

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2017

CORAM

THE HON'BLE MR. JUSTICE **R.SURESH KUMAR**

Contempt Petition No. 1577 of 2017
in
W.P.No.22981 of 2010

A.Arokiyanathan Wilson

... Petitioner

Vs.

1. A.K.Viswanathan
The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai-7.

2. T.K.Rajendran
The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 4.

... Respondents

Prayer:- This Petition has been filed under Section 11 of the Contempt of Court Act, 1971 praying to punish the respondents for non-compliance of the order of this Court within the stipulated time in pursuance of the order passed by this Court in W.P.No.22981 of 2010 dated 25.11.2016.

For Petitioner : Mr.A.Anthony Robson

For Respondents : Mr.M.Elumalai,
Government Advocate

ORDER

This contempt petition has been filed to punish the respondents for the alleged non-compliance of the order dated 25.11.2016 of this Court made in W.P.No.22981 of 2016.

2. On the very first day of hearing the contempt petition, i.e., today, Mr.M.Elumalai, learned Government Advocate produced a memorandum in R.C.No.36588/NGB-V(2)/2017 dated 12.06.2017 along with further order of endorsement dated 20.06.2017 issued by the Director General of Police, Chennai-4 and the Commissioner of Police, Chennai-7, respectively, who are the first and second respondents in this contempt petition.

3. I have heard Mr.A.Anthony Robson, learned counsel appearing for the petitioner as well as Mr.M.Elumalai, learned Government Advocate appearing for the respondents and also gone through the aforesaid two proceedings produced before this Court.

4. The learned Government Advocate would submit that in pursuance of the order of this Court referred above and in compliance of the same, the respondents have passed an order, in the proceedings referred above, whereby, after considering the request/case of the petitioner for service benefits such as promotion etc., they passed this order, rejecting the claim of the petitioner.

5. However, the learned counsel appearing for the petitioner would submit that firstly, these orders, which are produced today, as referred above, have not been passed within the time stipulated by this Court, as in the said order of this Court dated 25.11.2016, only three months time from the date of the receipt of the copy of that order was granted. Even after several months, no orders had been passed and no petition has been filed before this Court for seeking extension of time. Therefore, in this regard, learned counsel appearing for the petitioner states that the respondents cannot take their own time according to their convenience to comply with the order of this Court, when the specific time bound direction is given to the respondents to act upon in this regard.

6. The learned counsel appearing for the petitioner would submit that the belated order is nothing but, a part of non-compliance of the order issued by this Court. The learned counsel would further submit that even though a direction was given that while making review the modus operandi adopted by the respondents, in reviewing the case of nine persons and issuance of government order in those cases, shall be taken into consideration, but, no such modus operandi seems to be adopted in this case, while the respondents passing the above referred order/proceedings. Therefore in that aspects also the proceedings now issued and shown before this Court, as compliance of the order of this Court dated 25.11.2016, is not a proper compliance strictly within the meaning of provisions in the Contempt of Courts Act.

7. I have considered the rival submission made by the both sides.

8. Insofar as the direction issued by this Court in W.P.No.22981 of 2010 dated 25.11.2016, it was directed the respondents to review the case of the petitioner and ultimately, if the petitioner is awarded higher marks based on his performance, necessary consequential

benefits of promotion and the other service benefits shall be conferred on him. It was also directed by this Court, while making this review, the modus operandi adopted in respect of nine persons of similar nature of considerations have to be adopted.

9. Now after passing these proceedings, the respondents through the learned Government Advocate, want to emphasis that they have reviewed the case of the petitioner as directed by this Court and after review, it was found that the petitioner had obtained only one mark out of ten and even if he is awarded full marks, he would not reach the zone of consideration and therefore at any rate, he would not get any promotion or other subsequent service benefits. Whereas the modus operandi now said to have been adopted by the respondents, in passing this proceedings, in compliance of the order of this Court above referred, need not be gone into at this stage, in the contempt petition.

10. However, if at all the petitioner has got any grievance in the said proceedings, now has been issued, pursuant to the order of this Court in the said writ petition, it is open to him to assail the same in the manner known to law. If such proceedings initiated at the instance of the

petitioner certainly those issues now canvased by the petitioner also very well can be canvased in the said proceeding. Therefore at this juncture, in this contempt proceedings, it cannot be said those orders are in violation of the orders of this Court. Therefore, this Court feels that, this contempt petition deserves to be closed.

11. Insofar as the delay is concerned, since no petition has been filed to seek extension of time on the part of the respondents, that inaction is not appreciable and it should be condemned. Whenever the authorities are served with an order of this Court, they can either assail the same by approaching higher forum or they have to accept the same. If a time bound direction is given by this Court, they should comply with the same within the stipulated time. If they are unable to comply with the same, within the time limit, the authorities should approach this Court by filing appropriate petition seeking extension of time. Without resorting such procedure, the respondents cannot simply sit and take further period on their own convenience and such attitude on the part of the respondents is to be deprecated.

12. With these, observations, this contempt petition is closed.

No costs.

13.09.2017

Speaking/non speaking order

Index :Yes/No

To

1. The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai-7.
2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 4.
3. The Public Prosecutor,
High Court, Madras.



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R.SURESH KUMAR, J.

rts



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