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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CONTEMPT PETITION NO.361 OF 2019
IN
WRIT PETITION NOS.1562 OF 2004 (D) AND 258 OF 2014 (D)

All India Adiwasi Employees Federation,
Gondwana Vikas Mandal, Tukdoji Nagar,
Manewada Road, Nagpur
Thr. its President
Madhukar Warluji Uikey

... Petitioner

-vs-

Shaktikanta Das, Governor of RBI,
Shahid Bhagatsingh Marg, Fort, Mumbai and ors.

... Respondents

Ms Nidhi Dayani, Advocate with Shri S. P. Bhandarkar, Advocate for petitioner.

CORAM : A. S. CHANDURKAR AND G. A. SANAP, JJ.
DATE : July 01, 2021

Order : (Per A. S. Chandurkar, J.)

The grievance of the petitioner in this contempt petition filed under Article 215 of the Constitution of India read with Section 12 of the Contempt of Courts Act, 1971 is that the respondents who are the Governor of the Reserve Bank of India and its officers have failed to comply with the directions issued in Writ Petition Nos.1562/2004 and 258/2014 as well as the order passed by the Honourable Supreme Court in Civil Appeal No.10396/2018. This Court while deciding the aforesaid writ petitions on 13/04/2018 had issued directions to the respondents

therein to discontinue and terminate the void recruitment of respondent Nos.5 to 140 in those writ petitions. Directions were issued to the employer not to release any payment or dues to the employees in question who had given up their caste claim and were still continued in service. It was also directed to recover payments made or dues released to the employees. This judgment was the subject matter of challenge before the Honourable Supreme Court and while deciding Civil Appeal No.10396/2018 the Honourable Supreme Court partially modified the judgment of the High Court and directed the employees in question to be placed below the last of the general category candidate as on 28/11/2000. The recovery as directed was set aside with regard to employees who had superannuated. This Court was also requested to dispose of all contempt proceedings initiated against the officers of the Reserve Bank of India for non-implementation of the judgment dated 13/04/2018.

2. According to the petitioner since there is non-compliance of the directions issued in the aforesaid proceedings the same amounts to contempt of this Court warranting action to be taken against the respondents. The learned counsel for the petitioner submits that despite the fact that the judgment of this Court dated 13/04/2018 was modified by the Honourable Supreme Court, in view of the doctrine of merger it would be permissible for this Court to initiate action against the

respondents for non-compliance of the directions issued in those proceedings. Placing reliance on the decision in *Kunhayammed and ors. vs. State of Kerala and anr. (2000) 6 SCC 359* it was submitted that since leave was granted in the Special Leave Petition preferred by the employees the doctrine of merger was attracted and hence this Court should exercise jurisdiction under Article 215 of the Constitution of India to punish the respondents.

3. We are not in a position to accept this submission. It is clear from the record that the judgment of this Court in the aforesaid writ petitions dated 13/04/2018 was challenged before the Honourable Supreme Court. In those proceedings leave was granted resulting in the Special Leave Petition being registered as Civil Appeal No.10396/2018 which was decided on 11/10/2018. The judgment of the High Court was partially modified and various directions came to be issued. In the light of the law laid down in *Kunhayammed and ors.(supra)* it is clear that the doctrine of merger stands attracted as leave to appeal was granted and the appellate jurisdiction of the Honourable Supreme Court stood invoked. The decision in Civil Appeal No.10396/2018 by the Honourable Supreme Court would result in superseding the decision of this Court in Writ Petition Nos.1562/2004 and 258/2014 in view of the doctrine of merger. The ratio of this decision thus does not further the case of the petitioner

while urging this Court to take cognizance of the alleged contempt.

4. In *Manubhai Pragji Vashi vs. State of Maharashtra and ors.* 1996 (2) *Mh.L.J.* 615 a learned Single Judge (R. M. Lodha, J. as His Lordship then was) held in clear terms that the High Court has no jurisdiction to invoke the power under the Contempt of Courts Act, 1971 or for that matter under Article 215 of the Constitution of India for alleged contempt of the order, judgment or direction of the Honourable Supreme Court. This decision has been followed by this Court in Contempt Petition No.164/2018 decided on 12/02/2021 (*All India Adiwasi Employees of Federation and ors. vs. Smt Indrani Banerjee, Regional Director, Reserve Bank of India, Civil Lines, Nagpur and ors. and ors.*). In *Vitusah Oberoi and ors. vs. Court of its own Motion* 2017(2) *Mh.L.J.(Cri.)SC* 129 the Honourable Supreme Court in clear terms has held that the power to punish for contempt vested in a Court of Record under Article 215 of the Constitution does not extend to punishing for contempt of a superior Court. The power to punish under Article 215 is limited to the contempt of the High Court or courts sub-ordinate to the High Court. In the light of the doctrine of merger what remains on record is only the judgment of the Honourable Supreme Court in Civil Appeal No.10396/2018. If according to the petitioner there is non-compliance of any direction issued in that judgment the petitioner would have to invoke the appropriate

jurisdiction before the Honourable Supreme Court.

5. In that view of the matter we are not in a position to entertain the contempt petition for want of jurisdiction. The petitioner is free to take appropriate steps as advised if he has any grievance in the matter.

Contempt petition is dismissed.

JUDGE

JUDGE