

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-09-2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Contempt Petition No.1885 of 2018

in

W.M.P.No.18462 of 2017

in

W.P.No.17006 of 2017

T.Namasivayam .. Petitioner

Vs.

1.Tmt.M.K.S.Subashini,  
Chief Educational Officer,  
Thanjavur District,  
Thanjavur.

2.M.Manimaran,  
Headmaster,  
Government Higher Secondary School,  
Pudukottai Ullur,  
Thanjavur District.

3.Thiru A.Balakrishnan,  
Sub-Treasury Officer,  
Pattukkottai,  
Thanjavur District.

सत्यमेव जयते.. Respondents

**Prayer:** Contempt Petition is filed under Section 11 of the Contempt of Courts Act, to punish the respondents for their wilful disobedience of the order of this Court made in WMP No.18462 of 2017 in WP No.17006 of 2017 dated 5.7.2017.

For Petitioner .. Mr.R.Saseetharan

For Respondents .. Mr.K.Karthikeyan,  
Government Advocate.

**ORDER**

The present contempt petition has been filed to punish the respondents for their willful disobedience of the order of this Court passed in WMP No.18462 of 2017 in WP No.17006 of 2017 dated 5.7.2017.

2. The learned counsel for the writ petitioner vehemently contended that this Court has passed an interim order of granting "Interim Stay of Recovery Alone". Therefore, the respondents ought to have granted the amounts already sanctioned by the Accountant General of Tamil Nadu.

3. The learned counsel for the writ petitioner is of an opinion that in respect of the disputed amount, as per the impugned order dated 15.5.2017, is also withheld on the ground that the writ petition is pending. Such a stand taken by the respondents are contemptuous and therefore, the writ petitioner is constrained to move the present contempt petition.

4. The learned Government Advocate, appearing on behalf of the respondents, states that the respondents have not effected any recovery and they have implemented the order as it is. The interim order granted by this Court is that "Interim Stay of Recovery Alone". Thus, the

respondents have not effected any recovery. In respect of all other disputes in relation to the claim of the amount, the same is to be considered on merits and in accordance with law and therefore, the respondents have not violated the order granted by this Court.

5. In respect of the interim order, all recoveries are stopped as per the impugned order and no recovery has been effected and the disputed amount, as per the impugned order, is withheld. If in the event of settling the entire amount, then it may not be possible for the authorities to recover the same in the event of rejection of the writ petition in the final hearing. Contrarily, if the writ petitioner succeeds, the amount as per the orders of the Accountant General shall be settled in favour of the writ petitioner. Thus, the respondents have not effected any recovery. Contrarily, they have kept the disputed amount pending in view of the fact that the writ petition is to be decided on merits.

6. This Court is of an opinion that the Accountant General of Tamil Nadu sanctioned the benefits in favour of the writ petitioner in proceedings dated 7.4.2017. The impugned recovery order has been passed in proceedings dated 15.5.2017. The interim order has been granted in the present writ petition on 5.7.2017, after a

lapse of about two months from the date of issuance of the impugned order.

7. Thus, the respondents have withheld all the amounts and not recovered any further amount from the writ petitioner. The very purport of the interim order is to ensure that during the pendency of the writ petition, no amount is recovered from the writ petitioner. In respect of payment and settlement of the benefits, it is entirely, a different issue and a different cause, which is to be adjudicated.

8. The interim order of "Stay of Recovery Alone" means that no further recovery should be inflicted on the writ petitioner during the pendency of the writ petition. Such an interim order granted must have prospective effect and the same cannot have a retrospective effect of grant of other amounts, which all are to be considered at the time of final hearing of the writ petition.

9. This being the factum, no further interpretation is permissible in respect of an interim order granted in the writ petition. Once again, this Court made it clear that if any interim order of "Stay of Recovery Alone" is granted, then the authorities have to ensure that no further amount has been recovered from the

writ petitioner during the pendency of the writ petition.

10. This being the scope of the interim order, the writ petitioner has not established any prima facie case for the purpose of entertaining the present contempt petition. It is left open for the writ petitioner to adjudicate all the merits and the demerits at the time of final hearing of the writ petition. It is left open for the writ petitioner to move appropriate application for the purpose of redressing his grievances.

11. Accordingly, the contempt petition stands dismissed.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

svn

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)

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PS/10/10/2018

To

1. Chief Educational Officer,  
Thanjavur District,  
Thanjavur.

2. The Headmaster,  
Government Higher Secondary School,  
Pudukottai Ullur,  
Thanjavur District.
3. The Sub-Treasury Officer,  
Pattukkottai,  
Thanjavur District.



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