

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2020

**CORAM:
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN**

Contempt Petition No.695 of 2013

C.Krishnan

... Petitioner

vs.

1. Sabitha I.A.S.,
Secretary to Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai – 600 009.

2. Rameshwara Murugan,
Director of Elementary Education,
Chennai – 600 006.

... Respondents

Contempt Petition filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents for the deliberate and wilful disobedience of this Court in **W.P.No.1735 of 2012**, dated **27.01.2012**.

For Petitioner

: No appearance

for Mr.K.Shanmugam

For Respondents

: Mrs.P.Kavitha,

Government Advocate

ORDER

This Contempt Petition is filed alleging willful disobedience of the order dated **27.01.2012** made in **W.P.No.1735 of 2012**.

2. Today, when the matter is taken up for hearing, it is represented by Mrs.P.Kavitha, learned Government Advocate appearing for the Respondents that, the order under contempt was challenged in **W.A.No.1310 of 2016** and by a common judgment dated **26.03.2019**, the said Appeal was disposed of.

3. In view of the submissions of the learned Government Advocate appearing for the Respondents, Contempt will not lie against the order passed in **W.P.No.1735 of 2012**.

4. 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.

5. 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 his remedy in the manner known to law.

aeb/jas

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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SMI/06/11/2020

To

1. The Secretary to Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai – 600 009.
2. The Director of Elementary Education,
Chennai – 600 006.