

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 CASE No.2102 of 2017

Date: 30.01.2020

BETWEEN

Mohammed Batalullah Farooqui.

... PETITIONER

AND

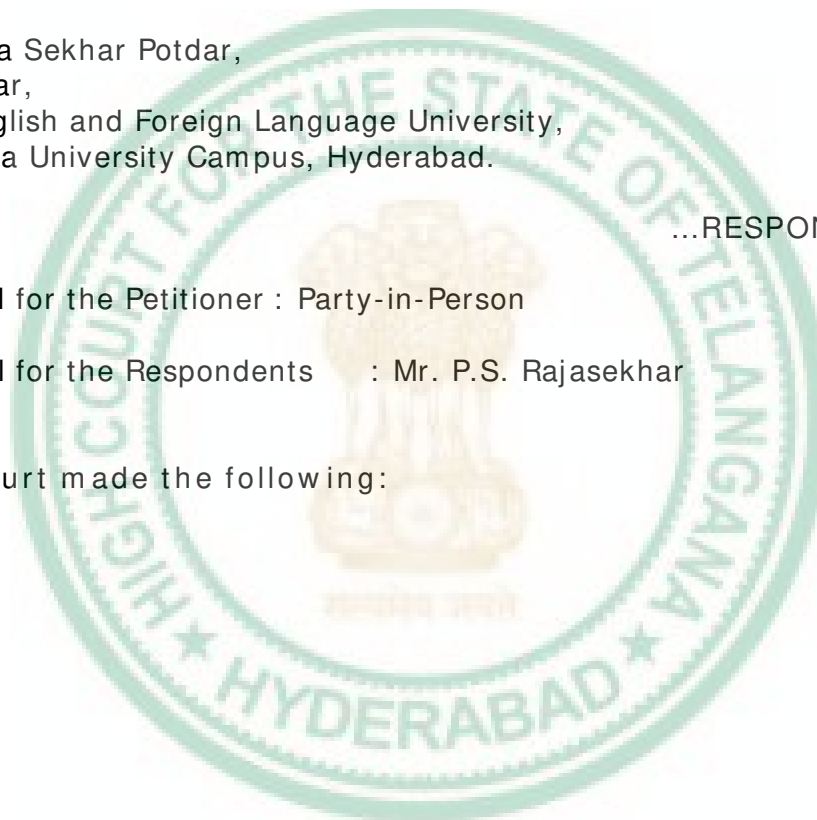
Chandra Sekhar Potdar,
Registrar,
The English and Foreign Language University,
Osmania University Campus, Hyderabad.

...RESPONDENTS

Counsel for the Petitioner : Party-in-Person

Counsel for the Respondents : Mr. P.S. Rajasekhar

The Court made the following:



ORDER: { Per the Hon'ble the Chief Justice Sri Justice Raghvendra Singh Chauhan}

The party-in-person has filed this contempt case ostensibly on the ground that the direction issued by a learned Coordinate Bench in WA.No.701 of 2015, in its judgment dated 21.07.2017, whereby the learned Coordinate Bench directed the English and Foreign Language University “to consider the candidature of the appellant for the post of Assistant Professor as against any of the existing vacancies, or against the vacancy that arose due to the termination of the services of the 5th respondent and pass orders within two months from the date of receipt of a copy of this judgment”, has not been complied with so far.

2. Mr. Mohammed Batalullah Farooqui, party-in-person, submits that despite a clear direction of this Court to consider his candidature for the post of Assistant Professor, the alleged contemnor is refusing to do so. Secondly, relying on the case of S. KIRANMAYI v. N. SAMBASIVA RAO¹, the party-in-person submits that the dictionary meaning of the word ‘consider’ means to consider basing on the material available on record. Since he was already interviewed in 2010 for the said post, sufficient material is available on record for the alleged contemnor to appoint him on the post of Assistant Professor in the said University. However, the alleged contemnor is intentionally and willfully disobeying the direction issued by the learned Coordinate Bench. Therefore, the alleged contemnor is guilty of having committed contempt of the judgment dated 21.07.2017.

3. On the other hand, Mr. P.S. Rajasekhar, the learned counsel appearing for the alleged contemnor, submits that having received a copy of the judgment dated 21.07.2017, the alleged contemnor informed the party-in-person to appear for an interview for the said

¹ 2017 (4) ALD 287

post, so that the University can “consider” the candidature of the party-in-person for the said post. However, the party-in-person has refused to appear for an interview for the said post. According to the learned counsel, in the absence of an interview, the University is not in a position to examine and to consider the suitability of the person-in-person for the said post. Therefore, as the party-in-person refused to appear for an interview, the University is not a position to “consider” candidature of the party-in-person for the said post. Therefore, due to the uncooperative attitude of the party-in-person, the judgment dated 21.07.2017 cannot be implemented. According to the learned counsel, the alleged contemnor has no intention or will to violate the judgment dated 21.07.2017. Hence, according to the learned counsel, no contempt is being committed by the alleged contemnor.

