

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

C.C.Nos.7, 964 and 2190 of 2017

Date : 04-12-2018

C.C.No.7 of 2017

Between :

Vajja Rajababu

.. Petitioner

And

G. Kista Goud, S.F.S,
The Divisional Forest Officer,
Warangal (South), Warangal
Now District Forest Officer,
Mahabubabad, Authorised Officer
and I/c Forest Divisional Officer,
Guduru (WLM), Mahabubabad District

.. Respondent



Counsel for petitioner : Sri P.V. Ramana

Counsel for respondent : Special Government Pleader for Forests

The Court made the following :

COMMON ORDER:

All these Contempt Cases arise out of common order dated 26-12-2014 in WPMP No.49714 of 2014 in W.P.No.39643 of 2014.

For convenience, the parties are referred to as they are arrayed in C.C.No.964 of 2017.

The petitioners filed W.P.No.39643 of 2014 against the State of Telangana and some of its functionaries of the Forest Department, including the Divisional Forest Officer, Warangal (South), with the grievance that though their applications for recognition of their forest rights and occupation of forest lands and for grant of pattas under the provisions of The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (Act No.2 of 2007) have been pending, the respondents have been interfering with their possession in violation of Section 4(5) thereof in respect of compartment No.851 of Kothaguda Range, Warangal District. They have filed WPMP No.49714 of 2014 in the said Writ Petition for interim direction to the respondents not to interfere with their possession and enjoyment of Acs.9-95 cents, Acs.9-95 cents, Acs.9-77 cents and Acs.3-09 cents, respectively, situated in Bawargonda, Reserve

Forest Block Chinthaguda, Compartment No.851, Kothaguda Range, Warangal District, pending the Writ Petition. By order dated 26-12-2014 this Court granted interim relief as prayed for.

On 2-1-2017, petitioner No.4 has filed C.C.No.7 of 2017 impleading respondent No.1 for punishing him for wilfully violating the order dated 26-12-2014 passed in WPMP No.49714 of 2014 in W.P.No.39643 of 2014. In his affidavit filed in support of the said Contempt Case, petitioner No.4 has alleged that when he was ploughing the land in compartment No.851 with his tractor on 12-6-2016 for raising maize crop, the tractor was seized and taken into custody by respondent No.2-Forest Range Officer, Kothaguda Range, Mahabubabad District, and respondent No.1 registered POR No.265/06, under Section 20(1)c(ii)(iv) and (vii) of the A.P. Forest Act 1967 and issued show cause notice stating that 20 cart loads of Firewood and 25 cart loads of Porka of the value of Rs.14,115/- was removed by petitioner No.4. That petitioner No.4 submitted his reply dated 7-11-2016 denying the allegations and stated that though he was carrying on operations in compartment No.851, a false case was registered as if he was carrying on the operations in compartment No.850 and requested for release of the tractor. As respondent

No.1 has not responded to the reply notice, petitioner No.4 got legal notice dated 22-11-2016 issued. By notice bearing dated 21-11-2016 respondent No.1 has directed petitioner No.4 and two others for attending the enquiry on 10-12-2016 at 11 A.M. As respondent No.1 was not present on 10-12-2016, the enquiry was adjourned to 20-12-2016 on which date petitioner No.4 and others were present. On the said adjourned date, no order was passed by respondent No.1. At that stage, petitioner No.4 has filed C.C.No.7 of 2017.

On 6-1-2017, this Court has admitted C.C.No.7 of 2017 and issued notice in Form-I. On 3-2-2017, respondent No.1 was present and the case was adjourned for filing counter affidavit by him. By 17-2-2017 counter affidavit was filed and the presence of the contemnor was dispensed with.

