

In the High Court of Punjab and Haryana at Chandigarh.

**COCP No.2642 of 2015 (O&M)
Decided on 07.1.2016**

Mukul Gupta

--Petitioner

Vs.

Malay Mukherjee and another

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Viney Goel, and Mr. J.S.Bhatia, Advocates, for the petitioner

Mr.Rajiv Atma Ram,Sr.Advocate, with
Mr.Manish Jain,Advocate, for the respondents

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Rakesh Kumar Jain,J: (Oral)

CM No.27596-CII of 2015

Allowed as prayed for.

COCP No.2642 of 2015

This petition is filed under Sections 10 and 12 of the Contempt of Courts Act, 1971 (for short,' the Act') for the alleged willful disobedience

of the order of this Court dated 10.3.2015 passed in CWP No.4177 of 2015 as well as of the order dated 10.6.2015 passed in LPA No, 892 of 2015.

In short, the petitioner was a Professor in the Management Development Institute, Gurgaon from 2000 to 2012 and was made the Director of the said Institute in which he served from 2012 till October 2014. Thereafter, he was terminated from the post of Director as well as of the Professor. He approached this Court by way of CWP No.4177 of 2015, in which the following order was passed on 10.3.2015:-

“Notice of motion for 21.04.2015.

Mr.Rajat Arora, Advocate, who is on Caveat, accepts notice on behalf of respondent Nos.2 and 5.

So far as respondent Nos.1,3 and 4 are concerned, learned counsel for the petitioner prays that he may be permitted to serve them *dasti*. Ordered accordingly.

The interim protection granted by the Delhi High Court vide order dated 23.2.2015 with regard to permitting the petitioner to continue to stay in the accommodation allotted by respondent No.2- Institute is extended till the next date of hearing, however, with a rider that in case the present petition is dismissed, the petitioner would have to pay market rent for the house in which he would stay after 1.4.2015.

Learned counsel appearing on behalf of respondent No.2 and 5 states that no appointment to the post of Director and Professor Marketing in the respondent No.2- Institute would be made except with the leave of the Court”.

The writ petition was ultimately disposed of on 29.5.2015, giving liberty to the petitioner to prefer an appeal before the Educational Tribunal, Gurgaon, but in the meantime, the order dated 10.3.2015 was allowed to continue for a period of 15 days.

Aggrieved against that order, the petitioner filed LPA No.892

of 2015 in which interim order was passed on 10.6.2015 and while adjourning the case to 06.7.2015, it was ordered that interim protection already granted shall continue till the next date of hearing. The said appeal is stated to have been admitted with the interim order.

The present petition has been filed for the alleged disobedience of the order dated 10.3.2015 by the respondents as C.P. Shrimali, Erstwhile Acting Director has been confirmed as full fledged Director.

After notice, the respondents have filed their reply in which it is averred that the respondents have not confirmed C.P. Shrimali, as full fledged Director of the Institute, rather he continues to be the Acting Director and the order Annexure P-4 has been issued by him at his own level because he has never been authorised by the respondents to use the words "Director" instead of words "Acting Director" and after this fact came to light of the answering respondents, two communications were made on dated 21.9.2015 and 28.10.2015 cautioning C.P. Shrimali, not to use the word "Director". C.P. Shrimali, has also written a letter dated 18.11.2015 stating that use of word "Director" by him was unintentional and he has noted the direction of the Board of Directors and has issued instructions to all the departments to make necessary correction and to use the designation of Acting Director instead of Director. Further, the website of the Institute has been corrected in which designation of C.P. Shrimali has been mentioned as Acting Director.

Insofar as the inauguration of the new residential flat is concerned, the Estate Department by inadvertent mistake has mentioned the designation as "Director" instead as "Acting Director" and explanation of

the Estate Department was called and they have been cautioned vide letter dated 21.9.2015. It is also mentioned that C.P. Shrimali has never been appointed as Director what to talk of his confirmation.

It is also argued by learned counsel for the respondents that even the foundation stones have been changed wherever C.P. Shrimali has been mentioned as Director, who is now replaced as Acting Director.

The petitioner also filed rejoinder to the reply filed by the contesting respondents and has submitted that though the order was passed by this Court on 10.3.2015, yet salary has been drawn for the month of July, 2015 by C.P. Shrimali as full fledged Director and the balance sheet was signed as Director and not as Acting Director. It is also submitted that even in the convocation held on 21.3.2015, Dr. C.P.Shrimali has addressed himself as Director. It is, thus, submitted that the respondents have allowed C.P.Shrimali to address himself as a Director and now because of the notice issued in the contempt petition, they have changed their stand.

I have heard learned counsel for the parties and perused the available record.

In order to hold the respondents guilty of the Contempt of Court, the order passed by this Court has to be gone into again carefully and for that matter, I would like to refer to the order of this Court dated 10.3.2015 as per which *'no appointment to the post of Director and Professor (Marketing) in the respondent No.2-Institute would be made except with the leave of this Court'*. There is no order of appointment to the post after 10.3.2015 in favour of C.P. Shrimali as Director or any body else or order of appointing any body as Professor Marketing, as directed by

this Court. No appointment has been made to the post of Director or Professor after 10.3.2015 and Dr. C.P.Shrimali, who has been working as Acting Director, at his own made himself as Director of the Institute. Therefore, any appointment to the post of Director by the respondents definitely would have violated the order dated 10.3.2015.

Since there is no order of appointment of C.P.Shrimali to the post of Director by the respondents nor he has been confirmed as Director, they cannot be held guilty under the Contempt of Courts Act, even though the respondents have paid salary to him as a Director.

In view of the above, I do not find any merit in this contempt petition and the same is hereby dismissed. Rule discharged.

07.1.2016
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(Rakesh Kumar Jain)
Judge