



WEB COPY



Cont.Pet.No.68 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Cont.Pet.No.68 of 2022

Lalitha Bai

...Petitioner

Vs.

1.Mrs.Kakarla Usha,
Secretary to Government,
State of Tamil Nadu,
Education Department,
Fort St. George, Chennai – 600 009.

2.Dr.P.A.Naresh,
The Director of School Education,
Chennai – 600 006.

3.Mr.A.Karuppasamy Annamalai,
The Director of Elementary Education,
Chennai – 600 006.

4.N.Subanandaraj,
The District Elementary Educational Officer,
Kanyakumari District,
Nagercoil – 629 001.

..Respondents

PRAYER : Petition filed under Section 11 of the Contempt of Courts Act, to initiate action against the respondents 1 to 4 for willfully disobeying the order dated 25.02.2021 passed by this Court in W.P.No.17347 of 2017 and punish them.



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For Petitioner : Mr.P.K.Sabapathi

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

This contempt petition has been filed to punish the respondents for disobeying the order of this Court dated 25.02.2021 passed in W.P.No.17347 of 2017.

2.This Court passed an order as follows:

5. Considering the facts and circumstances of the case and having regard to the submissions now made by the learned counsel on either side, this Court directs the respondents to consider the representation dated 24.03.2016 submitted by the petitioner, if not already considered and pass appropriate orders, on merits and in accordance with law and also in the light of the orders of this Court in W.P.No.8368 of 2008, dated 10.11.2009 followed by the Government in G.O.No.41 of 27.03.2012 and in W.P.No.30077 of 2012 dated 28.11.2013 followed by the Government in G.O.No.11 dated 30.01.2015. Such an exercise shall be completed within a



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period of eight weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petition stands disposed of. No costs.

3.The learned Special Government Pleader appearing on behalf of the respondents made a submission that the order of this Court dated 25.02.2021 has already been complied with and in this regard the District Educational Officer, Nagercoil passed an order in proceedings dated 01.07.2022. Pursuant to the order, all the benefits are conferred on the writ petitioner.

4.The learned counsel for the petitioner made a submission that some of the benefits as sought for by the petitioner in his representation dated 24.03.2016 have not been granted and therefore, the order passed by this Court has not been complied with in entirety.

5.The learned counsel for the petitioner reiterated that a direction was issued to the respondents to consider the representation dated 24.03.2016, submitted by the writ petitioner in the light of the orders of this Court in W.P.No.8368 of 2008,



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dated 10.11.2009, followed by the Government in G.O.No.41 dated 27.03.2012 and in W.P.No.30077 of 2012, dated 28.11.2013, followed by the Government in G.O.No.11, dated 30.01.2015.

6.Relying on the above orders and earlier orders of this Court and in Government Orders passed pursuant to the directions, the learned counsel for the petitioner made a submission that all the benefits conferred in the said Government Orders earlier must be granted to the writ petitioner by considering his representation dated 24.03.2016. But the respondents have failed to grant all such benefits and therefore, they have committed contempt of Court.

7.This Court is of the considered opinion that the scope of contempt proceeding cannot be expanded for the purpose of adjudication of issues raised by the petitioner in the writ petition. The disputed issues whether decided or not decided by the Courts, the same cannot form a ground for adjudication of contempt proceedings. The spirit of the directions if any issued alone to be considered for the purpose of invoking the provisions of the Contempt of Courts Act and to form an opinion that whether the respondents have violated the



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directions or not or whether there is any wilful disobedience or otherwise. Thus, the adjudication of merits is impermissible in contempt proceedings. However, for the purpose of forming an final opinion, the parties may urge the Court to consider the facts but not otherwise.

8.In the present case, a direction was issued to consider the representation in the light of certain orders passed in writ petitions and the Government Orders. Therefore, this Court has not decided the issues and crystallized the rights of the petitioner to get all the benefit as per his representation. In other words, disputed issues were not adjudicated on merits and the final findings were not given and therefore, the petitioner cannot now seek that all the benefits whatever sought for by him in representation dated 24.03.2016 is to be granted and in the event of failure the same would amount to contempt of Court.

