

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

COCP No.2609 of 2016

Date of Decision:-14.03.2017

Mukul Gupta.

.....Petitioner.

Versus

Malay Mukherjee & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. J.S. Bhatia, Advocate for the Petitioner.

Mr. Rajiv Atma Ram, Senior Advocate assisted by
Mr. Manish Jain, Advocate for respondent nos.1 to 3.

JASWANT SINGH, J.(ORAL)

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 orders passed by the Division Bench of this court (Annexure **P-1** colly) dated 10/06/2015 and 21/10/2015 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 Civil Writ Petition No. 4177 of 2015, which was ultimately dismissed on 29/05/2015. Against the

said order, the petitioner herein filed Letters Patent Appeal bearing No. 892 of 2015, whereby an interim relief was granted and it was ordered that no person would be appointed to the post of Director as well as Professor in marketing. It is alleged that the said interim relief is continuing and above mentioned LPA No. 892 of 2015 has been admitted.

Previously, COCP No. 2642 of 2015 was filed against the breach of same very orders as alleged in present petition, on the allegations that respondent No. 3- Mr. C.P Shrimali has been confirmed as a full-fledged Director of the Institute and therefore, there was contempt of the court by breaching the orders dated 10.06.2015 and 21/10/2015. However, the said contempt petition was dismissed by observing as follows:

*“ 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. ”

Now, the petitioner has again filed the contempt petition by alleging that despite the undertaking given by the respondents in the previous contempt petition to the effect that respondent No. 3 is continuing only as an acting director and not as the director of the Institute, it has come out that a brochure titled as “Samwad 2016”, which is an annual business symposium organized by students of National Management Program MDI’s executive PGPM, respondent No. 3 has once again addressed himself as the Director of respondent Institute and not as an acting director. Further, it has also been alleged that in the placement brochure of the year 2016/17 of respondent Institute, respondent No.3 has again referred himself as ‘Director’ of the respondent Institute in the ‘Director’s message’. It has been next averred that this breach has further continued in the admissions brochure of the year 2016-17 wherein respondent No.3 has also referred himself to be a director. Thus, it is alleged that the respondents have been fully violated the interim directions given by the Division Bench of this court and therefore, they are liable to be hauled in contempt.

Upon notice, respondents have filed their reply in which it is averred that respondent No. 1 and 2 have not confirmed respondent No. 3 as full-fledged Director of the Institute, rather he continues to be the Acting Director only, being the senior most professor. It has been further explained that ‘Samwaad 2016’, is a student driven activity by the students of the National Management Program run by the MDI and is an annual basis symposium. It is a platform where prominent personalities and

leaders come together to converge and connect with the students and have Academia and industry exposure. It is a student driven program for which write-up, scheduled etc are prepared by the students and not by the Institute. Since the said programme started in the year 2015 and its 2nd edition was held in 2016, the 2nd edition of 2016 clearly indicates that respondent No. 3 is an 'Acting Director' and not Director. Copy of the same has been placed on record as Annexure R-2/2. As regards the placement brochure of the year 2016-17, it is explained that the brochure was brought out by the student community of the postgraduate programme in management and is circulated to companies for placement of students. The said brochure was brought out by the student committee themselves in August/September 2016. However, the Secretary, Student Placement Committee (2015-2017) has been informed about the said anomaly vide letter dated 22nd of September 2016 and thus there was no willful/deliberate violation of orders passed by this court. The copy of the letter dated 22nd of September 2016 is also attached as Annexure **R-2/3**. To this, the Secretary of the Student Placement Committee, vide his reply dated 23rd of September 2016 expressed his regrets which is also appended as Annexure **R-2/4**.

As far as the admission brochure for the year 2016-2017 (Annexure **P-7**) it is submitted by respondents that the brochures are published every year well in advance before the commencement of the academic session. In any case, the said admission brochure mentions the status of respondent No. 3 as Director (ac.) i.e acting. Meaning thereby, neither of the respondents have not violated any of the undertakings/statements given by them at the time of dismissal the previous

contempt petition. Thus, prayer has been made for dismissal of contempt petition.

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

In order to hold the respondents guilty of the contempt court, the order passed by the court has to be gone into carefully and for that matter, the basic order dated 10/03/2015 is relevant which reads as “no appointment to the post of director and professor (marketing) in respondent No. 2 Institute would be made except with the leave of this court”. Admittedly, there is no order of appointment to the post after 10/03/2015 in favour of respondent No. 3, appointing him as a Director or anybody else appointing him, either as a Director or Professor marketing, as directed by this court. As is evident from the file, respondent No.3 has been working as ‘Acting Director’ and the undertaking/statements given by him in the previous contempt petition have not been violated, as has been explained by respondents in their replies referred hereinabove.

There is another way to look in the matter, there cannot be contempt of Court until and unless there is an order by respondent-institute appointing any person either as a Director or Professor (Marketing).

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

(JASWANT SINGH)
JUDGE

March 14, 2017
Vinay

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No