

**255-A IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

COCP No.2573 of 2018.

Date of Decision: 04.09.2019

Amit Sharma and others

.....Petitioners

Versus

Jagroop Singh

.....Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Malik, Sr. Advocate with
Mr. Sandeep Dhul, Advocate,
for the petitioners.

Ms. Gunkirat Kaur, AAG Punjab.

Mr. A.S. Talwar, Advocate for
Mr. R.S. Cheema, Advocate,
for the respondent.

JITENDRA CHAUHAN J.

By way of present petition filed under Sections 11 and 12 of the Contempt of Court Act, the petitioners have sought initiation of contempt proceedings against the respondent for wilful disobedience of interim orders dated 09.07.2018 (Annexure P-1) and 02.08.2018(Annexure P-3) passed by this Court in CWP No. 16386 of 2018.

On 09.07.2018, the following order was passed by this Court in CWP No. 16386 of 2018:-

“Learned counsel for the petitioners seeks to withdraw the instant petition qua petitioner Nos.7 and 8.

Dismissed as withdrawn qua petitioner Nos.7 and 8.

*Contends that the petitioner Nos.1 to 6 and 9 to 15 were appointed through Employment Exchange and are in service from past 3 to 14 years. Vide impugned advertisement dated 27.06.2018 (Annexure P-3), the petitioners were replaced by same set of persons. The case of the petitioners is covered by the judgment passed by this Court in LPA No.2104-2013, titled as “**Maharishi Dayanand University, Rohtak and others Vs. Dr. Anil Khurana and others**” decided on 21.11.2014 (Annexure P-8).*

Notice of motion for 13.12.2018.

In the meantime, the petitioners be not replaced by same set of employees.”

Thereafter, on 02.08.2018, the following order was passed by this Court:-

“Notice in the application be issued for 13.12.2018, the date already fixed in the main case. However, respondents are directed not to make further appointment except through the regular mode of appointment.”

Thereafter, on 23.08.2018, the present contempt petition was filed by the petitioners. In the present case, on 06.09.2018, this Court had issued notice to the respondent to show cause as to why proceedings for contempt be not initiated against him for violating the orders passed by this Court. A compliance report was also sought from the respondent and the matter was adjourned to 21.09.2018.

On 21.09.2018, reply by way of affidavit dated 18.09.2018 of the respondent was taken on record. As per the reply, the petitioners were working against the aided posts on contract basis. On 27.06.2018

applications were invited from eligible persons for filling up posts of Lecturer. The petitioners instead of submitting their applications opted to approach this Court. On 10.07.2018 an email was received from an advocate that on 09.07.2018 this Court had issued notice of motion with interim order that the petitioners shall not be replaced by fresh contract employees. The said email was neither supported by any affidavit nor order of this Court but despite that the selection committee did not fill the posts equal to number of petitioners and kept them vacant. As the studies of the students were suffering, it was decided to engage Guest Faculty Lecturers/Instructors on 17.07.2018, 23.07.2018, 27.07.2018 and 01.08.2018 on hourly basis and also to engage some of the existing faculty in various departments from the 1st/2nd shift running under self-finance scheme on part time (per period) basis. The posts equal to the number of the petitioners kept vacant were grant-in-aid posts on contractual basis. The guest faculty lecturers appointed on hourly basis are being paid emoluments/remuneration from the college/management funds. The College has not received grant-in-aid for the contractual posts and has been paying the Guest Faculty Lecturers from its own resources.

Thereafter, on 26.09.2018 the following order passed by this Court:-

“Petitioners have approached this Court, alleging violation of the order dated 09.07.2018 (Annexure P-1) passed by this Court in Civil Writ Petition No.16386 of 2018 (Amit Sharma and others Vs. Governing Body, Mehr.

Chand Polytechnic College, Jalandhar and another) read alongwith order dated 02.08.2018 (Annexure P-3), which make it abundantly clear that the petitioners were not to be replaced by the same set of employees in pursuance to the advertisement dated 27.06.2018.

Respondent has filed an affidavit dated 18.09.2018, wherein the stand taken is that the posts, which were occupied by the petitioners, have not been filled up on contractual basis and the persons have been engaged on hours basis for taking up the work in place of the petitioners and the payment has been made to them from the funds of the College and not from the Government funds.

The reply, as has been filed by the respondent, smacks of contempt of the order passed by this Court. A clear intention is projected in the stand of the respondent to hoodwink the order of this Court and to over reach the Court. In fact, the respondent has found out this method to circumvent the said order. This act of the respondent amounts to clear contempt of Court.

Adjourned to 28.09.2018, on which date the respondent is directed to come present in person in Court.”

On 14.12.2018, the following order was passed by this

Court:-

“Learned senior counsel for the respondents has circulated the letter dated 13.12.2018 which reads that the petitioners shall be offered/absorbed for the even session/semester commencing from 03.01.2019 to 02.05.2019 as per the calendar for the year 2018-19 on hourly basis on same terms and conditions on which the appointments in pursuance to advertisement (Annexure P-3) were made. The letter is taken

on record as Mark-A.

It appears that the respondent has failed to understand the import of the order dated 9.7.2018 and subsequent orders passed by this Court.

