

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Contempt Case No.1276 of 2014

ORDER:

This contempt case is filed by the petitioner requesting to punish the respondents under Sections 10 to 12 of the Contempt of Courts Act, 1971, and under Article 215 of the Constitution of India, for not implementing the interim orders of this Court, dated 17.09.2012, in WPMP.No.20866 of 2011 in WP.No.9353 of 2008.

I have heard the submissions of Sri J. Sudheer, learned counsel appearing for the petitioner, and of learned Government Pleader for Higher Education representing the respondents 1 and 2. I have perused the material record.

The facts of the case, as could be culled out from the material record, and the submissions made before this Court, in brief, are as follows:

In the pending writ petition, the petitioner filed a miscellaneous petition seeking to direct the 1st respondent to release the salary of the petitioner on par with similarly placed persons, pending disposal of the writ petition. This Court, by a common order, dated 17.09.2012, allowed the said petition and two other connected miscellaneous petitions in two other writ petitions (WPMP.No.20844 of 2011 in WP.No.4574 of 2008 & WPMP.No.13224 of 2012 in WP.No.8811 of 2008) and granted to all the said petitioners the same relief which was granted to the petitioner in WPMP.no.13229 of 2012 in WP.No.3847 of 2008.

For non implementation of the said interim orders of this Court, the present contempt case is filed, on 11.08.2014, to take cognizance of the contempt and direct the respondents to implement the said orders. Subsequent to the filing of the contempt case and pursuant to the afore-stated interim

orders of this Court, G.O.Ms.No.7, School Education (I.E) Department, dated 29.04.2015, was issued whereby the petitioner is granted minimum time scale along with three other persons similarly placed, with effect from 01.10.2012. The petitioner is drawing salary of Rs.18,030/- per month as per PRC, 2010 but the PRC, 2015 has not been extended to the petitioner and said three others by the 1st respondent.

Now that in the counter affidavit filed by the Commissioner of Intermediate Education, that is, the 2nd respondent, it is stated that the orders are implemented accordingly and since the petitioner still complains that the interim order is not implemented completely and in letter and spirit, the short question for consideration is as to whether or not the interim order of this Court, which is extracted supra, is implemented truly and in letter & spirit.

Before proceeding further, to know the purport and spirit of the interim order, it is necessary to extract certain of the observations/findings of this Court in the earlier interim order, which were extracted while granting interim order in the present case, the non compliance of which is being complained of in this contempt case. The said observations/ findings read thus:

“ It appears there are nearly 63 other Physical Directors/Librarians who have been similarly approved and selected for appointment in various colleges in the State. They were also admitted to grant-in-aid by the Commissioner of Intermediate Education, Hyderabad, as it had happened in the case of the petitioner. In case of Smt R.Swaroopa Roseline, a Physical Director, the State Government in the Higher Education department passed orders through memo No.7721/IE.II/2/2004-1, dated 31.08.2004, directing the Director of Intermediate Education to apply the same principle as is applied in the case of Mrs G.Anna Mary, Physical Director, M.V.V.M. Junior College, Begumpet, Hyderabad. Accordingly, Smt R.Swaroopa Roseline is paid her salary and allowances against the grant-in-aid post.

It is also, now, brought to my notice by the learned counsel for the petitioner that in the case of Sri P.Venugopal Reddy, Physical Director, Sri Venugopal Swamy Junior College, Nellore, the State Government in the High Education department passed orders through its G.O.Ms.No.11, dated 12.03.2012, permitting the Commissioner of Intermediate Education for admitting Sri P.Venugopal Reddy, Physical Director, into grant-in-aid subject to the out come of Writ Petition No.7304 of 2004 filed by the said Sri P.Venugopal Reddy.

Though in the counter-affidavit filed by the Commissioner of Intermediate Education it was pleaded that the then Commissioner of Intermediate Education has not obtained the prior permission of the State Government before granting permission to the respective colleges to fill up the aided vacancies, which, is contrary to the policy

measures taken by the Finance and Planning department as well as the State Government in the Education department not to fill up aided vacancies without first applying the principles of rationalization of teachers, and hence, the services of all the 63 such appointees have been dispensed with. But, however, majority of those 63 teachers are now getting paid their salary and allowances against grant-in-aid post. The petitioner, as is noticed, is working from 16.07.2002. A decade's time has passed by. He has not seen the colour of the copper so far. It will be so difficult for anyone to survive in these hard days. It is, therefore, appropriate that respondents 1 and 2 herein shall be directed to admit the writ petitioner also to grant-in- aid and pay him at the minimum of the pay with effect from 01.10.2012 subject to the result of Writ Petition No.3847 of 2008, as was done in earlier cases.'

