

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CONT. NO. 222 OF 2021**

Sajid Khan Qureshi, S/o Late Anwar Qureshi, aged about 34 years, posted as Assistant Teacher (L.B.), Government Primary School, Gadaghat, Block Bhagbahara, District Mahasamund, R/o Ward No.11, Dabrapara, Bhagbahara, Bhagbahara, District Mahasamund (CG)

... Petitioner**versus**

Krishna Ram Kowachi, Block Education Officer, Bhagbahara, District Mahasamund (CG)

... Respondent

For Petitioner

:

Mr. Waquar Naiyer, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/03/2021**

1. The present Contempt Petition has been filed by Petitioner alleging wilful disobedience of the order passed by this Court on 7.12.2020 in W.P.(S) No. 4715/2020.

2. Learned Counsel for Petitioner submits that there was a clear direction to Respondent for granting benefit of Kramonnati and pay scale to Petitioner in terms of the decision that was taken by the Department as early as on 3.7.2020. However, learned Counsel for Petitioner submits that, the Respondent in order to overreach the order passed by this Court has initially issued a notice to the Petitioner on some lame and flimsy grounds threatening for initiating disciplinary proceeding against him and subsequently the Respondent has further vide Annexure C-5, dated 27.1.2021, rejected the claim of Petitioner so far as granting of benefit of Kramonnati is concerned.

3. During the course of submissions made by learned Counsel for Petitioner, it has been reflected that the order dated 27.1.2021, Annexure C-5, has already been challenged by Petitioner by way of a fresh Writ Petition i.e. W.P.(S) No. 1021/2021. Moreover, another fact which needs consideration is the direction that was given to respondent authorities. For ready reference, paragraphs 3 & 4 of the order dated 7.12.2020 passed by this Court in W.P.(S) No. 4715/2020 are reproduced herein below:-

“3. Learned counsel for the respondents/State submits that the matter is under process and there is all likelihood that the matter shall be decided at the earliest.

4. Given the said submissions by the counsel for the either parties, the writ petition can be disposed off at this juncture directing the respondent no.2 to take an appropriate decision; so far as granting the benefit of kramonnati and pay-scale to the petitioner for which there is an order dated 03.07.2020 in his favour is concerned.”

4. From plain reading of the aforesaid direction given by this Court, it would be relevant to note that the direction was given to Respondent No.2, i.e., Block Education Officer, to take appropriate decision so far as grant of benefit of Kramonnati and pay scale to Petitioner is concerned. This, in other words, means that there was no specific mandamus allowing the claim of Petitioner as regards his entitlement for Kramonnati or a particular pay scale is concerned. All that this Court had directed was to consider and take an appropriate decision. An appropriate decision would mean that it could be either acceptance of the claim of Petitioner or rejection of the same if it is found not appropriate. In view of the same, this Court does not find the present case to be a fit case for issuance of notice to Respondent in contempt jurisdiction. Direction of this Court rightly or wrongly seems to have been complied with, with the issuance of order dated 27.1.2021 and which is already subjected to a judicial review in W.P.(S) No. 1021/2021.

5. As regards the judgment cited by learned Counsel for Petitioner, i.e., the case of **Priya Gupta Vs. Additional Secretary, Ministry of Health and Family Welfare**, reported in **2013 (11) SCC 404**, is concerned, the facts of the said case were entirely different and the directives were given to the authorities for compliance and were very specific and the said case was heard and decided in the said factual backdrop unlike the instant case where the directions of this Court were to the authorities to take a decision and which they have taken. Now, whether the decision is right, legal and justified, including the contention of Petitioner as to whether the authority has the jurisdiction or competence for issuance of the said order or not, is one which cannot be decided in a contempt

jurisdiction by this Court and for which the Petitioner has rightly availed the writ jurisdiction by way of W.P.(S) No. 1021/2021. In view of the same, this Court does not find any contempt made out by the Petitioner against the Respondent at this juncture.

6. Contempt Petition thus fails and is dismissed accordingly.

/sharad/

Sd/-
(P. Sam Koshy)
JUDGE