The petitioners filed a reply affidavit/rejoinder wherein they have inter alia referred to C.C.No.1212/2015 filed by one Datla Nageswara Rao and 4 others against some of the respondents herein and the Principal Secretary, Environment, Forests, Science & Technology Department. It is noticeable from the averments in the reply affidavit that reference to W.P.No.35419/2015 was an obvious mistake for W.P.No.39644/2014 and out of which the

said Contempt Case arose. Be that as it may, the petitioners averred that when the interim order was passed on 26-12-2014 in the said Writ Petition similar to the one passed in WPMP No.49714/2014 in W.P.No.39643/2014 out of which the present Contempt Cases arose, in respect of compartment No.1106, Gudur Reserve Forest, Kothaguda, alleging wilful violation of the said order, the petitioners therein filed C.C.No.1212/2015, The defence taken by the respondents herein and the then Principal Secretary in that case was that the petitioners therein were not in possession of the property, that in the guise of the interim order, they sought to enter compartment No.1106 and that therefore the petitioners therein were prevented from doing so. That this Court did not accept the said stand of the respondents and observed vide its order dated 4-12-2015 that even if factually the petitioners therein were not in possession of the properties, when an interim direction was given restraining the respondents from interfering with the possession of the petitioners, it is implied from it that the Court was satisfied that the petitioners were in possession and that the fact whether they were in possession or not shall be decided by the Court in WVMP No.342 of 2015 in W.P.No.39643 of 2014 filed by the respondents seeking vacation

of the interim order dt.26-12-2014. It was further observed that having realized the said position, Mr. Rajesh Tiwari, the then Principal Secretary and respondent No.1 in that Contempt Case has agreed that he will ensure that criminal cases registered against the petitioners therein were withdrawn and no interference with their purported possession will be caused by the respondents till the vacate-stay petition is disposed of. That this Court, accepting the said statement, closed the said Contempt Case by its order dated 4-12-2015. It is further averred that from the next day itself the respondents herein started interfering with the possession of the petitioners in respect of the lands in compartment No.851.

On 10-3-2017 when C.C.No.7 of 2017 was heard, the learned Counsel for petitioner No.4 pointed out that the papers supplied to him by the learned Government Pleader contained the Preliminary Offence Report dated 12-6-2016 and requested the Court to peruse the same. As the said report was not available in the papers filed on behalf of respondent No.1 and as the Government Pleader for Forests (TS) stated that the same was not available even in her file also, the case was adjourned to 24-3-2017 at the request of the learned Government Pleader. During the hearing on 7-4-2017, the learned Government Pleader placed

before the Court, the original file relating to the Preliminary Offence Report dated 12-6-2016, on a perusal of which this Court found over-writing of compartment number at page No.1 at two places in Form-A which were marked as 'A' and 'B' with pencil by the Court. The submission of the learned Counsel for petitioner No.4 was that initially the respondent concerned has mentioned compartment No.851 and that on realizing that the interim order granted by this Court related to the said compartment, it was corrected as compartment No.850. This submission was vehemently denied by the learned Government Pleader for Forests by arguing that there is no such over-writing and that the Preliminary Offence Report in question related to compartment No.850 only.

In order to know the truth or otherwise of the allegation made by petitioner No.4, this Court, by order dated 7-4-2017 referred the document to the Truth Labs of Truth Foundation, Hyderabad, an independent forensic agency. The Truth Foundation has sent a report prepared by one Narinder Singh, Director of the said agency and the same was directed to be kept in a sealed cover and preserved with the Registrar (Judicial) of this

Court. A direction was also issued to the Registry to furnish copies of the report to both the counsel.

While the case was being represented by the learned Government Pleader for Forests till the report was sent by the Truth Labs, the learned Special Government Pleader attached to the learned Additional Advocate General (TS) started appearing in the case from 18-8-2017 i.e., after the report was received from said Laboratory.

After the issue relating to the alleged tampering was referred to the Truth Labs on 7-4-2017, the petitioners have filed C.C.No.964 of 2017 wherein it was alleged that on 6-4-2017 at about 8.00 A.M., respondent No.1 and his subordinates started altering the lands with heavy machinery and dug trenches preventing the petitioners from entering the lands in utter disregard of the interim order of this Court. It was further averred that based on the complaint given by the respondents, the Police warned the petitioners not to enter the lands.

Originally, C.C.No.964 of 2017 was filed only against respondent Nos.1 to 3. Later, the petitioners have filed Application No.417 of 2017 for impleading respondent No.4 i.e., A. Sadanandam, Forest Section Officer, Gudipadu Section,

Kothaguda/Gangaram Range, Mahabubabad District. By order dated 9-6-2017, this Court allowed the said Application and admitted the Contempt Case. In compliance with Form-I notice issued in the Contempt Case, all the respondents were present before the Court on 7-7-2017.

