

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Contempt Petition No.684 of 2017

S.Sakundala ... Petitioner

Vs

1.S.Saroja
The Principal / Manager
Wiseman Higher Secondary School
Velrampet, Mudaliarpet,
Puducherry.

2.K.Senthamaraikannan
The Head Master,
Wiseman Higher Secondary School
Velrampet, Mudaliarpet,
Puducherry. ... Respondents

Contempt Petition filed under Section 11 of the
Contempt of Courts Act to punish the respondents for their
wilful disobedience of the order of this Court dated
21.10.2016 in W.A.No.940 of 2016.

For Petitioner : Mr.N.A.Prasanna
M/s.Sai Bharath and Ilan
For Respondents: Mr.R.Chandrasekaran

ORDER

Alleging non-compliance of the order of this Court
dated 21.10.2016 passed in W.A.No.940 of 2016, the writ
petitioner has come up with the present contempt petition.

2.It is the case of the petitioner that by order dated 16.04.2014 issued by the first respondent, she was terminated from service with effect from 01.05.2014, which was challenged in W.P.No.12772 of 2014. This Court, by order dated 06.11.2014, allowed the writ petition by setting aside the aforesaid termination order. In spite of the same, the petitioner was not reinstated in service, which compelled her to file Contempt Petition No.247 of 2015. During the pendency of the same, the respondents filed Review Application No.21/2015. This Court, by common order dated 11.09.2015, dismissed the review application and closed the contempt petition, with a direction to the respondents to reinstate the petitioner in service within a period of four weeks. Instead of complying with the said direction, the respondents filed an appeal in WA.No.940 of 2016, wherein, the Division Bench granted an interim order on 21.10.2016, directing the respondents to reinstate the petitioner in service and report the compliance. After receipt of the said order, by order dated 24.10.2016, the petitioner was reappointed as pre-primary school teacher temporarily from 26.10.2016. In view of the same, the writ appeal was withdrawn. According to the petitioner, as per the order of this Court, she ought to have been reinstated in service, whereas, she was reappointed by the respondents. Hence, the petitioner is before this Court with the present Contempt Petition.

3. When the matter was taken up for consideration, the learned counsel for the respondents produced an affidavit of the first respondent, wherein, it is stated that in obedience of the order dated 21.10.2016 passed by this Court, the petitioner was reinstated in service and she was allowed to work as Pre-primary Teacher in the respondent School and she received the entire salary upto April 2017. It is further stated that the petitioner is now working in some other school and she left the respondent school on her own volition.

4. The statement so made by the first respondent is seriously disputed by the learned counsel for the petitioner by producing an office order dated 31.03.2017 issued by the respondents, wherein, it is stated as follows:

"As obeying the order and the direction given by the Hon'ble High Court, Madras, we offer re-engagement to Tmt.S.Sakundala, PPST, on 21.10.2016. But there is not enough student's strength to teach in the Primary section of this institution. Hence, the individual kept as an ideal and work was not allotted to her.

- Due to the diminishing student's strength in Pre Primary Section, decrease in the enrollment of students and insufficient funds, it is very difficult to meet out

the salary to the excess teacher.

- *With this situation, it is very difficult to us to bear the salary of the individual as our institution is an aided school.*

Due to the above said issues and problems, the management has finally decided to terminate Tmt.S.Sakundala, PPST of this Institution from her service with effect from the Forenoon of 01.05.2017.

The Prior intimation notice given to the individual on 1.4.2017.

Management had paid the salary for the period of her service and also paid an advance salary to the individual for the month of May' 2017."

5.A perusal of the aforesaid office order would make it limpid that the petitioner was reappointed in October 2016, but was not allotted any work and she was ultimately terminated from service with effect from 01.05.2017, pointing out the decrease in the students strength and the consequential excess of teachers strength. Irrespective of the contentions raised on either side, in our considered opinion, the course so adopted by the respondents cannot be countenanced, as this Court has specifically and unequivocally directed the respondents to reinstate the petitioner in service. Needless to state that compliance of a Court's order should be in letter and spirit and the

respondents cannot create a picture as if the Court's order has been complied with and then, stick on to their earlier decision.

6.In such view of the matter, the respondents are directed to reinstate the petitioner in service with continuity of service, as directed by this Court, by order dated 21.10.2016 in WA.No.940 of 2016, within a period of two weeks from the date of receipt of a copy of this order, failing which, they will face penal consequences.

7.This Contempt Petition stands disposed of as indicated above.

rk SD/-
ASSISTANT REGISTRAR (COMM.CASES)

//CERTIFIED TO BE TRUE COPY//

DATED AT MADRAS THIS THE DAY OF 2018.

COURT OFFICER (O.S.)

FROM 25TH DAY OF SEPTEMBER 2008 THE REGISTRY IS ISSUING CERTIFIED COPIES OF THE ORDERS/JUDGMENTS/DECREES IN THIS FORMAT.

CO/25/05/2018

One cc to M/s.Sai Bharath and Ilan, Advocates,
Sr.No.7017/2018.

One CC to Mr.R.Chandrasekaran, Advocate, Sr.No.7152/2018.