

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CONTEMPT CASE NO.1349 OF 2018

ORDER :

This Contempt Case is filed to punish respondent Nos.1 to 4 herein for alleged willful disobedience of the order dt.01-02-2018 in I.A.No.1 of 2018 in W.P.No.3019 of 2018.

2. In the said Writ Petition, petitioners challenged initially notification No.16/2017 dt.14.04.2017 issued by the Telangana State Public Service Commission (for short 'TSPSC') for filling up posts of Physical Education Teachers (P.E.T.) in Telangana Social Welfare Residential Educational Institutions Society, Telangana Residential Educational Institutions Society, Telangana Tribal Welfare Residential Educational Institutions Society, Mahatma Jyothibai Phule Telangana Backward Classes Welfare Residential Educational Institutions Societies and Telangana Minorities Residential Educational Institutions Societies in the State of Telangana as being violative of the A.P. Tribal Welfare Residential Education Institutions Society Recruitment Rules, 1999, and also violative of Articles 14, 16 and 21 of the Constitution of India, and to set aside the same or in the alternative to continue the recruitment process with such of those persons who are eligible as per the said Rules which were amended in VIII Board of Governors meeting held on 17.08.2004.

3. In the said Writ Petition, the petitioners had filed I.A.No.1 of 2018 to stay all further proceedings pursuant to the impugned

notification No.16/2017 dt.14-04-2017 issued by the 3rd respondent for the post of Physical Education Teachers under the 2nd respondent Society pending disposal of the Writ Petition.

4. On 01-02-2018, in I.A.No.1 of 2018, this Court granted the following interim order:

“Prima facie, the 3rd respondent has no jurisdiction to change the qualification to the post of Physical Education Teachers vide Notification No.16 of 2017 dt.14-04-2017 differently from those prescribed under Telangana Tribunal Welfare Residential Educational Institutions Society Recruitment Rules, 1999.

Therefore, there shall be interim direction as prayed for.”

5. In this Contempt Case, it is contended that the order has been violated by the respondents by publishing the results of the examination conducted by it in May, 2017 on 10-05-2018 and they had also given dates for certificate verification of successful candidates between 18-05-2018 and 22-05-2018.

6. It is contended that this conduct of the respondents amounts to willful and deliberate disobedience of the interim order dt.01-02-2018 in I.A.No.1 of 2018 in W.P.No.3019 of 2018 passed by this Court.

7. No counter-affidavit has been filed in this Contempt Case by the respondents though respondent Nos.1 to 3 has been served. This matter was heard along with W.P.No.3019 of 2018 and the Additional Advocate General made submissions in regard to this Contempt Case also representing all the respondents. He did not dispute the allegations made in the Contempt Case by the petitioners.

8. On the other hand, he sought to justify the action of the respondent Nos.1 to 4 by contending that applications to vacate the said order dt.01-02-2018 in I.A.No.1 of 2018 had been filed vide I.A.Nos.2 of 2018, 3 of 2018 and 4 of 2019 and that the said interim order is liable to be vacated and consequently, it cannot be said that the respondents in the Contempt Case had committed any Contempt of Court.

9. In my opinion, if the respondents were of the opinion that petitioners are not entitled to any relief in the Writ Petition for whatever reasons, they should have waited for the vacate stay applications filed by them to be decided by this Court and only after the said order was modified or set aside, they could have published the results of the examination conducted by the TSPSC. They could not have unilaterally decided for themselves that the interim order dt.01-02-2018 in I.A.No.1 of 2018 in W.P.No.3019 of 2018 passed by this Court is incorrect and proceeded to violate it blatantly as they did.

10. In fact by a separate order passed today in W.P.No.3109 of 2018, the said Writ Petition was allowed with certain directions after finding fault with the action of respondent Nos.1 to 7 therein.

11. It is not for the respondents to decide for themselves whether the order passed by this Court is correct or not. They cannot arrogate to themselves the authority to sit in appeal over this Court's order. Such attitude amounts to willful and deliberate contumacious conduct warranting punishment.

12. The Supreme Court in **Tayabbhai M. Bagasarwalla v. Hind Rubber Industries (P) Ltd**¹ approved the principle in the decision of the Court of Appeal in **Hadkinson v. Hadkinson**² that a party, who knows of an order, whether null or valid, regular or irregular, cannot be permitted to disobey it and they cannot themselves judge whether an order was null or valid — whether it was regular or irregular. It held that they should come to the court and not take upon themselves to determine such a question. The following statement of law in the said decision was quoted by the Supreme Court:

“In Hadkinson v. Hadkinson, the Court of Appeal held:

“It is the plain and unqualified obligation of every person against, or in respect of whom an order is made by a court of competent jurisdiction to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or even void. Lord Cottenham, L.C., said in Chuck v. Cremer¹² (at p. 342):

‘A party, who knows of an order, whether null or valid, regular or irregular, cannot be permitted to disobey it.... It would be most dangerous to hold that the suitors, or their solicitors, could themselves judge whether an order was null or valid — whether it was regular or irregular. That they should come to the court and not take upon themselves to determine such a question. That the course of a party knowing of an order, which was null or irregular, and who might be affected by it, was plain. He should apply to the court that it might be discharged. As long as it existed it must not be disobeyed.’

Such being the nature of this obligation, two consequences will, in general follow from its breach. The first is that anyone who disobeys an order of the court (and I am not now considering disobedience of orders relating merely to matters of procedure) is in contempt and may be punished by committal or attachment or

¹ (1997) 3 SCC 443

² 1952 2 All ER 567 (CA)

otherwise. The second is that no application to the court by such a person will be entertained until he has purged himself of his contempt.” (emphasis supplied)

13. In view of the above settled legal position, I am of the opinion that respondent Nos.3 and 4 are guilty of Contempt of Court.

14. Respondent Nos.1 and 2 cannot be said to have committed any Contempt of the interim order granted by this Court in I.A.No.1 of 2018 in W.P.No.3109 of 2018 because they had no role to play in the declaration of results by the TSPSC which is headed by the 3rd respondent herein and its affairs are handled by the 4th respondent who is the Secretary of the TSPSC.

15. Therefore, respondent Nos.3 and 4 are held to have willfully disobeyed the interim order dt.01-02-2018 in I.A.No.1 of 2018 in W.P.No.3109 of 2018 and they are sentenced to pay a fine of Rs.2,000/- each within six (06) weeks. In default, they shall suffer Simple Imprisonment of one month. The State of Telangana is also directed to make adverse entry in the Service Record of 4th respondent and also initiate disciplinary action against the 4th respondent for willful disobedience of the above interim order. The Contempt Case is partly allowed accordingly. No costs.

16. As a sequel, miscellaneous petitions pending if any in this Contempt Case, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 16.09.2019

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