Respondent No.1 filed a counter affidavit in C.C.No.964 of 2017 wherein he repeated his version that the digging of trenches, seizing the tractor and its confiscation was in connection with compartment No.850 and not compartment No.851 which alone is the subject matter of the Writ Petition. Respondent No.1 relied upon the Judgment of the Apex Court in **State of Jammu & Kashmir Vs. Mohd. Yaqub**¹ for the proposition that when the vacate stay application is pending, it is desirable to hear such application. An averment to defer the hearing of the Contempt Case till determination of the vacate-stay petition was made. Respondent No.1 has admitted digging of trenches around the Reserve Forest lands including compartment No.851. He further pleaded that they have left access into the lands in possession of the petitioners in compartment No.851.

¹ 1992(4) SCC 167

The petitioners have filed C.C.No.2190 of 2017 wherein it is alleged that after C.C.Nos.7 of 2017 and 964 of 2017 were adjourned to 11-8-2017 by order dated 21-7-2017, all the petitioners were arrested by the Police on 22-7-2017 in connection with FIR No.10 of 2017, registered on the report given by respondent No.4 wherein it was stated that all the petitioners have trespassed into the Reserve Forest land bearing compartment Nos.849, 850, 851 and 878 and that when respondent No.4 and other Forest officials have tried to stop the petitioners and two other accused from doing plantations in the Reserve Forest, the petitioners/accused have fisted them with hands, abused and obstructed the officials from discharging their legitimate duties and that after the petitioners were remanded to judicial custody, they were granted bail on 24-7-2017 and released on 25-7-2017. This act of the respondents in giving Police report and getting the petitioners arrested is termed as being in utter violation of order dated 26-12-2014 in WPMP No.49714 of 2014 passed by this Court in W.P.No.39643 of 2014.

The Registry has taken objections to the maintainability of C.C.No.2190 of 2017 on the ground that alleging violation of the same interim order, the petitioners have earlier filed C.C.Nos.7

and 2017 and 964 of 2017. However, this Court overruled the said objections vide order dated 27-10-2017 by observing that the respondents have once again allegedly interfered with the petitioners' possession after the earlier interference complaining of which C.C.No.964 of 2017 was filed. By the same order, this Court has directed the said C.C.No.2190 of 2017 also to be posted along with C.C.No.964 of 2017. Though counter-affidavits were filed by respondent No.1 in C.C.Nos.7 and 964 of 2017, for the reasons best known to the respondents, they have not chosen to file counter affidavit in C.C.No.2190 of 2017.

All the three Contempt Cases were taken up for hearing on many occasions and they were finally heard and orders were reserved on 10-8-2018.

The Point that arises for consideration in these Contempt Cases is whether the respondents are guilty of wilful violation of interim order dated 26-12-2014.

From the background given out by the petitioners in the reply affidavit filed in C.C.No.7 of 2017 as noted hereinbefore, which has not been specifically controverted by the respondents, initially the respondents tried to prevent the petitioners in W.P.No.39644/2014 even to enter the lands in compartment

No.1106 by making their own interpretation of the interim order. This Court, in no uncertain terms held that it did not lie within their power and jurisdiction to unilaterally conclude that the petitioners in the said Writ Petition were not in possession of the properties and that therefore the interference by the respondents therein with the possession of the petitioners therein was in the teeth of the interim order. The petitioners therein alleged that notwithstanding the undertaking given in C.C.No.1212/2015, the respondents continued to interfere with their possession, due to which they filed C.A.No.247 of 2015 for reopening of C.C.No.1212 of 2015 and also C.A.No.1223/2016 in order to bring to the notice of this Court the construction of the compound wall and fixing of gate to prevent the petitioners therein from enjoying the properties in their possession. Those applications are stated to be pending.

Be that as it may, as far as the present Contempt Cases are concerned, the petitioner No.4 pleaded that when he was ploughing the land in compartment No.851 on 12-6-2016 for raising maize crop, his tractor was taken into custody by A. Sadanandam, Forest Section Officer, Gudipadu Section, Kothaguda/Gangaram Range, Mahabubabad District, Forest

Range Officer, Kothaguda, who is subordinate to respondent No.1 and registered POR No.265 of 2016, dated 12-6-2016 under Section 20(1)c(ii)(iv) and (vii) of the A.P. Forest Act 1967 apart from issuing show cause notice alleging that 20 cart loads of Firewood and 25 cart loads of Porka of the value of Rs.14,115/- were removed.

