

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2020

CORAM:  
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition Nos.2017 & 2018 of 2018

Cont.P.No.2017 of 2018:

C.S.Christopher ... Petitioner

VS.

1. Vivekanandan, I.A.S,  
Principal Secretary / Commissioner,  
Directorate of Technical Education,  
Chennai – 25.
  2. Sunil Paliwal, I.A.S,  
Secretary to Government,  
Higher Education Department,  
Secretariat, Chennai – 9.
  3. Muthu Balan,  
Assistant Director (Administration),  
O/o. The Director of Technical Education,  
Chennai – 25.
- ... Respondents

Contempt Petition No.2017 of 2018 filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents herein for willfully disobeying the order of this Court in W.P.No.33539 of 2012, dated 17.08.2017.

Cont.P.No.2018 of 2018:-

K.Rajasekar

... Petitioner

VS.

1. Sunil Paliwal, I.A.S,  
Secretary to Government,  
Higher Education Department,  
Secretariat, Chennai – 9.

2. Vivekanandan, I.A.S,  
Principal Secretary / Commissioner,  
Directorate of Technical Education,  
Chennai – 25.

3. Kamatchi,  
Principal,  
Central Polytechnic College,  
Tharamani, Chennai – 113.

... Respondents

Contempt Petition No.2018 of 2018 filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents herein for willfully disobeying the order of this Court in W.P.No.15965 of 2011, dated 17.08.2017.

For Petitioner  
in both Contempt Petitions

: Mr.G.Elanchezhian

For Respondents  
in both Contempt Petitions

: Mrs.P.Kavitha  
Government Advocate

\* \* \* \* \*

COMMON ORDER

These Contempt Petitions are filed alleging willful disobedience of the orders dated 17.08.2017 passed by this Court in W.P.No.33539 of 2012 and W.P.No.15965 of 2011, respectively.

2. When the matter is taken up for hearing today, it is represented by the learned Government Advocate appearing for the Respondents that, challenging the orders under contempt, Writ Appeals were filed in W.A.Nos.2696 and 2697 of 2018 and an order of interim stay was also granted.

3. In view of the submissions of the learned Government Advocate, Contempt will not lie against the orders passed in the Writ Petitions.

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 by the Apex Court. 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 Petitions cannot be adjudicated and hence, they are closed. However, if the Petitioners are aggrieved, it is open to them to work out their remedy after the disposal of the Writ Appeals.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

aeb/jas

//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 Principal Secretary / Commissioner,  
Directorate of Technical Education,  
Chennai – 25.
2. The Secretary to Government,  
Higher Education Department,  
Secretariat, Chennai – 9.
3. The Assistant Director (Administration),  
O/o. The Director of Technical Education,  
Chennai – 25.
4. The Principal,  
Central Polytechnic College,  
Tharamani, Chennai – 113.