

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

Contempt Petition No.1200 of 2016

T.R.Ganesan

.. Petitioner

Vs

1.Smt.D.Sabitha IAS

The Secretary to Government  
School Education Department  
Fort St.George, Chennai-600 009

2.Thiru R.Elangovan IAS

The Director of Elementary Education  
College Road  
Chennai-06

3.Ms.Snehlatha IA &AS

The Accountant General of Tamil Nadu  
Teynampet  
Anna Salai  
Chennai

.. Respondents

**Prayer :-** Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents for wilful disobedience of the order of the court dated 02.09.2014 passed in W.P.No.23679 of 2014.

For Petitioner : Ms.Swadhi Subramaniam

For Respondents : Mr.P.Raja, Government Advocate

**ORDER**

When the matter is taken up for hearing, it is represented by the learned counsel appearing for both sides that the Writ Appeal filed by the School Education Department, has been dismissed by a Division Bench of this Court in Writ Appeal No.340 of 2017 dated 20.02.2019.

2. As the order of the learned Single Judge is merged with the order in Writ Appeal, Contempt Petition will not lie against the order passed in W.P.No.23679 of 2014.

3. In the case of **Kunhayammed vs. State of Kerala**, reported in (2000 (6) SCC 359), the principle of Doctrine of Merger has been widely discussed. With reference to the three-Judge ruling in **Kunhayammed** case and yet another decision of the Apex Court in the case of **Dineshan, K.K. vs. R.K.Singh** reported in (2014) 16 SCC 88, this Court is of the view that once the order passed in a Writ Petition gets merged with the order of the Writ Appeal, the remedy available to the petitioner is to file a Contempt in the Writ Appeal and not in the Writ Petition, unless and until the Apex Court specifically directs the High Court to decide the issue.

4. Thus, in view of the principle of Doctrine of Merger discussed above, **the present Contempt Petition cannot be adjudicated and hence, it is closed.** However, it is open to the Petitioner to work out his remedy in the manner known to law.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

nvsri

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

from 25<sup>th</sup> day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

Smi/10/09/2019

सत्यमेव जयते

To

1. The Secretary to Government  
School Education Department  
Fort St. George, Chennai-600 009
2. The Director of Elementary Education  
College Road  
Chennai-06
3. The Accountant General of Tamil Nadu  
Teynampet  
Anna Salai  
Chennai