The above mentioned facts were admitted by the respondents, but their defence is that POR No.265 of 2016 was registered as the petitioners encroached compartment No.850 and that the respondents have not interfered with the possession of the petitioners in respect of the lands in compartment No.851. As the controversy was thus narrowed down only to the question whether the respondents have sought to prevent the petitioners from encroaching compartment No.850 or from entering compartment No.851, I have called for the original Preliminary Offence Report, which was accordingly produced by the learned Government Pleader for Forests. On perusing the said document, I have marked the disputed compartment number against column Nos.3 and 6 as 'A' and 'B' therein. Though, prima facie, corrections were visible to the naked eye with respect to the numeral '0' in the compartment number, the learned Government

Pleader, with all vehemence submitted that there is no correction in the compartment number and therefore she was prepared to seek the opinion of the hand-writing expert. Accordingly, as referred to in the narration of the facts supra, the document was referred to the hand-writing expert who sent his opinion vide File No.TLH/QD/180/17 which reads as under :

“In the blue enclosed marked ‘A’ & ‘B’ the original figure ‘1’ at the units place of the original figures reading ‘851’ has been altered to the existing figure ‘0’ by overwriting”.

On the direction of this Court, the copies of the expert’s opinion were furnished to both the parties. Far from filing any objections to the said opinion, Mr. Sharat Kumar, learned Special Government Pleader, has admitted the over-writing. He however sought to justify the over-writing by stating that due to mistake the compartment number was initially written as ‘851’ and that the same has been corrected as ‘850’. Interestingly, having put up a bold face earlier by taking the stand that there was no correction at all, and that the compartment number originally written as ‘850’ which necessitated this Court to refer the document to the hand-writing expert, the respondents sought to wriggle out of the trouble by shifting their stand projecting the over-writing as the correction of an inadvertent mistake. Though such a stand is

reflected from the submissions of the learned Special Government Pleader, none of the respondents has filed an affidavit to the said effect. This conduct of the respondents convinces me to conclude that as the respondents realized that their bluff is called by the expert's opinion, they are seeking to get away by introducing the theory of 'correction of an inadvertent mistake'.

From the facts discussed above, two inevitable conclusions would emerge viz., (i) that, true to their stand the petitioners were carrying on their operations in compartment No.851 and the respondents have registered POR No.265/2016 in respect of the said compartment only; and (ii) to overcome the Contempt Case, the respondents have made correction by changing '1' as '0' to make it appear that the petitioners have encroached compartment No.850 and that therefore they have registered POR in respect of the said compartment.

During the several hearings of these Contempt Cases, the only submission made and repeated by the learned Special Government Pleader has been that the respondents have not interfered with the petitioners' possession and enjoyment of the lands in compartment No.851, that when the petitioners were

deliberately trying to encroach the lands in compartment No.850 under the guise of the interim order granted by this Court pertaining to compartment No.851, they have committed the series of acts such as the registration of POR, seizure of tractor and its confiscation, digging of trenches, registration of FIR before the regular Police and arrest of the petitioners. The learned Special Government Pleader has not made any request to defer the hearing of the Contempt Case till the vacate-stay application is disposed of.

The possession of the petitioners of different parcels of lands in compartment No.851 is admitted by the respondents. When the tractor belonging to the petitioner was seized on 12-6-2016, a detailed legal notice was got issued by the petitioner on 22-11-2016 to respondent No.1. In the said legal notice it was specifically stated that the petitioners never entered compartment No.850. It is apposite to reproduce the relevant portion of the legal notice :

