

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2020

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

Contempt Petition No.1511 of 2019

K.Kanakka Devar

... Petitioner

VS.

1. Pradeep Yadav, I.A.S,
Secretary,
School Education Department,
Secretariat, Chennai.

2. Dr.V.C.Rameswaramurugan,
Director,
School Education Department,
Chennai – 6.

... Respondents

Contempt Petition 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.27341 of 2005, dated 28.08.2017.**

For Petitioner : No appearance
for Mr.A.Rajaram

For Respondents : Mrs.P.Kavitha,
Government Advocate

ORDER

This Contempt Petition is filed alleging willful disobedience of the order dated **28.08.2017** passed by this Court in **W.P.No.27341 of 2005**.

2. When the matter is taken up for hearing today, it is represented by the learned Government Advocate appearing for the Respondents that, the order under contempt is challenged in **W.A.No.4150 of 2019** and the same is pending.

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

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 Petition cannot be adjudicated and hence, it is closed.** However, if the Petitioner is aggrieved, it is open to him to work out his remedy in the manner known to law.

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/05/11/2020

To

1. The Secretary,
School Education Department,
Secretariat, Chennai.
2. The Director,
School Education Department,
Chennai – 6.