taking the above facts into consideration and also keeping in view the long lapse of 12 years in not considering the case of the members of the petitioner-Association, this Court, by an order dated 05.12.2014, disposed of the Writ Petition No.24834 of 2010 directing the respondents 1 and 2 to consider the cases of the members of the petitioner-Association for allotment of shops either on outright sale basis or on long lease basis as was done in respect of other market yards within a period of three months from the date of receipt of a copy of the order. The said order was passed on 05.12.2014.

6. The second respondent passed an order on 28.05.2015 rejecting

the request of the members of the petitioner-Association with the following observations after narrating the sequence of events leading to the passing of the order.

“In view of the above stated circumstances, the respondents i.e., the Commissioner and Director of Agricultural Marketing and the Agricultural Market Committee, Hyderabad, have implemented the orders and there is no violation at any stage. The request of the Petitioner Association for allotment of shops on long lease basis is already considered by the Government and (33) years lease period was allowed to them only after clearing dues of rents, payment of enhanced 5% rent and execution of lease deed/personal bonds. The opportunity was not availed by the petitioner association and going on requesting for implementation of orders of Hon’ble High Court whereas the said orders are already complied with.”

7. Alleging violation of the orders of this Court, the above Contempt Case was filed.

8. Separate counter affidavits were filed by the respondents 1, 2 and 3. Since the present Contempt Case is directed against the second respondent who passed the order dated 28.05.2015 rejecting the request of the members of the petitioner-Association, it is necessary to consider the averments in the counter affidavit filed by the second respondent.

9. The sum and substance of the counter affidavit of the second respondent is that the members of the petitioner-Association did not pay rents properly pursuant to the orders of this Court in WP No.1350 of 2000 dated 21.10.2002. It further states that the Government earlier issued a Memo No.10511/AM.II(2)/2013-3, Agricultural Marketing and Co-Operation (AM.II) Department, dated 18.10.2013, permitting the market committee to let out the shops for a period of 30 years subject to the compliance of the orders passed in WP No.1350 of 2000 dated 21.10.2002. The said Memo was within the knowledge of the petitioner-Association and in spite of the same, the petitioner-

Association suppressed the said fact and allowed this Court to pass the order as above. On 28.05.2015 the second respondent issued proceedings directing the members of the petitioner-Association to pay the arrears of rents which is to the tune of Rs.1,21,23,431/- as on 31.08.2015. The counter affidavit further states as follows.

“It is submitted that I have great respect in the Courts, Law and Judiciary and more particularly in this Hon’ble Court. It is submitted that due to the change in the policy of the Government and due to the judgment of the Hon’ble Supreme Court of India, the respondent No.1 had considered and directed the respondent No.3 to let out the respective shops for a period of 30 years. The same has been complied by the Market Committee. It is submitted that the Market Committee has to maintain its staff and its establishment by spending huge money. If the arrears of the rent is not paid, then it will be very difficult for the Market Committee to continue its day to day business activities.

It is submitted that I have not violated the orders passed by this Hon’ble Court. If this Hon’ble Court feels that there is any violation, the same is not with any intention of disobedience. I further submit that I extend my unconditional apology if there is any disobedience. The other averments of the affidavit which are not specifically admitted are hereby denied.”

10. In the light of the above averments, it has to be seen whether the order of the second respondent dated 28.05.2015 is in violation of the order of this Court dated 05.12.2014.

11. It has to be noted that the respondents 1 and 2 in the Writ Petition did not file any counter affidavit and a counter affidavit was filed by the third respondent alone. As stated in the order in WP No.24834 of 2010 dated 05.12.2014, the counter affidavit of the third respondent did not convey anything except stating that the members of the petitioner-Association are in arrears of payment of rent which was denied by filing a reply affidavit.

12. A perusal of the Memo dated 18.10.2013 does not indicate

whether the said memo was communicated to the members of the petitioner-Association or not. Even otherwise also, it enables the Commissioner and Director of Agricultural Marketing to give long term lease of 30 years in accordance with GO Ms. No.448, dated 05.07.1995 and it is not the case of the second respondent that any such lease was granted pursuant to the said memo to any member of the petitioner-Association. Hence, the grievance of the members of the petitioner-Association remains as it was from the date of disposal of WP No.1350 of 2000 dated 21.10.2002.

13. The order dated 28.05.2015 which was stated to have been passed in compliance of the order in WP No.24834 of 2010 dated 05.12.2014, as extracted above, conveys the following points.

i) The second respondent implemented the orders and there is no violation.

ii) The request of the petitioner-Association for allotment of shops on long lease basis was also considered by the Government and 33 years lease period was allowed to them only after clearing dues of rents, payment of enhanced 5% rent and execution of lease deed/personal bonds, but such opportunity was not availed by them.

iii) In spite of the same, they are going on requesting for implementation of the orders of this Court when the said orders were already complied with.