At this stage, learned senior counsel seeks time to have further instructions in the matter.

Post again on 21.12.2018.

Reply in the writ petition be filed in the meantime.”

Thereafter, a number of opportunities were afforded to the respondent to comply with the orders. This Court is of the opinion that there is a complete, wilful and deliberate defiance of the orders dated 09.07.2018 (Annexure P-1) and 02.08.2018 (Annexure P-3). Even opportunity of hearing was afforded to the respondent. The Court was inclined to take a lenient view. However, the ordeal of the petitioners continued and in the span of one year, the respondent has deliberately defied the orders. The conduct of the respondent clearly establishes that he has no respect for the law of the land and the orders passed by this Court. Leniency shown in such matters will not only frustrate the legitimate right of the poor petitioners but will also embolden unscrupulous elements in the system to trample the rights of the workers with impunity. Such a situation cannot be allowed to persist and needs to be addressed immediately. To hoodwink the orders of the Court, the respondent has devised a novel method of appointing same persons on hourly basis. The intention and defiance of the respondent is fully proved.

In **Maninderjit Singh Bitta vs. Union of India and others**.

(2012) 1 S.C.C. 273 it was held as under:-

“These are the cases which have impact in rem or on larger section of the society and not in personam simpliciter. Courts are called upon to exercise jurisdiction with two objects in mind. Firstly, to punish the persons who have disobeyed or not carried out orders of the Court i.e for their past conduct. Secondly, to pass such orders, including imprisonment and use the contempt jurisdiction as a tool for compliance with its orders in future.”

In Krishan Kumar Verma vs. Amarjit Singh 2002(1) RCR

(Criminal) 582, it was held by this Court as under:-

“21. In Murray and Co. v. Ashok Kumar Newatia, 2000(2) RSJ 22, Hon'ble Mr. Justice Umesh C. Banerjee of the Apex Court observed that though judicial hyper-sensitiveness is not warranted but angelic silence on the part of a Judge is also not expected vis-a-vis infraction of majesty of law. The Contempt of Court Act, 1971 has been engrafted in the Statute Book for the purpose of bringing in a feeling of confidence of the people in general for due and proper administration of justice in the county. It is undoubtedly a powerful weapon in the hands of the Courts and as such, it must be exercised with due care and caution and in cases of larger interest for due administration of justice. In para 10, it has been further observed as under :-

"...The purpose of contempt jurisdiction is to uphold the majesty and dignity of the Courts of law since the image of such a majesty in the minds of the people cannot be led to be distorted. The respect and authority commanded by the Courts of law are the greatest guarantee to an ordinary citizen and the entire democratic fabric of the society will crumble down if the

respect for the judiciary is undermined. It is true that the judiciary will be judged by the people for what the judiciary does, but in the event of any indulgence which even can remotely be termed to affect the majesty of law, the society is bound to lose confidence and faith in the judiciary and the law courts thus, would forfeit the trust and confidence of the people in general."

21. In view of the facts and circumstances of the case discussed as above, I am of the view that the contemnor had scant regard for the order passed by Court. He totally put a blind curtain on the undertaking given by him before the Court which the Court had accepted as correct. He has attempted to obstruct the administration of justice. Thus, for this wilful disobedience on his part, he cannot escape the liability. He is, therefore, held guilty for committing contempt of court. The contemnor is punished to undergo simple imprisonment for three months and pay fine of Rs. 2000/- and in default of payment of fine, to undergo further imprisonment for one month."

Hon'ble the Supreme Court in the case of ***Patel Rajnikant***

Dhulabhai and Anr. v. Patel Chandrakant Dhulabhai and Ors.:

(2008) 14 SCC 561 cited with approval the following passage from the

decision in the case of ***Attorney General v. Times Newspaper Ltd.:***

(1973) 3 ALL ER 54:

"There is an element of public policy in punishing civil contempt, since the administration of justice would be undermined if the order of any court of law could be disregarded with impunity;...."

After referring to several decisions the Supreme Court further held as under:-

"70. From the above decisions, it is clear that punishing a person for contempt of court is indeed a drastic step and normally such action should not be taken. At the same time, however, it is not only the power but the duty of the court to uphold and maintain the dignity of courts and majesty of law which may call for such extreme step. If for proper administration of justice and to ensure due compliance with the orders passed by a court, it is required to take strict view under the Act, it should

not hesitate in wielding the potent weapon of contempt."

This Court is of the further view that the imposition of fine does not serve the intended purpose as despite opportunities and assurances, the respondent has deliberately not complied with the orders.

In view of the above, the present contempt petition is allowed. The respondent is convicted under Sections 11 and 12 of the Contempt of Courts Act, 1971 and sentenced to undergo simple imprisonment for a period of six months. This judgment shall, however, remain stayed for a period of thirty days from the date of receipt of the certified copy of the judgment, enabling the respondent to prefer any appeal etc. if so advised. If, however, the appeal is not filed or the sentence is not suspended by the appellate Bench, the respondent immediately on the expiry of the stipulated period shall surrender before concerned Chief Judicial Magistrate/Duty Magistrate, to undergo the sentence awarded.

04.09.2019.

SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No