“While it being so, when my client is ploughing the above land in Compartment No.851 for raising maize crop, it is on 12-6-2016 based on the report of the Forest Range Officer, Kothaguda, Tractor belong to my client bearing No.AP36AU5247 was taken into custody registering POR No.265/16 dated 12-6-2016 under Section 20(1)c(ii) of A.P. Forest Act and Section 44 of the said Act. It is stated in the POR that my client through

tractor bearing No.AP36AU5247 committed offence in Compartment No.850 Reserve Forest. On the next day the forest officials conducted survey and came to know that my client ploughed the land in Reserve Forest Compartment No.851 in respect of his lands, but not in Reserve Forest Compartment No.850. In spite of that, instead of releasing the vehicle false POR case was registered as though my client committed offence in Compartment No.850 for clearing bush growth of 20 Carts load Firewood and 25 Carts load Porka value of Rs.14,115/-. From 12-6-2016 the above vehicle along with plough is with you. My client number of times met you and placed the interim orders passed by the High Court and stated that he never cleared any bush growth in Reserve Forest Compartment No.850 and he ploughed the land only in Reserve Forest Compartment No.851 for readying his land for raising maize crop to an extent of 10-00 acres. The land in which he carried out the operations does not belong to Compartment No.850. My client requested that in view of the interim orders of the High Court, not committed any offence and thereby, the entire seizure of the Tractor is illegal. In spite of repeated requests you have not released the vehicle.”

Admittedly, respondent No.1 did not issue any reply to the said legal notice. To the pointed query put by this Court, the learned Special Government Pleader did not putforth any reasons for the stoic silence maintained by respondent No.1 towards the said legal notice. When a serious allegation of violation of the order of this Court is made, it is the duty and responsibility of the Government functionaries who are parties to the legal proceedings against whom an interim order was passed and subsisting, to promptly refute the allegations made in such legal

notice. The failure of respondent No.1 to deny the claim of the petitioners that they were carrying on their operations only in compartment No.851, gives rise to a strong presumption that the defence putforth by the respondents that the petitioners encroached compartment No.850 is nothing but a subterfuge or a cloak or a moonshine.

Along with the counter affidavit in C.C.No.7 of 2017, the purported panchanama dated 12-6-2016 was filed wherein it is stated that the tractor was seized when petitioner No.4 was carrying on his operations in compartment No.850. In the reply affidavit, petitioner No.4 has stated that the panchanama was signed by Gatti Venkanna, working as Forest Striking Force and V. Anand, a Forest Jeep Driver of the Forest Range Officer Sri V. Srinivasa Rao. It is also specifically alleged in the reply affidavit that on 13-6-2016, the forest officials started conducting survey on the lands other than those situated in compartment No.851 and were ploughed on the previous day. With reference to the purported undated statements filed along with the counter affidavit in C.C.No.7 of 2017 wherein the petitioner No.4 allegedly admitted his encroaching compartment No.850, the petitioner alleged that his signature was forged by the forest

authorities. No supplemental counter-affidavit is filed by the respondents denying this allegation. That petitioner No.4 would not have made his statement admitting encroachment of compartment No.850 could be seen from the fact that the respondents themselves have filed a copy of another statement petitioner No.4 made in the confiscation proceedings wherein he has maintained an unequivocal stand that when he was ploughing the land in his possession in compartment No.851, the forest officials came and seized the tractor alleging that he was collecting 20 carts of firewood and 25 carts of porka. A perusal of the confiscation proceedings dated 25-1-2017 filed along with the counter-affidavit reveals that it is recorded therein that the driver-cum-owner stated that he has committed the offence in R.F. compartment No.851 without knowledge and confessed his guilt. This observation appears to be highly unnatural as the question of the petitioner No.4 confessing his guilt of carrying on the operations in compartment No.850 would not arise because even according to the respondents he is in possession of the lands in compartment No.851 and that the respondents have not interfered with his possession of the lands in the said compartment. However, eventually, in the confiscation order,

it is stated that as the tractor was used to plough the land in compartment No.850, the same was confiscated.

What is consternating to this Court is the temerity and the audacity displayed by the respondents by repeatedly subjecting the petitioner to several actions such as registration of the offence, seizure and confiscation of the tractor, digging trenches, giving police report leading to the registration of FIR and the arrest of petitioner No.4 and his family members, only on the purported ground that he has encroached compartment No.850. Except filing the vacate-stay petition in the year 2015, no effort appears to have been made by the respondents to get the said application disposed of. Assuming that petitioner No.4 was trying to misuse the interim order of this Court by entering into compartment No.850, the respondents were duty bound to inform the Court and request for vacating the interim order. Instead, the respondents have taken the petitioner headlong despite the fact that C.C.No.7 of 2017 for the action of seizing the tractor and trailer filed by him was admitted by this Court and the respondents appeared before the Court in compliance with the direction for their presence ordered by the Court. If the respondents were acting *bona fide*, they would have stopped

