

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition No.1739 of 2018

S.Jayalakshmi

... Petitioner

vs.

1. Uma,
Member Secretary,
Teachers' Recruitment Board,
E.V.K.Sampath Maligai,
4th Floor, D.P.I. Compound,
College Road, Chennai.

2. Thangamari,
Director,
Directorate of School Education,
Teachers' Recruitment Board,
D.P.I. Compound,
College Road, Chennai.

... Respondents

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents for the act of wilful disobedience of the order dated 29.08.2017 passed by this Court in W.P.No.31294 of 2013.

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For Petitioner	:	Mr.P.Ramachandran
For 1st Respondent	:	Mr.C.Munusamy, Special Govt. Pleader
For 2nd Respondent	:	Mrs.P.Kavitha, Government Advocate

O R D E R

When the matter is taken up hearing today, it is represented by the learned Special Government Pleader appearing for the 1st Respondent that the order under contempt was challenged in W.A.No.611 of 2019 and an interim order of stay was granted by the Division Bench of this Court.

2. In view of the submissions of the learned Special Government Pleader appearing for the 1st Respondent, Contempt Petition will not lie against the order passed in W.P.No.31294 of 2013.

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 her remedy in the manner known to law.

SD/-
ASSISTANT REGISTRAR (COMM.CASES)
aeb

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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