Admittedly, the respondents granted to the petitioner and three other similarly placed persons minimum time scale with effect from 01.10.2012; and, the petitioner is drawing a salary of Rs.18,030/- per month since 01.10.2012, which is the effective date insofar as the petitioner is concerned as per the interim orders of this Court. According to the petitioner, no increments are granted and no DA and allowances are being paid and the petitioner is drawing the same salary of Rs.18,030/- per month since 01.10.2012. As per the contentions of the respondents, it appears that since in the interim order it is stated that the petitioner be paid at the minimum of the pay with effect from 01.10.2012, the afore-said GO, dated 29.04.2015, was accordingly issued granting minimum time scale to the petitioner with effect from 01.10.2012. In that view of the matter, the learned Government Pleader contends that the order is duly complied with and there is no violation of the order much less deliberate or wilful violation. However, learned counsel for the petitioner would submit that the order must be read in its entirety and harmoniously to know the purport and spirit of the order and that the implementation of the orders by omitting to read the entire order is erroneous and that therefore the violation is wilful and deliberate as the order is not implemented in letter and spirit and is not given its full effect. He places emphasis not only on the contents of the entire order including some of the paragraphs of the order, which are already extracted supra, but also on the concluding lines of the operative portion of the earlier interim order. For emphasis, it is necessary to note that in the concluding lines of the interim order passed in WPMP.No.13229

of 2012 in WP.No.3847 of 2008, this Court held as follows: 'It is, therefore, appropriate that respondents 1 and 2 herein shall be directed to admit the writ petitioner also to grant-in-aid and pay him at the minimum of the pay with effect from 01.10.2012 subject to the result of Writ Petition No.3847 of 2008, as was done in earlier cases.' Learned counsel for the petitioner placed stress also on the words 'as was done in earlier cases'. His submission is that this direction in the operative portion of the interim order was not wilfully implemented.

It is an admitted fact that Venugopal Reddy, Physical Director, SVS Junior College, Nellore, also obtained an order from this Court in WPMP.No.10442 of 2006 in WP.No.7304 of 2004. The operative portion of the order granted to him reads as under: - 'There shall be a direction to the 3rd respondent to consider the case of the petitioner for release of grant-in-aid on the basis of the order of approval granted by the Secretary, Board of Intermediate Education, dated 23.03.2006, and in the light of the averments in the counter-affidavit filed by the 3rd respondent himself in this writ petition. This exercise shall be completed and a decision in this regard communicated to the petitioner within two months from the date of receipt of a copy of this order.' Learned counsel for the petitioner points out that though the direction is to consider the case of the said Venugopal Reddy, the respondents admittedly granted to him an order regularising his services duly admitting into grant-in-aid subject to the rider that the said orders are applicable to the writ petitioner only; and, therefore he is drawing a salary including DA and allowances, that is, Rs.66,205/- per month but similar benefits are not extended to the petitioner with effect from 01.10.2012 subject to the result of the writ petition as was done in earlier case. The counter filed on behalf of the respondents would itself indicate that in the case of Venugopal Reddy, Physical Director, SVS Junior College, Nellore, G.O.Ms.No.11, Higher Education (I.E.II) Department, dated 12.03.2012, was

issued duly regularising his services and duly admitting into grant-in-aid subject to condition that the said orders are applicable to the writ petitioner only and that he is drawing a salary including DA and allowances at the rate of Rs.66,205/- per month. It is not disputed before this Court that he is also being given periodical increments and the PRC 2015 was also extended to him. Nevertheless, the respondents should have extended the same benefits to the petitioner as were extended to Venugopal Reddy, however, from 01.10.2012, the date indicated in the interim order granted to the petitioner.

A plain reading of the interim order in favour of the petitioner would indicate that the petitioner herein is also similarly placed as Venugopal Reddy and the said fact was also taken note of by this Court while passing the interim orders in favour of the petitioner herein. Though, Venugopal Reddy was granted regularisation of services on 12.03.2012, nonetheless, since the order in favour of the present petitioner specifically reflects that the respondents 1 and 2 shall admit the petitioner also in grant-in-aid and pay him at minimum of pay with effect from 01.10.2012, the only difference between the two cases of Venugopal Reddy on one hand and the petitioner on the other is the date of reckoning for admission to grant-in-aid. The said date in the case of Venugopal Reddy is 12.03.2012 whereas it is 01.10.2012 in the case of the petitioner. Therefore, in the considered view of this Court, the petitioner is also entitled to the same reliefs which were granted to Venugopal Reddy by G.O.Ms.No.11, dated 12.03.2012, but from the date, 01.10.2012, as the interim order as already noted ordains the respondents 1 and 2 to admit the writ petitioner also to grant-in-aid and pay him at the minimum of the pay with effect from 01.10.2012 subject to the result of the writ petition as was done in the earlier cases and as one of the cases referred to in the order of this Court is that of Venugopal Reddy.

Viewed thus, this Court finds that G.O.Ms.No.7, dated 29.04.2005, granting minimum time scale to the petitioner with effect from 01.10.2012 and permitting him to draw salary @ Rs.18,030/- per month without granting the same benefits as was done in the earlier cases is not a compliance of the interim order of this Court in its true letter and spirit. However, after careful consideration of the facts, pleadings and submissions, as this Court finds that the non implementation and the failure to give complete effect to the interim order of this Court in letter and true spirir does not appear to be deliberate and wilful, this Court is not inclined, at this stage, to hold the respondents 1 and 2 guilty of contempt of the interim order of this Court.

On the above analysis, this court finds that the contempt case can be disposed of giving necessary directions to the respondents 1 and 2.

The Contempt Case is, accordingly, disposed of directing the respondents 1 and 2 to implement the interim order of this Court in its letter and true spirit by not only regularising the services of the petitioner and duly admitting into grant-in-aid but also by extending the benefits, as well, as was done in the case of Venugopal Reddy, however, with effect from 01.10.2012 as indicated in the interim order. The respondents shall complete this exercise by following necessary procedure within two (02) months from the date of receipt of a copy of this order. Failing such compliance, the petitioner shall be at liberty to pursue the remedies, which the law permits.

JUSTICE M. SEETHARAMA MURTI

24.03.2017
Vjl