

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

CONTEMPT CASE No.403 OF 2015

DATED : 11.12.2017

Between :

A.R.Parvez Ahmed S/o.A.R.Kidwai Muslim,
Aged about 55 yrs, Occu : Lecturer in Economics,
S.B.S.Y.M. Degree College, Mydukuru,
Kadapa District, Andhra Pradesh.

..

Petitioner

And

Smt Udaya Lakshmi, I.A.S,
Commissioner of Collegiate Education,
State of Andhra Pradesh, Hyderabad & others.

..

Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioner and learned Government Pleader.

2. This contempt case is filed alleging violation of the order passed by this Court in W.P.No.31887 of 2010 dated 18.11.2013.

3. In W.P.No.31887 of 2010 petitioner challenged the order of the Management dated 01.07.2010, where under he was placed under suspension.

4. When the case was taken up for consideration, having regard to the provision in Section 79 (3) (b) of the Andhra Pradesh Education Act, 1982 (for short 'the Act'), and as the Court was not informed about the validation of suspension/further continuation of suspension by the competent authority, the Court held that as the suspension was not ratified/further extension was not granted, the same is not valid in law and accordingly allowed the writ petition directing to treat the petitioner as having been restored to service w.e.f. 01.09.2010, i.e., after lapse of two months from the date of suspension.

5. Learned counsel for the petitioner submits that in terms of the said judgment, petitioner was to be reinstated into service, but was not reinstated by revoking the suspension from service.

6. In the counter affidavit filed on behalf of the Commissioner, Collegiate Education, it is stated that by order dated 05.08.2010, the Management removed the petitioner from service and in view of removal of petitioner from service, the question of revocation of

suspension and further continuation in service after 05.08.2010 as directed by the Court would not arise. According to the averments in Paragraph No.14 of the counter affidavit, these facts are also stated in W.A.S.R.No.76580 of 2015 filed against the order in W.P.No.31887 of 2010 and the same is pending consideration of the Division Bench. A copy of the order of removal is enclosed to the counter affidavit at Page No.50.

7. It is seen from the said order that petitioner was removed from service on 05.08.2010 i.e., within two months from the date of his suspension. The direction issued by this Court was to reinstate the petitioner from 01.09.2010 by revoking suspension. In other words, by the time the reinstatement can be given effect to by revoking the suspension, petitioner was already removed from service.

8. At this stage, learned counsel for the petitioner sought to contend that the order of removal was not served on the petitioner and that it was not in accordance with the provisions of Section 79 of the Act. According to learned counsel, no order of removal can be passed without approval of the competent authority and in the case on hand, no such approval was obtained.

9. On this, on instructions, learned Government pleader also fairly submits that no approval was sought by the Management. However, learned Government pleader contends that the fact remains that petitioner was removed from service and the order of removal is not under challenge.

10. This Court is not going into the merits of validity of the order of removal. The fact remains that the petitioner was not continued

under suspension beyond 05.08.2010. Therefore, it cannot be said that the order of this Court is not complied necessitating initiation of proceedings of contempt against the respondents, under the Contempt of Courts Act.

11. Thus, leaving it open to the petitioner to work out his remedies as available in law, the Contempt Case is closed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this contempt case shall stand closed.

11th December, 2017
Rds

P.NAVEEN RAO,J

