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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 523/2017**

IPSA GURNANI

..... Petitioner

Through: Mr. Kuldeep Kumar, Adv.

versus

HEMNANI PUBLIC SCHOOL & ORS

..... Respondents

Through: Counsel for R1 (appearance not given)
Mr. Sachin Nahar, Adv. for
Directorate of Education.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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19.03.2018

CM No. 26558/2018 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CONT.CAS(C) 523/2017

This contempt petition has been filed by the petitioner alleging non-compliance of order dated March 28, 2017 passed by the Directorate of Education as well as the order dated March 29, 2017 passed by this Court in Cont.Cas. (C) 111/2017. Suffice to state, the Cont. Cas.(C) 111/2017 was filed alleging disobedience of order dated August 29, 2016 passed in W.P.(C) 7573/2016 whereby Directorate of Education was directed to treat the petitioner's writ petition as a representation and pass a reasoned order within four weeks from that day. During the pendency of the contempt petition, the Directorate of Education has passed the order dated March 28, 2017. When the petition came up for hearing on March 29, 2017 this court noting the fact that the speaking order dated March 28, 2017 has been passed, had closed the contempt petition.

It is the submission of Mr. Kuldeep Kumar, learned counsel for the petitioner that the passing of speaking order dated March 28, 2017 and the non-compliance of the said order by the respondent inasmuch as they have not paid the subsistence allowance to the petitioner would amount to contempt of this court.

I am afraid that the said submission of the learned counsel for the petitioner cannot be accepted. In contempt jurisdiction, only aspect that needs to be seen is, whether the order passed by this court has been implemented. The court in its order dated August 29, 2016 in W.P.(C) 7573/2016 has only directed the Directorate of Education to treat the writ petition as the representation of the petitioner and pass a reasoned order within four weeks from that day. On the issuance of order dated March 28, 2017, order dated August 29, 2016 was complied with. It is precisely for that reason that this court had closed the contempt petition being Cont. Cas (C) 111/2017 on March 29, 2017. If the petitioner had any grievance against non-compliance of order dated March 28, 2017 he should have agitated the same during the course of hearing of the Contempt Petition being 111/2017 on March 29, 2017. In any case, the non-compliance of order dated March 28, 2017 passed by the Directorate of Education cannot be a subject matter of contempt petition. The petitioner shall be at liberty, if so aggrieved, seek implementation of order dated March 28, 2017 of the Directorate of Education in substantive proceedings.

Mr. Kumar has relied upon an order dated December 2, 2015 passed by the Coordinate Bench of this court in ***Cont. Cas (C) 576/2015 Sunita Ghai v. Rajiv Malhotra and Ors.*** The same judgement is distinguishable on facts inasmuch as the said contempt petition was filed by petitioner therein

alleging non-compliance of order dated September 29, 2014. The order dated September 29, 2014 reads as under:

“4. In view of the aforesaid submission, it is deemed appropriate to dispose of the present petition at the stage of admission, with directions issued to the respondent No.2/DOE to consider the representation dated 13.09.2014 submitted by the petitioner (Annexure P-4) and after granting a hearing to her as also to the respondent No.1/School, pass a speaking order under written intimation to both parties. Needful shall be done within four months from today.

5. If some directions are issued to the respondent No.1/School for release of the arrears of salary, pay and other emoluments to the petitioner, then the respondent No.2/DOE shall ensure compliances thereof in accordance with law.

(emphasis supplied)”

Suffice to state in the said order, this court had clearly held if some directions are issued to the respondent No.1/ School for release of the arrears of salary, pay and other emoluments to the petitioner then the respondent no.2 / DOE shall ensure compliance thereof in accordance with law. No such directions have been issued by this court while disposing of the writ petition on August 29, 2016.

I also note that in the order dated August 29, 2016 in W.P.(C) 7573/2016, this Court had clearly held that should the petitioner be aggrieved by the order passed by respondent no.2, her rights to pursue legal remedies shall remain unaffected.

I do not see any merit in the petition. The same is dismissed.

V. KAMESWAR RAO, J

MARCH 19, 2018/jg