

**HIGH COURT OF CHHATTISGARH, BILASPUR****Contempt Case (C) No. 346 of 2017**

(Arising out of judgment dated 24.04.2017 in Writ Appeal No.148 of 2017 of the learned Division Bench)

- Dr. Bhupat Ram Malik, son of late Shri Purno, aged about 54 years, working as Senior Medical Officer, Community Health Centre, Basana, District Mahasamund (C.G.)

---- **Petitioner**

**Versus**

- Smt. Ranu Sahu, Director, Health and Family Welfare, Raipur, District – Raipur (C.G.)

---- **Respondent**

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|----------------|---|------------------------------------------|
| For Petitioner | : | Shri Raghvendra Pradhan, Advocate        |
| For Respondent | : | Shri R.K. Gupta, Deputy Advocate General |

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**Hon'ble Thottathil B. Radhakrishnan, Chief Justice**

**Hon'ble Shri Justice P. Sam Koshy**

**Judgment on Board**

**Per Thottathil B. Radhakrishnan, Chief Justice**

**29.08.2017**

1. We have heard the learned Counsel for the Petitioner and the learned Deputy Advocate General for the State on the basis of the pleadings in the Contempt of Courts case and the materials placed therewith and the reply to the Contempt Petition filed by the Respondent.
2. This Contempt of Courts case is footed on the judgment delivered in Writ Appeal No.148 of 2017 on 24.04.2017. Respondents No.6 and 7 in that writ appeal and the Petitioner are doctors. While the 6<sup>th</sup> Respondent was put in charge as Block Medical Officer of a particular Community Health Centre, the Petitioner challenged it before this Court. Pending that writ petition, the 6<sup>th</sup> Respondent was removed from charge and the 7<sup>th</sup> Respondent was put in-charge. Without levying any challenge to that, the Petitioner sought leave to withdraw the said writ petition with

liberty to file a representation. When that representation was not disposed of, the Petitioner filed the writ petition from which Writ Appeal No.148 of 2017 arose. He challenged the placement of the 7<sup>th</sup> Respondent as in-charge. The learned Single Judge held that no challenge could be levied against the placement of Respondents No.6 & 7 having regard to the principles of Order II Rule 2 of the Code of Civil Procedure. Affirming the decision of the learned Single Judge, the writ appeal was ordered noticing that the Petitioner's claim that he is senior to 6<sup>th</sup> and 7<sup>th</sup> Respondents, for preferential treatment in the matter of being put in charge as Block Medical Officer, Community Health Centre, Basana, District – Mahasamund, ought to have been considered. Following the said judgment, this Contempt of Courts case is filed alleging that the competent authority has not decided the matter inspite of the judgment. The Respondent has filed counter placing Annexure-R/1 stating that it contains the decision of the department on the representation of the Petitioner.

3. The learned counsel for the Petitioner argued that the terms of Annexure-R/1 clearly show that there was no consideration of the representation in terms of the directions contained in paragraph 6 of the judgment in the writ appeal. He also pointed out that none of the contention in the Petitioner's representation is reflected in that decision.
4. We are of the view that sitting in jurisdiction under the Contempt of Courts Act, it will be wholly inappropriate if we were to enter into adjudication on the correctness or otherwise of the contents of Annexure-R/1. We say this particularly because the question whether Annexure-R/1 answers the claim of the Petitioner and whether, in rendering it, the competent authority could have gone beyond the scope of the judgment in Writ Appeal No.148 of 2017 insofar as it relates to the affirmation of the judgment of the learned Single Judge, are matters which are not justiciable in jurisdiction under the Contempt of Courts Act. Such issues are

obviously to be left open for adjudication in appropriate jurisdiction, if and when invoked by the Petitioner.

5. For the aforesaid reasons, this application fails and is accordingly dismissed without prejudice to contentions in appropriate jurisdiction.

Sd/-  
**(Thottathil B. Radhakrishnan)**  
**Chief Justice**

Sd/-  
**(P. Sam Koshy)**  
**Judge**