

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition No.1953 of 2018

J.Mercy Metilda

... Petitioner

vs.

1. Dr.Anbarasu, I.A.S.,
Secretary,
Education Department,
Government of Puducherry,
Chief Secretariat,
Puducherry.
2. L.Kumar,
Director of School Education,
Perunthalaivar Kamaraj Centenary
Education Complex, 100 Feet Road,
Anna Nagar, Nellithope,
Puducherry - 605 005.
3. S.Vasuki,
Senior Accounts Officer,
O/o.Director of School Education,
Perunthalaivar Kamaraj Centenary
Education Complex, 100 Feet Road,
Anna Nagar, Nellithope,
Puducherry - 605 005.

... 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 28.02.2018 passed by this Court in W.P.No.7161 of 2013.

For Petitioner : Mr.S.Nedunchezhiyan

<https://hcservices.ecourts.gov.in/hcservices/> For Respondents : Mr.R.Syed Musthafa,
Spl. Govt. Pleader (Pondy)

ORDER

When the matter is taken up hearing today, it is represented by the learned Special Government Pleader (Pondy) that the order under contempt has been challenged in W.A.No.2214 of 2018 and an interim order has been granted by a Division Bench of this Court in C.M.P.No.17378 of 2018 in the said Writ Appeal vide order dated 10.10.2018.

2. In view of the submissions of the learned Special Government Pleader (Pondy), Contempt Petition will not lie against the order passed in W.P.No.7161 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.

aeb

SD/-
ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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