

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CONT No. 339 of 2019**

Ku. Afsha Ansari D/o Shri KG Ansari, Aged About 36 Years Presently Working As Assistant Librarian, Guru Ghasidas University, Bilaspur, R/o Akbar Khan Ki Chall, Opposite Mission Hospital, Bilaspur Chhattisgarh

**---- Petitioner****Versus**

Shri Shailendra Kumar Registrar, Guru Ghasidas University, Koni, Bilaspur, Chhattisgarh. (Contemnor)

**---- Respondent**

---

|                |   |                              |
|----------------|---|------------------------------|
| For Petitioner | : | Mr. Faiz Kazi, Advocate.     |
| For Respondent | : | Mr. Neeraj Choubey, Advocate |

---

**Hon'ble Shri Justice P. Sam Koshy****Order On Board****04.07.2019**

1. The present contempt petition has been filed alleging the willful non-compliance of the judgment dated 13.09.2018 passed in WPS No. 6148 of 2006.
2. During the course of hearing, counsel for the petitioner fairly submits that the judgment against which the contempt petition has been filed is already put to challenge in Writ Appeal No.240 of 2019 and the appellate Court has already seized the matter and it has been informed that the writ appeal is pending consideration before the Division Bench today.

3. As long as there is an appeal against the order passed by this Court and the Appellate Court having seized of the matter, in between if there is non-compliance of the order, the same cannot be said to be a willful non-compliance on the part of the respondent. The authorities have right to appeal against an order. If they have exercised their right to appeal and have preferred an appeal and as long as the same is pending consideration along with an application for stay, the non-compliance of the order in between cannot be brought within the ambit of the Contempt of Court. The view of this Court stands fortified by the judgment of the Hon'ble Supreme Court in the case of **Modern Food Industries (India) Ltd. and another vs. Sachidanand Dass and another** reported in **1995 Supp (4) SCC 465**.
4. Accordingly, the present contempt petition stands disposed of at this juncture reserving the right of the petitioner to approach the Court in case the writ appeal stands decided in her favour.

**Sd/-**  
**P. Sam Koshy**  
**Judge**