further interference at least after C.C.No.7 of 2017 was admitted. They have continued with their action by confiscating the vehicle on 25-1-2017 when the contempt case was admitted on 6-1-2017, digging trenches around compartment No.851 on 6-4-2017, stopping the agricultural operations after C.C.No.964 of 2017 was admitted on 9-6-2017, and their giving police complaint on 15-6-2017 and 16-6-2017 alleging encroachments in four compartments including compartment No.851 on 25-6-2017. While the respondents have not only the right but also the responsibility to protect the forest land, the stand taken by them that they have initiated all those measures as the petitioners and others have unauthorisedly occupied the land in compartment No.850 is exposed as false with the finding of the Forensic Science Laboratory that they initially registered the case against the petitioners for ploughing the land in compartment No.851. The conduct of the respondents in taking all those actions need to be termed as nonchalant, nay, disdainful. In repeatedly subjecting the petitioners to all the above mentioned acts despite the subsistence of the interim order of protection granted to them, constitutes brazenness on the part of the respondents and their utter lack of respect and regard for the order passed by the

Constitutional Court. In the light of the above discussion, I have no hesitation whatsoever to hold that the respondents have come out with a blatantly false plea that they have prevented the petitioner from entering compartment No.850 and have not prevented them from entering compartment No.851 and that they are guilty of repeated wilful violations of the order of this Court.

In Supreme Court Bar Association Vs. Union of India², a Constitution Bench of the Supreme Court succinctly explained the nature and purpose for which contempt jurisdiction would be exercised by the Constitutional Courts. At para-42 of the Judgment, it held :

“The contempt of court is a special jurisdiction to be exercised sparingly and with caution whenever an act adversely affects the administration of justice or which tends to impede its course or tends to shake public confidence in the judicial institutions. This jurisdiction may also be exercised when the act complained of adversely affects the majesty of law or dignity of the courts. The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. It is an unusual type of jurisdiction combining "the jury, the judge and the hangman" and it is so because the court is not adjudicating upon any claim between litigating parties. This jurisdiction is not exercised to protect the dignity of an individual judge but to protect the administration of justice from being maligned. In the general interest of the community it is imperative that the authority of courts should not be imperilled and there should be no unjustifiable interference in the administration of justice. It is a matter between the

² (1998) 4 SCC 409

court and the contemnor and third parties cannot intervene. It is exercised in a summary manner in aid of the administration of justice, the majesty of law and the dignity of the courts. No such act can be permitted which may have the tendency to shake the public confidence in the fairness and impartiality of the administration of justice.”

In **Anil Ratan Sarkar v. Hirak Gosh**³, the Supreme Court, while dealing with the purpose of the Contempt of Courts Act, held that it is a powerful weapon in the hand of the Courts introduced for the purpose of securing a feeling of confidence in the people in general and to ensure due and proper administration of Justice in the Country.

In **Baradak Anta Mishra Ex-Commissioner of Endowments v. Bhimsen Dixit**⁴, the Supreme Court held that contempt of Court signifies a willful disregard or disobedience of the Court by acting in opposition to the authority of Justice and dignity thereof. It further held that it signifies a willful disregard or disobedience of the Court order; it also signifies such conduct as tending to bring the authority and administration of law into disrepute.

³ (2002) 4 SCC 21

⁴ (1973) 1 SCC 446

In **E.T. Sunup v. C.A.N.S.S. Employees Association**⁵, the Supreme Court strongly deprecated the practice of the Government officials of circumventing and undermining the Court orders. In para-16, the Court observed:

“It has become a tendency with the Government Officers to somehow or the other circumvent the orders of court and try to take recourse to one justification or other. This shows complete lack of grace in accepting the orders of the court. This tendency of undermining the Court's order cannot be countenanced. This Court time and again has emphasized that in a democracy the role of the court cannot be subservient to administrative fiat. The executive and legislature have to work within the Constitutional framework and the judiciary has been given a role of watchdog to keep the legislature and executive within check. In the present case, we fail to understand the counter filed by the appellant before the Court. On one hand they say that all the cases of GPF have been processed and on the other hand they are not prepared to revoke the administrative order. This only shows a deliberate attempt on the part of the bureaucracy to circumvent the order of the Court and stick to their stand. This is clear violation of Court's order and the appellant is guilty of flouting the Court's Order.”

