

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO. 14 OF 2017**

|                                                          |                |
|----------------------------------------------------------|----------------|
| Kishan C. Kudmulwar and anr.                             | ...Petitioners |
| Versus                                                   |                |
| Ashok Lavasa, Secretary,<br>Ministry of Finance and ors. | ...Respondents |

Mr. R.K. Rao i/b Exponent Attorneys for the Petitioner.  
Mr. Anil C. Singh, ASG a/w. Mrs. Neeta V. Masurkar and  
Mr. Advait M. Sethna for Respondent Nos. 1 to 4

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &  
M. S. SONAK, J.**

**DATE : 13<sup>th</sup> MARCH 2018**

**P.C.**

1] The petitioners allege that the respondents have intentionally and willfully avoided compliance with the directions issued by the Central Administrative Tribunal (CAT), Mumbai in its judgment and order dated 6<sup>th</sup> July 2015 and therefore, there is a case made out to initiate proceedings for contempt against the respondents under the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India.

2] Mr. R.K. Rao, learned counsel for the petitioners, point out that this court has ample jurisdiction, both under the

Contempt of Courts Act, 1971 as well as under Article 215 of the Constitution of India to entertain the present contempt petition.

3] In order to consider the submission of Mr. Rao, learned counsel for the petitioners, reference is necessary to the provisions of section 17 and section 27 of the Administrative Tribunals Act, 1985, which read as follows:

*“17. Power to punish for contempt.—A Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971) shall have effect subject to the modifications that—*

*(a) the references therein to a High Court shall be construed as including a reference to such Tribunal;*

*(b) the references to the Advocate-General in section 15 of the said Act shall be construed,—*

*(i) in relation to the Central Administrative Tribunal, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General;*

*and*

*(ii) in relation to an Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States, as a reference to the Advocate-General of the State or any of the States for which such Tribunal has been established.*

....

*27. Execution of orders of a Tribunal – Subject to the other provisions of this Act and the rules, [the order of a Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any Court (including a High Court) and such order ] shall be executed in the same manner in which any*

*final order of the nature referred to in clause (a) of sub-section (2) or section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed.”*

4] In ***T. Sudhakar Prasad v. Govt of A.P. - (2001) 1 SCC 516***, the issue which arose for determination by the Hon'ble Supreme Court was whether Administrative Tribunals set up under the provisions of Administrative Tribunals Act, 1985, have the power to punish for their contempt ? A further issue arose as to whether after the decision of the Constitution Bench of the Supreme Court in ***L. Chandra Kumar vs. Union of India - (1997) 2 SCC 261***, section 17 of the Administrative Tribunals Act, 1985 is rendered unconstitutional or otiose ?

5] Upon detailed analysis, the Hon'ble Supreme Court has held that the Constitution bench in *L. Chandra Kumar (supra)*, has not declared the provisions of Article 323-A (2) (b) or Article 323-B(3)(d) of section 17 of the Administrative Tribunals Act, 1985 has *ultra vires* the Constitution. In the context of section 17 of the Administrative Tribunals Act, 1985, the Hon'ble Supreme Court has held that this section derives its legislative

sanctity from provisions of Article 323-A(2)(b). Further, the power of the High Court to punish for contempt of itself under Article 215 of the Constitution of India remains intact but the jurisdiction, power and authority to hear and decide the matters covered by section 14(1) of the Administrative Tribunals Act, 1985 having been conferred upon the administrative tribunals, the jurisdiction of the High Court to that extent has been taken away and hence the same jurisdiction which vested in the High Court to punish for the contempt itself in the matters now falling within the jurisdiction of the tribunal, if those matters would have continued to be heard by the High Court has now been conferred upon the administrative tribunals under section 17 of the Administrative Tribunals Act, 1985. The jurisdiction is the same as vesting in the High Courts under Article 215 of the Constitution read with the provisions of Contempt of Courts Act 1971. the need for enacting section arose, firstly, to avoid doubts and secondly, because the tribunals are not "*courts of record*". The Supreme Court has further held that the availability of the jurisdiction to punish for contempt provides efficacy to the functioning of the judicial forum and enables the

enforcement of the orders on account of its deterrent effect on the avoidance. Viewed from this angle, the validity of the section 17 of the Administrative Tribunals Act, 1985 is protected not only by sub - clause (b) of clause (2) of Article 323-A but also by sub-clause (g) thereby. The Hon'ble Supreme Court in fact, ordered the Contempt Case No.1054 of 1998 filed before the High Court invoking its contempt jurisdiction for the alleged breach of the order made by the CAT, to be transferred to the tribunal for being dealt with under section 17 of the Administrative Tribunals Act, 1985.

6] Taking into consideration the facts and circumstances of the present case, as also the aforesaid ruling of the Hon'ble Supreme Court in *T. Sudhakar Prasad (supra)*, we do not deem it appropriate to entertain the present contempt petition, which alleges intentional and willful breach of the directions issued by the CAT in its judgment and order dated 6<sup>th</sup> July 2015.

7] However, we grant liberty to the petitioners to take out appropriate proceedings before the CAT in the matter of

alleged non-implementation of the directions in the judgment and order dated 6<sup>th</sup> July 2015. We have no doubt that if such contempt proceedings are taken out, the CAT will dispose of the same expeditiously and in accordance with law.

8] With aforesaid liberty, the present contempt petition is disposed of.

**(M.S. SONAK, J.)**

**(ACTING CHIEF JUSTICE)**