



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.03.2021

PRONOUNCED ON : 18.03.2021

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mr.JUSTICE V.SIVAGNANAM

Criminal Contempt Petition No.1914 of 2018

All India Private Schools Legal Protection Society
represented by its Chairman
I.Manoharan Jeyakumar
Administrative Office at No.9
North Jagannathan Nagar 1st Street
Villivakkam, Chennai-49

... Petitioner

Vs.

1.H.Batchu
Editor
Desathin Nambikkai
3/817, 7th Street, Krishna Nagar
Palavakkam 600 041

2.K.R.Nandakumar
Special Editor and Legal Advisor
Desathin Nambikkai
3/817, 7th Street, Krishna Nagar
Palavakkam 600 041

... Respondents

Contempt Petition filed under Section 2(c) of the Contempt of Courts Act,
1971 to punish the respondents under the provisions of the Contempt of Courts
Act in Contempt Petition No.3 of 2018

<https://hcservices.ecourts.gov.in/hcservices/>



WEB COPY

For Petitioner : Ms.Dakshayani Reddy
For Respondents : Mr.P.Ezhil Nilavan

ORDER

During the course of hearing of a Writ Petition relating to teachers, a Division Bench of this Court had raised 20 questions to be answered by the Government. Critical answers for the said 20 questions were published in a Tamil magazine “Desathin Nambikkai”, in which, H.Batchha was the Editor and K.R.Nandakumar was the Special Editor and Legal Advisor. These answers prompted the petitioner Society to approach the Advocate General for consent, to initiate contempt action against the magazine “Desathin Nambikkai” and its editors. The learned Advocate General, by order dated 25.04.2018, granted consent and accordingly, this Criminal Contempt Petition was taken on file and statutory notice was issued to the alleged contemnors viz. H.Batchha and K.R.Nandakumar.

2. H.Batchha has filed an apology affidavit dated 10.03.2021, wherein, he has stated as follows :

“2. I state that while being so, in July 2017 issue we have published an article with regard to the 20 questions raised by His Lordship Justice Kirubakaran and the headshot answers. The said article was published when the JACTO-GEO initiation called for the state wide strike for their demands. Some people filed writ petition to challenge the strike organized by JACTO-GEO.



WEB COPY

3. I state that at that time His Lordship Justice Kirubakaran raised 20 questions for which 30 teachers from various places of Tamil Nadu gave answers for the above stated 20 questions through the social media such as Facebook, WhatsApp, Twitter etc.

4. I state that therefore it is clear that those 20 answers were not given by the Editorial Committee of Desathin Nambikkai.

5. I state that His Lordship Justice Kirubakaran ordered for suspension of service for the teachers who posted answers for the 20 questions. During the pendency of the writ petition His Lordship Justice Kirubakaran pardoned those teachers and also ordered to reinstate them in service.

6. I state that while being so, a criminal case has been registered against us based on a complaint given by the petitioner herein. In July 2017 edition an article was published against the petitioner herein and therefore there was a strong enmity between me and the petitioner. And as a result he has initiated contempt proceedings against me. Therefore, we tendered unconditional apology in our February 2018 edition, Desathin Nambikkai. In February 2018 edition the apology was not published in the first 50 magazines. The reason is while printing the magazines only I came to understand that contempt proceedings were initiated against me. Therefore in the remaining 2020 editions the apology was published.

7. I state that already again during March, April and May months of 2020 we tendered unconditional apology. I also now tender unconditional apology for the article published in July 2017 edition.

8. I state that never intend to insult the Hon'ble High Court or its Judges. The real persons who have given answers for the 20 questions were already been pardoned by His Lordship Justice Kirubakaran. Therefore our apologies may be accepted and this Hon'ble Court may pardon us."

3. Nandakumar has filed an affidavit dated 10.03.2021, wherein, he has stated as under :

"2. I state that I was only a Special Editor and Legal Advisor and I was not the Editor and Legal Advisor and I was not the Editor. I was not involved in day-to-day affairs of the said monthly magazine. Just for name sake my name was mentioned as Special Editor and Legal Advisor of the said magazine.



WEB COPY

3. I state that I am also running a school by name Sri Sankara Matriculation Higher Secondary School, Pammal. Similarly, the 1st respondent also running a school namely Ramaniam Sankara Matric Hr. Sec. School at Palavakkam. Since both of us were participated in Tamil Nadu Primary Matriculation Higher Secondary and CBSE Schools Association my name was incorporated when he was started the monthly magazine.

4. I state that during July 2017 Edition an article was published in the head of 20 questions raised by the Lordship Justice “Kirubakaran and head shot answers”. The said answers were given by various teachers from all over Tamil Nadu those teachers were suspended by His Lordship Justice Kirubakaran and subsequently when they tendered unconditional apology that was accepted by His Lordship pardoned them and reinstated in service.

5. I state that already there was enmity between the petitioner and us with regard to Association matters. Therefore, wantonly he initiated contempt proceeding against us.

6. I state that after knowing the fact that criminal proceeding and contempt proceeding were initiated against us, we tendered unconditional apology in February, 2018 edition. Even in the subsequent editions during March, April and May months of 2020 we tendered unconditional apology.

7. I state that I left from the above monthly magazine Desathin Nambikkai in the month of March, 2020. Now, there is no connectin between me and the said magazine. I understand during corona period the magazine was not published and I do not know the present condition.

8. I state that I never intended to insult the Hon'ble High Court or its Judges. The real persons who have given answers for the 20 questions were already been pardoned by His Lordship Justice Kirubakaran and therefore my apology may also be accepted and I may be pardoned by this Hon'ble Court.”

4. A reading of the aforesaid apology affidavits shows that the answers to the 20 questions were given by some teachers and that the magazine had published only those answers. That apart, the teachers who gave the answers



were placed under suspension and later, the apology given by them appears to have been graciously accepted by the learned Judge himself, pursuant to which, their suspension was also revoked. The issues of March, April and May 2020 of “Desathin Nambikkai” have been submitted to us and a perusal of them shows that profuse apologies have been published by the alleged contemnors. Therefore, we accept the apologies and close this Contempt Petition with the following sapient passage from the judgment of the Supreme Court **in the matter of Anil Panjwani [(2003) 7 SCC 375]** :

“The dignity of the ocean lies not in its fury capable of causing destruction, but in its vast expanse and depth with enormous tolerance.”

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

gya

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

GS/24/06/2021