While referring to the plea of showing mercy regarding penalty, the Supreme Court observed:

“But if the Court's orders are flouted like this, then people will loose faith in the courts. Therefore, it is necessary to deal with such type of violation of Court's order with strong hands and to convey to the authorities that the courts are not going to take things lightly.”

⁵ (2001) 7 SCC 530

In **Taylor v. Ribby Hall Leisure**⁶, the Court of Appeals described the contempt power as punitive power to promote the integrity of the orders, officers and process of the Court.

In **Smt. A. Santhi Kumari, I.A.S. v. K. Ravi**⁷, a Division Bench of this Court held that in appropriate cases if the Court comes to the conclusion that the order passed by the authorities in purported compliance of the directions of the Court is not a bona fide one, but a deliberate attempt to overreach the Court's order and willfulness in the matter of disregard of an order of the Court is apparent on the face of it and there is no possibility to accept the same as defence of action for deliberate and willful disregard of an order of the Court, it shall always be open for the Court to proceed further under Article 215 of the Constitution of India and also under the provisions of the Contempt of Courts Act, 1971.

The case law discussed above reveals that the Courts are sensitive to the deliberate flouting or overreaching of judicial orders and whenever such instances are brought to their notice, they are dealt with heavy hand. Such an approach is made in order to uphold the majesty of Courts of law and protect the public

⁶ (1997) 4 All E LR 760

⁷ (2002) 6 ALT 326 (DB)

faith and confidence in the judicial system. The acts calculated at overreaching or circumventing the orders passed by the Courts are viewed with all seriousness they deserve and the perpetrators of such acts are appropriately punished.

The conduct of the respondents thus not only constitutes wilful violation of the interim order dated 26-12-2014 of this Court but also a deliberate attempt to mislead the Court by tampering with the official record and thereby causing interference with the administration of justice. The respondents are also guilty of committing perjury for which they are liable to be prosecuted for the offences under Sections 191 to 193 IPC.

With reference to the punishment to be imposed, as noted above, among the four respondents, respondent No.1 has filed counter affidavit in C.C.Nos.7 and 964 of 2017. In C.C.No.964 of 2017, respondent No.1 stated as under :

“I humbly submit that I have highest regards judiciary and its orders. It is never my intention to disobey the orders of this Hon’ble Court. In fact, I have never violated the order of this Hon’ble Court. If for any reason, this Hon’ble Court comes to the conclusion that I have committed contempt of the orders of this Hon’ble Court, I tender my unconditional apology and this Hon’ble Court may be pleased to accept the same and close the Contempt.”

In C.C.No.7 of 2017, respondent No.1 has tendered a similar apology.

In **Anil Ratan Sarkar Vs. Hirak Gosh**⁸, the Supreme Court, while dealing with a case of brazen contempt, held:

“In the contextual facts there cannot be any laxity, as otherwise the law courts would render themselves useless and their order to utter mockery. Feeling of confidence and proper administration of justice cannot but be the hallmark of Indian jurisprudence and contra-action by courts will lose its efficacy. Tolerance of law courts there is, but not without limits and only upto a certain point and not beyond the same.”

In **B.M. Bhattacharjee (Major General) Vs. Russel Estate Corporation**⁹, the Supreme Court observed that all the officers of the Government must be presumed to know that under the constitutional scheme obtaining in this country, orders of the Courts have to be obeyed implicitly and that orders of the Apex Court – for that matter any Court – should not be trifled with.

In **T.N. Godavarman Thirumulpad (102) Vs. Ashok Khot and another**¹⁰, the Supreme Court, while finding a Minister and highly placed forest officers guilty of deliberately flouting its orders, held:

⁸ (2002) 4 SCC 21

⁹ (1993) 2 SCC 533

¹⁰ (2006) 5 SCC 1

“That apology is not a weapon of defence to purge the guilty of their offence, nor is it intended to operate as universal panacea, but it is intended to be evidence of real contriteness.”

