



WEB COPY

Cont. P. No. 2409 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Cont. P. No. 2409 of 2022

V. Dhandapani

... Petitioner

Vs.

1. Dr. K. Gopal, I.A.S.,
The Secretary to Government,
Transport Department,
Fort St. George,
Chennai.
2. S. Joseph Diaz,
The Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram) Limited,
Villupuram.
3. Bhama
The Administrator
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust/
Pot Retirement Benefit Fund,
Thiruvalluvar House, Pallavan Salai,
Chennai – 600 002.

.. Respondents

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondent for willful disobedience of the order and for committing an act of contempt in failing to comply with the order passed by this Court in W.P.No. 5388/2016 dated 24.02.2021 as per the Contempt of Court Act.



For Petitioner : Mr. P. Paramasiva Doss

For Respondents :Mr. M. Ashwin
for R2
Mr. C.S.K. Sathish
for R3

ORDER

The contempt petition is filed to punish the respondents for their willful disobedience of the order dated 24.02.2022 passed in W.P.No. 5388 of 2016.

2. This Court passed order as follows:

"4. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the aforesaid decision, this Court directs the respondent authorities to consider the claim of the petitioner and pass appropriate orders, on merits and in accordance with law and also in the light of the judgment dated 25.08.2010 passed by this Court in W.A. (MD) No. 387 of 2010. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order"

3. Pursuant to the directions issued by this Court, directing the



respondent to consider the claim of the writ petitioner and pass appropriate orders, the respondents passed an order in proceedings dated 27.07.2021, rejecting the claim of the writ petitioner.

4. The learned counsel for the petitioner made a submission that the said order dated 27.07.2021 has been challenged by the writ petitioner in another writ petition filed in W.P.No. 1660 of 2022 and the said writ petition is pending.

5. The learned counsel for the petitioner made a submission that in the order dated 27.07.2021, the respondents have referred a Government Order which was also set aside by this Court. Therefore, the contempt petition is to be proceeded with.

6. The order of this Court was directing the respondent authorities to consider the claim of the writ petitioner and pass appropriate orders on merits and in accordance with law and also in the light of the judgment of the Hon'ble Division Bench.

7. In implementation of the directions issued by this Court that the



respondents had passed orders on merits, the issues were decided by the respondents. Even in such circumstances, if the order passed by the respondents are unsatisfied to the contempt petitioner, he has to challenge that order, since there was no adjudication of issues on merits in the writ petition. Presuming that the respondents have erroneously considered the issues, then also, the course of action is to challenge the order and not to invoke the contempt jurisdiction of this Court. Contempt jurisdiction cannot be invoked for the purpose of obtaining favourable orders from the respondents in cases, where, the Court directed the authorities to consider the case of the petitioner on merits.

8. There is a growing trend that a direction is obtained to consider the representation in the light of certain Government orders or directions issued by this Court, the petitioners are under the impression that such orders are to be implemented positively in respect of the petitioners and any rejection would amount to contempt of Court. Such an idea is an absolute misconception and in the absence of any adjudication on merits, mere direction to consider the representation would not provide a ground to invoke the contempt jurisdiction.



9. Whenever the High Court says that the representation is to be considered in the light of a Government order or earlier orders of this Court, does not mean that it is to be considered favourably. Only requirement is to look into the orders for the purpose of taking a decision. Thus, the decision of the respondents when passed on merits, then the course of action would be to challenge the same and not to invoke the contempt jurisdiction.

10. The litigants are attempting to achieve their goal in an indirect manner. Such practice, at no circumstances, be appreciated by this Court. They attempt to get a via media orders from the Courts and thereafter compelling the authorities to pass an order in their favour. Such a practice would result in disastrous consequences and it will lead to passing of many erroneous orders by the authorities. Once the Court said that the issues are to be decided on merits and in accordance with law, then the authorities are empowered to decide on its own merits and on application of mind. If at all there is non-application or erroneous consideration, then the course of action is to challenge that order. This being the principles to be followed, the present contempt petition is misconceived.

11. The learned counsel appearing on behalf of the third respondent



brought to the notice of this Court that the petitioner had earlier filed contempt petition No. 1448 of 2021 against the very same order passed by this Court in W.P.No. 5388 of 2016 dated 24.02.2021. The contempt petition was closed on 07.01.2022 on the ground that the fourth respondent administrator passed an order in proceedings dated 27.07.2021 and therefore the order of this Court dated 24.02.2021 had been complied with.

12. In the affidavit filed along with the present contempt petition, the contempt petitioner has stated that the petitioner seeks for reopening of the contempt petition as the order passed in pursuance of W.P.No. 5388 of 2016 dated 24.02.2021 is an act of contempt as the respondents failed to give validity of an order which is declared to be invalid.

13. Pertinently, the contempt petitioner had already challenged the order passed by the respondents in W.P.No.1660 of 2022, pursuant to the order passed in W.P.No.5388 of 2022. After filing of the writ petition challenging the said order, the writ petitioner has once again filed the contempt petition, which is nothing but abuse of judicial process. The contempt petition is filed with some motive either to harass the respondents or to achieve the goal of the writ petitioner one way or other. The earlier



contempt petition filed by the petitioner was closed by this Court, recording that the order of this Court had been complied with. Thereafter, the writ petitioner filed W.P.No.1660 of 2022, challenging the order passed by the respondents. Not stopping with that, the petitioner has chosen to file the present contempt petition instead of pursuing the writ petition already filed by him. Thus, the conduct of the petitioner itself amounts to contempt of Court and abuse of judicial process.

14. Though it is a fit case for initiation of action against the writ petitioner, taking a lenient view, this Court is inclined to impose the costs of Rs.10,000/- (Rupees Ten Thousand only) on the writ petitioner, which is to be paid to the third respondent within a period of four weeks from the date of receipt of a copy of this order.

15. Accordingly, the contempt petition stands dismissed with costs.

11.11.2022

mrn/kak
Index : Yes
Speaking order



WEB COPY

Cont. P. No. 2409 of 2022



S.M.SUBRAMANIAM, J.

mrn/kak

Cont. P. No. 2409 of 2022

11.11.2022