

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Contempt Case (C)No.370 of 2019**

Gauri Shankar Naik S/o Shri Murli Manohar Naik Aged About 47 Years Shiksha Karmi Class - 3, R/o Nawapara, Putkapuri, Thana and Tahsil Pussour, District Raigarh, Chhattisgarh.

---- Petitioner**Versus**

Shri V.K. Rathore Chief Executive Officer, Janpad Panchayat, Podi Uroda, District Korba Chhattisgarh.

---- Respondents

For Petitioner	:	Shri UN Awasthy, Sr. Advocate along with Shri Dhani Ram Patel, Advocate.
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/05/2019**

1. Alleging non compliance of the order dated 03.04.2018 passed by this court in WPS No.2584 of 2012, the present contempt petition has been filed.
2. For better understanding the case, it would be relevant to take note of the relevant portion of the directions given by this court, which reads as under:

“8. Taking into consideration the contentions and allegations made by the respondents in respect of Annexure P-2 being a fake document and that the petitioner was never a selected candidate nor an order of appointment was ever issued by the respondents in favour of the petitioner, let respondent no.3 conduct an enquiry in this regard and in the process, the petitioner shall also be called upon by respondent no.3 to give his explanation with regard to Annexure P-2 i.e. the order of appointment dated 07.02.2011. After conducting an enquiry, let an order be passed in respect of the claim of the petitioner seeking appointment to the post of Shiksha Karmi Grade-III on the basis of Annexure P-2 dated 07.02.2011. In the event the respondents find that the order of appointment is genuine or is not fake, the petitioner would be entitled for all consequential benefits. At the same time, if in the course of enquiry the respondents reached to the conclusion that Annexure P-2 has not been issued by respondent no.3 and the same is a fake document and further from the record if it is found that the petitioner was not given an appointment

nor was he a selected candidate, the petitioner would not be entitled for any benefit.”

3. Based on the directions given by this court, the petitioner is said to have approached the authorities vide representation, Annexure C-2. Meanwhile, the Janpad Panchayat, Podi Uprod, had preferred a Writ Appeal vide WA No.463 of 2018 against the order passed by this court. The Writ Appeal stood dismissed on 03.05.2018 with the following observations:

“4. We have gone through those directions. It essentially insulates the Appellant/Janpad Panchayat from being forced to employ a person without conducting due enquiry on the allegations, which the Janpad Panchayat had levelled against the Petitioner touching the manner in which obtained an employment. It also provides an opportunity to the writ petitioner to purge himself of the allegation and enjoy the consequence either way.

5. We do not see any ground for the Janpad Panchayat which was the 3rd Respondent in the writ petition to sustain an appeal against the impugned judgment. This appeal, therefore, fails. The same is accordingly dismissed.”

4. Based on the directions given by this court in its order dated 03.04.2018, the respondents have passed an order on 20.06.2018. The crux of the matter as is reflected from the order dated 20.06.2018 is that, the respondent authorities had conducted an enquiry in which the petitioner was also called upon and his statement was recorded. In the course of enquiry it was revealed that the petitioner had appeared in the examination conducted by the Chhattisgarh Vyapam and his name appeared at serial No.2200. The petitioner is said to have scored 104.4 marks and he belonged to the OBC Category (Handicapped) (OH).
5. The finding of the authorities is that, there has been no candidates in the same category who has scored lessor marks than the petitioner who have granted appointment. Further finding of the inquiry is that,

the name of the petitioner never was reflected in the list prepared for the candidates who were called for counseling. Neither was the name of the petitioner reflected in the select list published by the Vyapam. In the course of enquiry it was also found that there was no final order of appointment issued on 07.02.2011 from the office of Janpad Panchayat, Podi Uprora. Coupled with the aforesaid findings, the authorities concerned have also taken note of the statement which the petitioner had given before the authorities which led to the conclusion of the authorities that the alleged appointment order which was in possession of the petitioner dated 07.02.2011 was not a genuine document and thereby, the authorities have passed the order refusing to grant joining to the petitioner.

6. The present is a contempt petition. All that this court has to see is whether the authorities concerned have shown willful non-compliance of the order or not.
7. If we read the directions that have been given by this court which is reproduced in the preceding paragraphs, it would reveal that the directions given by this court was to conduct an enquiry and find out whether the order of appointment is genuine or fake. It was further directed that in case if it is found fake then the petitioner would not be entitled for appointment and at the same time it was also held that in case if the petitioner is able to establish that the document dated 07.02.2011 was genuine document, duly issued from the office of the Janpad Panchayat, Podi Uprora, then the petitioner would be entitled for the appointment.
8. The respondents, for the reasons discussed in the preceding paragraphs, have reached to the conclusion that letter in possession

of the petitioner was not genuine, and therefore, the petitioner is not entitled for any relief.

9. This court is of the opinion that the order of this court is substantially complied with. If at all if the petitioner is dissatisfied with the said findings, the same shall have to be challenged by the petitioner afresh by way of fresh writ petition. The veracity or findings of the said order dated 20.06.2018 cannot be decided under the contempt jurisdiction of this court which is entirely different than the powers which are otherwise conferred on this court under writ jurisdiction.
10. In view of the above, this court is of the firm view that no contempt is made out. Accordingly, the contempt petition stands rejected.

Sd/-
(P. Sam Koshy)
Judge

inder