9.This Court issued an order of direction directing the authorities to consider the representation. Such directions are issued enabling the competent authorities to scrutinize the eligibility and other Service Records of the petitioner concerned and take a decision on merits and in accordance with law. Merely referring an order of



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the Court or the Government Order would not be construed as a conclusive decision of the Court as if the reliefs were granted in a positive manner.

10.Once this Court directed the authorities to consider the representation, then the discretion is granted to the authorities to look into the issues independently and thereafter, the petitioner cannot file contempt petition and plead that the authorities have not complied with the orders of this Court.

11.Therefore, if any positive directions are issued by the Court and if those directions or reliefs are not implemented, then the position would be different. However, a direction to consider the representation cannot be construed as if the positive relief has been granted by this Court nor the petitioner can raise a ground as per the representation that all the reliefs ought to have been granted by the competent authorities. Such a submission is absolutely untenable. Once the authorities have been granted discretion to decide the issues based on the Service Records and decide the issues in the light of certain earlier orders of Government Orders such authorities are empowered to look into the spirit of those orders, Government Orders and the Service Records of the petitioner and take an



independent decision on merits and in accordance with law and if at all such orders passed are not satisfied to the petitioner, the petitioner has to challenge the said order by way of an independent writ petition and certainly not by filing the contempt proceedings.

12. There is a going trend in the High Court that employees are sending several representations to the authorities even in respect of lapsed claims. After several years such representation are submitted or within the reasonable period it is submitted and immediately filing a writ petitioner and getting a general order of direction to direct the authorities to consider the representation. Either the lapsed cause of action is restored or such general directions are abused by the litigants either to achieve their goals in a direct or indirect manner. Sometimes, such directions are misused and the reliefs are obtained from the competent authorities in an unethical manner or through corrupt practices. Therefore, the issues are to be decided at all circumstances and the rights of the parties are to be crystallized. The practise of getting a direction to consider the representation and thereafter, filing a contempt petition under the guise of threat, getting some favourable order is absolutely against all concern of justice and the justice delivery system at no



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circumstances be allowed to be abused by such litigants or to achieve their goals in an indirect manner by getting such an order of general direction is one way or other way.

13.The Courts while directing the authorities to consider the representation do referred certain earlier orders and the Government Orders. However, in the absence of adjudication of issues on merits and finding to that effect, the petitioner cannot claim that based on such orders positive relief in entirety is to be granted to the petitioner while considering the representation. If such a preposition is accepted in every case, the petitioner will be getting an order to consider the representation in the light of any one of the Government Order or otherwise and he will pressurize the Government to pass an order granting relief in entirety and the same will end in miscarriage of justice or would cause injustice to other party/parties. Therefore, only in cases where the Courts have adjudicated the issues on merits and issued a direction positively, then the contempt proceedings have to be entertained for the purpose of punishing the respondents, if the directions are not complied with. Contrarily, in a contempt proceedings, the issues raised in the writ petition cannot be re-adjudicated nor the petition can raise the ground that the relief should be



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granted in entirety, since this Court has referred the earlier orders or the

Government Orders while directing the authorities to consider the representation.

14.In view of the facts and circumstances, the petitioner if aggrieved from and out of the order passed is at liberty to pursue the remedy in the manner known to law. The respondents have not committed any contempt of Court and therefore, this contempt petition stands closed.

31.10.2022

Internet : Yes
Index : Yes
Speaking order
SSR

(1/2)

To

1.The Secretary to Government,
State of Tamil Nadu,
Education Department,
Fort St. George,
Chennai – 600 009.



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S.M.SUBRAMANIAM, J.

SSR

- 2.The Director of School Education,
Chennai – 600 006.
- 3.The Director of Elementary Education,
Chennai – 600 006.
- 4.The District Elementary Educational Officer,
Kanyakumari District,
Nagercoil – 629 001.

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