4. Heard the party-in-person and the learned counsel appearing for the alleged contemnor.

5. In the case of S. KIRANMAYI’s case (1 supra), this Court has held as under:

“The consequences of not following such directions was considered by a learned single Judge of this Court in *K. Achamma’s* case (supra) by once again considering the word consider and holding as follows:

“At this stage, this Court has no option except to go through the dictionary meaning of the word 'consider' by referring to two or three premier dictionaries.

As per the Chambers Dictionary 10th Edition, the word 'consider' means "look at attentively or carefully; to think or deliberate on; to take into account; to attend to, to regard as, to think, hold the opinion, to reward, think seriously or carefully, to deliberate."

As per the Oxford Dictionary Thesaurus and Wordpower Guide, Indian Edition 2007, the word 'consider' means "think carefully about; take into account when making

judgment; contemplate; reflect on; examine; review; mull over; ponder; deliberate on."

As per Collins English Dictionary, the word 'consider' means 'to think carefully about (a problem or decision); to bear in mind; to have regard for or care about; to discuss (something) in order to make a decision; to look at."

The apex Court in case between *Divisional Personnel Officer, Southern Railway and Another v. T.R. Challappan*, (1976) 3 SCC 190, observed that to consider means; there should be active application of the mind and further observed that the term consider postulates consideration of all the aspects. In cases between *The Barium Chemicals Ltd and another v. SH. A.J. Rana and others*, AIR 1972 SC 591 and *Ajit Singh and others (II) v. State of Punjab and others*, (1999) 7 SCC 209, the apex court observed that "It is therefore manifest that careful thinking or due application of the mind regarding the necessity to obtain and examine the documents in question is *sine qua non* for the making of the order."

Therefore, the dictionary meaning of the word 'consider' means to consider basing on the material available on record. To consider means to consider sincerely and honestly, which means to make sincere effort to pass an order in the letter and spirit of the directions of this Court. To consider means to make all efforts to fulfil the object of the order of the Court. To consider does not mean to search for a lame excuse and reject the claim. It does not mean to just pass an order and dismiss the claim of the petitioner on flimsy grounds. Therefore, the respondents shall not invent or search some fresh reason or other technical ground and reject the claim of the petitioner when there is a specific direction by this Court to consider the case of the petitioner. The Authorities cannot show the same reason or ground which they had already taken in the earlier proceedings. This amounts to showing disrespect to the orders of the court. The authorities cannot flout the orders of the Court on technical grounds. If at all they require permission of the Government, they must address the Government enclosing the copy of the order of the court or orders of the quasi judicial authorities and the authorities at the government level

also should and must take into consideration the directions and observations of the court and purport of those orders. No authority can disturb the findings or observations of any court. The findings, directions or observations of a court can only be disturbed, varied, modified or set aside by the court, superior to the court which made those findings or directions. Except the superior court, no authority can take a contra view, taken by a court. Rejection of the claim on a ground which they had already taken in the earlier proceedings and which has been already considered and rejected by the Court amounts to nothing but Contempt of Court and disobeying the orders of the Court.”

There cannot be any disagreement with the view expressed by this Court mentioned hereinabove.

6. However, in order “to consider” the candidacy of a person for appointment to a post there are two aspects that need to be examined by the employer: firstly, the eligibility of a candidate, and secondly, the suitability of the candidate. Undoubtedly, the eligibility of the candidate can be examined by looking at his educational qualification and working experience. However, in order to examine “the suitability of the candidate”, generally the candidate is subjected to an interview. Therefore, the party-in-person is unjustified in claiming that by subjecting him to an interview process, the alleged contemnor is searching for “lame excuses in order to reject the claim” of the party-in-person. Until and unless the party-in-person is subjected to an interview, his suitability for the post of Assistant Professor cannot be examined and decided by the alleged contemnor.

7. Moreover, the learned Coordinate Bench has not directed the University “to appoint” the party-in-person to the post of Assistant Professor. In fact, the learned Coordinate Bench has directed the University “to consider the candidature of the appellant for the post

Assistant Professor". But unless and until the party-in-person is subjected to an interview, his case cannot be "considered" for the post of Assistant Professor. Admittedly, it is the party-in-person who has refused to appear for an interview. Obviously, the party-in-person cannot be forced to appear for an interview. Since he has refused to appear for an interview, the alleged contemnor is not in a position to implement the judgment dated 21.07.2017. Therefore, no case of contempt is made out against the alleged contemnor. The contempt proceedings are hereby dropped.

The contempt case is, hereby, dismissed.

As a sequel, the miscellaneous petitions, pending if any, shall stand dismissed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

January 30, 2020
DSK