The Apex Court relied on a passage from its judgment in

L.D. Jaikwal Vs. State of U.P.¹¹, which is reproduced below:

“We are sorry to say we cannot subscribe to the “slap-say sorry – and forget” school of thought in administration of contempt jurisprudence. Saying “sorry” does not make the slapper taken the slap smart less upon the said hypocritical word being uttered. Apology shall not be paper apology and expression of sorrow should come from the heart and not from the pen. For it is one thing to “say” sorry – it is another to “feel” sorry.

While refusing to accept the apologies, the Supreme Court held as under :

“This is a case where not only right from the beginning attempt has been made to overreach the orders of the Court but also to draw red herrings. Still worse, is the accepted position of inserting a note in the official file with oblique motives. That makes the situation worse. In this case the contemnors deserve severe punishment. This will set an example for those who have a propensity for disregarding the court’s orders because of their money power, social status or posts held. Exemplary sentences are called for in respect of both the contemnors. Custodial sentence of one month’s simple imprisonment in each case would meet the ends of justice.”

Though respondent No.1 tendered apology, I am absolutely unconvinced with his bonafides in tendering the apology. Not only that the respondents are guilty of contumacious conduct of

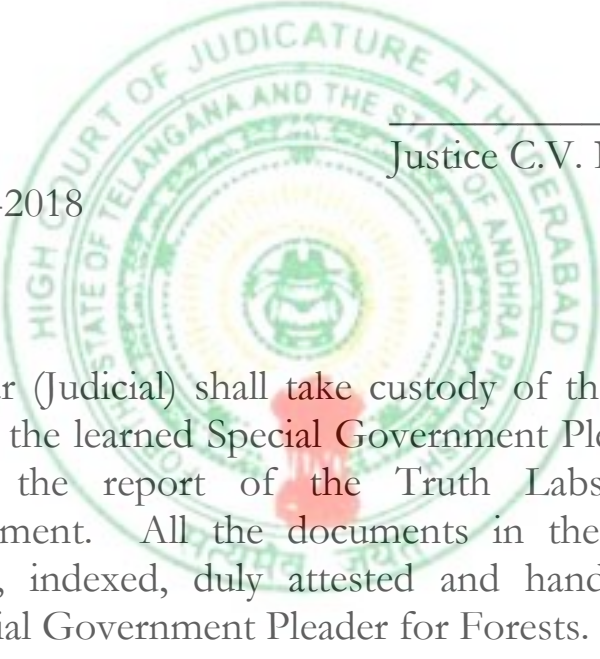
¹¹ (1984) 3 SCC 405

flouting this Court's order, they have also fabricated the Preliminary Offence Report. Thus, far from mitigating their heinous conduct, they have compounded their misdeeds by coming out with a blatantly false version which does not befit the status of the respondents being public servants, in general and respondent No.1 who is a State Forest Service Officer, in particular. Their conduct has undoubted effect of bringing down the majesty of law and creating lurking doubts in the society about the efficacy of the order of a constitutional Court. Therefore, after giving my earnest consideration, I am of the view that custodial sentence alone is appropriate which commensurates with the contumacious acts committed by the respondents. Accordingly, each of the respondents is sentenced to simple imprisonment for two weeks and to pay a fine of Rs.2000/- (Rupees two thousand only), and in default of payment of fine, they shall undergo simple imprisonment for another period of two weeks. The subsistence allowance is fixed at Rs.500/- (Rupees five hundred only) to respondent No.1 and Rs.300/- (Rupees three hundred only) each to respondent Nos.2 to 4, to be borne by the petitioners under Rule 32(3) of the Contempt of Court Rules 1980. The Registrar (Judicial) is directed to take

necessary steps for execution of this Judgment under Rules 31 and 33 of the said Rules.

The Registrar (Judicial) is hereby appointed under Section 340 of the Code of Criminal Procedure 1973 to file a complaint against the respondents before the jurisdictional Magistrate for the offences committed by them as referred to above. After taking action, he shall report to this Court within four weeks.

The Contempt Cases are accordingly disposed of.



Justice C.V. Nagarjuna Reddy

Date : 04-12-2018

Note:

The Registrar (Judicial) shall take custody of the original record produced by the learned Special Government Pleader for Forests along with the report of the Truth Labs under proper acknowledgement. All the documents in the said record be photocopied, indexed, duly attested and handed over to the learned Special Government Pleader for Forests.

B/o

L.R. copies

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