

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

CONTEMPT APPEAL Nos.44 and 45 of 2019

Date: 06.11.2019

Between:

C.A.No.44 of 2019

Smt.A.Vani Prasad,

.. Appellant

And

Deshaboina Veerababu
and others

.. Respondents

C.A.No.45 of 2019

Prof.Ghanta Chakrapani

.. Appellant

And

Deshaboina Veerababu
and others

.. Respondents

Counsel for the appellants : Mr.Andepalli Sanjeev Kumar

Counsel for the respondents : Mr. S. Rahul Reddy

The Court made the following:

COMMON JUDGMENT: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

The present Contempt Appeals are filed by the contemnors in C.C.No.1349 of 2019, who were punished by the learned Single Judge for violating the order, dated 01.02.2018, passed in I.A.No.1 of 2018 in W.P.No.3019 of 2018.

2) The brief facts of the case are that the writ petitioners challenged the notification No.16/2017, dated 14.04.2017, issued by the Telangana State Public Service Commission (for short 'TSPSC') for filling up the posts of Physical Education Teachers (P.E.T.) in Telangana Social Welfare Residential Educational Institutions Society, etc. While admitting the writ petition, I.A.No.1 of 2018 filed along with the writ petition seeking stay of all further proceedings pursuant to the impugned notification, was ordered by the learned Single Judge on 01.02.2018 to the following effect:

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, dated 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.

Subsequently, the results of the said examination, conducted in May, 2017, were published on 10.05.2018 and certificate verification of the successful candidates took place between 18.05.2018 and 22.05.2018. As such, the writ petitioners filed C.C.No.1349 of 2018 for violating the interim order, dated 01.02.2018, passed in I.A.No.1 of 2018 in W.P.No.3019 of 2018. The learned Single Judge has found fault against respondent Nos.3 and 4 in the said Contempt Case, who are the appellants herein,

and has sentenced them to pay a fine of Rs.2,000/- each and also directed the State of Telangana to make an adverse entry in the Service Record of 4th respondent and also initiate disciplinary action against the 4th respondent for wilful disobedience of the interim order, dated 01.02.2018, passed by this Court in I.A.No.1 of 2018 in W.P.No.3019 of 2018.

3) Heard Mr.Andapalle Sanjeev Kumar, the learned Counsel appearing on behalf of the appellants/contemnors, and Sri S.Rahul Reddy, the learned Counsel appearing on behalf of the respondents.

4) Learned Counsel appearing on behalf of the appellants has strenuously argued that the main writ petition itself was already allowed by this Court, consequently, the interim order, which was passed by the Court earlier, has merged with the main relief; secondly, that there was some confusion in understanding the order as the Officers-in-charge could not co-relate the same to the prayer portion; and lastly that publishing of results and the physical verification of the certificates of the successful candidates were neither deliberate nor wanton, and as such the punishment imposed by the learned Single Judge in Contempt Case was not warranted. He further contends that the Chairman of the TSPSC, who is arrayed as respondent No.3 in C.C.No.1349 of 2018, ought not to have been made as a party to the Contempt Case. For, the TSPSC is a statutory body which can sue or be sued duly represented by the Secretary only and not the Chairman and as such the Contempt Case against the Chairman ought to have been dismissed on that ground alone.

5) Per contra, Mr.S.Rahul Reddy, the learned Counsel appearing for the writ petitioners in W.P.No.3019 of 2018, on one hand, while conceding that no prejudice was caused to the writ petitioners due to publication of the results of the examination on 10.05.2018, has strenuously contended that there was deliberate and intentional violation of the orders passed by the learned Single Judge in I.A.No.1 of 2018 in W.P.No.3019 of 2018. Therefore, the order passed in the Contempt Case is perfectly justified.

6) It is seen from the record that W.P.No.3019 of 2018 was allowed by the learned Single Judge on 16.09.2019 giving certain directions to the respondents therein and the grievance of the writ petitioners was redressed to a large extent. In our considered opinion, the learned Single Judge, in view of the fact that the writ petition was allowed in favour of the writ petitioners, ought to have closed the Contempt Case filed against the interim order, dated 01.02.2018, passed in I.A.No.1 of 2018 for the simple reason that the interim order, if any, will merge with the main order passed in the writ petition. It is no doubt true that the Contempt Case was filed alleging deliberate violation of the interim Orders, dated 01.02.2018, but the learned Single Judge ought to have seen that the interim order which was granted earlier has merged with the main relief and the grievance of the writ petitioners is redressed.

7) In **Mrityunjoy Das v. Sayed Hasibur Rahaman**¹ the Hon'ble Supreme Court held that *exercise of powers under the Contempt of Courts Act shall have to be rather cautious and use of it rather sparingly after addressing itself to the true effect of the*

¹ (2001) 3 SCC 739

contemptuous conduct. The Court must otherwise come to a conclusion that the conduct complained of tantamounts to obstructions of justice which if allowed, would even permeate in our society. This is a special jurisdiction conferred on to the law Courts to punish an offender for his contemptuous conduct or obstruction to the majesty of law.

8) In **Aligarh Municipal Board v. Ekka Tonga Mazdoor Union**² the Hon'ble Supreme Court stated that *in order to bring home a charge of contempt of court for disobeying orders of Courts, those who assert that the alleged contemnors had knowledge of the order must prove this fact beyond reasonable doubt. This Court went on to observe that in case of doubt, the benefit ought to go to the person charged.*

9) As can be seen from the ratio laid down by the Hon'ble Supreme Court, referred to above, the power under the Contempt of Courts Act has to be sparingly used. The Courts should be cautious while exercising the power under the Contempt of Courts Act and should see whether the alleged contemnors have intentionally and deliberately violated the orders passed by the Court or whether it is a genuine mistake committed by the contemnors. Due to lack of knowledge, they might not have understood the correct purport of the order or misunderstood the language used. Sometimes, the respondents might not be even aware of the orders passed due to various administrative reasons as the lower staff might not have brought the orders of the Court to their notice. The Courts while exercising the power under the

² (1970) 3 SCC 98)

Contempt of Courts Act should invariably see as to whether any real damage has been caused to the writ petitioners for any act of alleged contemnors. In this particular case, even though there was an interim order granted by the Court to the following effect “therefore, there shall be interim direction as prayed for”, a layperson reading the same will not be able to grasp the gravity of the order unless and until the prayer portion in the said I.A. is also read simultaneously. Therefore, the submission of the learned Counsel for the appellants that after realising their initial mistake, no further steps were taken by the contemnors with regard to the selection and recruitment of the candidates, is proof of the fact that the publication and certificates verification is not a deliberate or intentional act committed by the contemnors to disobey the orders passed by the Court, appears to be genuine.

10) In view of the above mentioned facts and circumstances, we allow both the Contempt Appeals by setting aside the order, dated 16.09.2019, passed by the learned Single Judge in C.C.No.1349 of 2018. However, we deem it fit to caution the appellants to see that such mistakes do not get repeated in future.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

6th November, 2019
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