14. It is clear that the said order cannot be construed as an order passed in compliance with the orders of this Court. The second respondent himself certifies that there is no violation at any stage and the orders were already complied with. Calculation was made as if the members of the petitioner-Association were due of 5% arrears from April 2001 to August 2015. The rent fixed was also stated to have been due from December 2014, after disposal of the Writ Petition by this Court on 05.12.2014. The allegation with regard to arrears of rent was denied by the petitioners in the writ petition itself. In spite of the first respondent permitting the second respondent to grant long term

lease to the members of the petitioner-Association, no orders were made in their favour and no communication appears to have been made earlier, even though the present order dated 28.05.2015 was marked to the General Secretary of the petitioner-Association. When this Court reiterated the consideration of the case of the members of the petitioner-Association in 2014, the second respondent, who belongs to the cadre of Indian Administrative Service, ought to have understood the purport of the order and passed a reasoned order by considering the cases of the members of the petitioner-Association. He could not have passed an order certifying himself that the orders were already passed by the first respondent in 2013 and he has not violated the orders of this Court. The issue of violation did not arise at all. What this Court directed was consideration of the cases of the members of the petitioner-Association either on outright sale basis or on long lease period as was done in respect of other market yards. Hence, he should have spelt out the reasons for issuing orders in respect of other market yards and denying this benefit to the members of the petitioner-Association. The counter affidavit filed in the present Contempt Case also does not give any reason for such discriminatory treatment or for not contesting the case in the above Writ Petition by filing a counter affidavit. The second respondent's nonchalant attitude is exhibited in the present order dated 28.05.2015. The aggrieved parties are not expected to come to this Court repeatedly for the same relief. There should be finality for their grievance at one stage or the other. This Court passes an order after due deliberation with the fond hope that the order would be implemented by the executive authorities. The hope is not a wish, but a duty cast on the authorities. The careless disposal of the grievances of the members of the petitioner-Association, after passing of orders by this Court would definitely invite the scrutiny of this Court in contempt proceedings when the members of the petitioner-Association allege non-implementation.

15. The Learned Counsel who is a Government Pleader associated with the learned Additional Advocate-General relied on the decisions in **Debabrata Bandopadhyay v. State of West Bengal**<sup>[1]</sup>, **Ram Chander v. Union of India**<sup>[2]</sup>, **M/s Shankar Daswani v. Government of AP**<sup>[3]</sup>, and **State of Rajasthan v. Surendra Mohnot**<sup>[4]</sup>. He vehemently argued by submitting that since the second respondent passed the orders in the manner he understood, it cannot be held that the order of this Court was violated.

16. The Hon'ble Supreme Court, in **Bandopadhyay's** case (1 supra) was considering the case of a District Magistrate of Nadia and his four assistants who were found guilty of contempt by the High Court of Calcutta and the Sessions Court of Nadia and sentenced to fines with imprisonment in default of payment. In that connection the Court made the following observations.

“A question whether there is contempt of court or not is a serious one. 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 and difficulties arising from inveterate practices in courts and tribunals. It is only when a clear case of contumacious conduct not explainable otherwise, arises that the condemner must be punished. It must be realised that our system of courts often results in delay of one kind or another. The remedy for it is reform and punishment departmentally. 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.”

17. This Court is conscious of the above observations of the Hon'ble Supreme Court and would not normally exercise the jurisdiction under Contempt of Courts Act, 1971 for minor violations and imagined violations. This Court sees the over all circumstances, the direction

issued and the action taken by the executive authorities. The attitude of the bureaucrats had changed during the last 45 years after the said judgment was rendered. The allegation of non-implementation of the orders has become common. Any order by the authority will not be an order in compliance with the orders of this Court, as contended by the learned Government Pleader. The other decisions cited by him have no relevance.

18. In this case the members of the petitioner-Association have been knocking the doors of this Court for more than a decade and when the Government issued orders in respect of similarly placed persons by issuing GO Ms. No.261 dated 24.10.2009 for flower market business people their hopes raised. They approached this Court, and this Court reiterated the order which was passed way back in the year 2002 in 2014. This itself is sufficient for a responsible officer to consider the case dispassionately and with due diligence. This Court is not an executing Court but decides the rights of the parties. In appropriate cases, this court directs the concerned authorities to take action according to law. In such cases, it is expected that the authorities would apply their mind and redress the grievances. If the authority takes a stand that no action can be taken in spite of an order of this Court, it is a direct disregard and violation of the order. This Court does not pass orders for the sake of it, but on the facts of the case only. The result of the order dated 28.05.2015 is placing the members of the petitioner-Association where they were in the year 2000. The second respondent did not show his responsible conduct by filing a counter affidavit in the Writ Petition but passed an order after disposal of the Writ Petition in the manner stated above. In the circumstances, this Court of the opinion that the order of the second respondent is a direct disregard of the orders of this Court and shall be considered for action under the provisions of the Contempt of Courts Act, 1971. Accordingly, the second respondent is found guilty of violating the

orders of this court dated 5-12-2014.

19. In view of the same, the second respondent herein is imposed a fine of Rs.5,000/- (Rupees five thousand only) to be payable by him from his own pocket to Telangana State Legal Services Authority within a period of eight (8) weeks from the date of receipt of a copy of this order, failing which to undergo Simple Imprisonment for a period of seven (7) days.

20. The Contempt Case is, accordingly, allowed.

21. As a sequel thereto, the miscellaneous applications, if any pending in this Contempt Case shall stand closed.

A.

**RAMALINGESWARA RAO, J**

Date: 25<sup>th</sup> April, 2016

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[\[1\]](#) (1969) 1 SCR 304 : AIR 1969 SC 189 : 1969 Cri LJ 401

[\[2\]](#) LAWS (SC)-1986-5-2

[\[3\]](#) LAWS (APH)-2013-7-116

[\[4\]](#) LAWS(SC)-2014-6-22