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*Cont. A. No.4 of 2023  
and C.M.P. Nos.12630 and 12632 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2023

Coram

THE HONOURABLE MR.JUSTICE **M.SUNDAR**  
and  
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

**Contempt Appeal No.4 of 2023**  
**and**  
**C.M.P. Nos.12630 and 12632 of 2023 in**  
**Contempt Appeal No.4 of 2023**

C.Nagarajan

.. Appellant

vs.

1.J.Damodaran

2.Kakarla Usha, I.A.S.,  
Secretary to the Government,  
School Education Department,  
Fort St. George, Chennai – 9.

3.Nandhakumar, I.A.S.,  
Commissioner,  
School Education Department,  
DPI Campus, Chennai – 6.

4.Muniyasamy,  
Chief Education Officer, Vellore.

5.The Principal Secretary to Government,  
State of Tamil Nadu, Law Department,  
Chennai – 9.

.. Respondents



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For Appellant : Mr.C.Munusamy  
For Respondents : Mr.P.Arumugavel for R1  
Mr.S.Silambanan,  
Addl. Advocate General  
assisted by  
Mr.S.John J.Raja Singh,  
Addl. Govt. Pleader  
for R2 to R5

### **ORDER**

[Order of the Court was made by M.SUNDAR, J.]

This order will now dispose of captioned main Contempt Appeal and the captioned two Civil Miscellaneous Petitions ('CMPs' in plural and 'CMP' in singular).

2. Before the captioned contempt appeal was processed, numbered and brought on Board, two CMPs, one seeking third party leave to file captioned contempt appeal (C.M.P. No.10029 of 2023) and another with dispense with prayer qua certified copy of the impugned order (C.M.P. No.11920 of 2023) were moved and these two CMPs were disposed of by way of separate orders dated 05.06.2023 and 13.06.2023 respectively. As the 05.06.2023 order has been captured in the 13.06.2023 order made in C.M.P. No.11920 of 2023, we deem it appropriate to scan and reproduce the same, which is as follows:



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**C.M.P.No.11920 of 2023**  
**in**  
**Cont.A (SR) 57921 of 2023**  
**(Filing No.)**

**M.SUNDAR, J.,**  
**and**  
**R.SAKTHIVEL, J.,**

**(Order of the Court was made by M.SUNDAR, J.)**

This order will dispose of the captioned 'Criminal Miscellaneous Petition' [CrI.M.P' for the sake of brevity], which has been filed for dispensed with prayer.

2. This order has to be read in conjunction with and in continuation of earlier order made in C.M.P No..10029 of 2023, which was filed with a prayer for third party leave. It is order dated 05.06.2023, which reads as follows:

*'Captioned 'Civil Miscellaneous Petition' [CMP'] has been filed with a prayer seeking leave to file a contempt appeal assailing an 'order dated 24.03.2023 made by Hon'ble single Judge of this Court in Cont P.No.2622 of 2022' (hereinafter 'impugned order' for the sake of convenience and clarity].*

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2. Mr C. Manuaram, learned counsel on record for petitioner who is before us advertising to case file submits that the petitioner joined the sacramental service through 'Tamil Nadu Public Service Commission' [TNPSCT] on 11.02.2006, the petitioner was given periodic promotion and was last serving as Law Officer on deputation in the School Education Department.

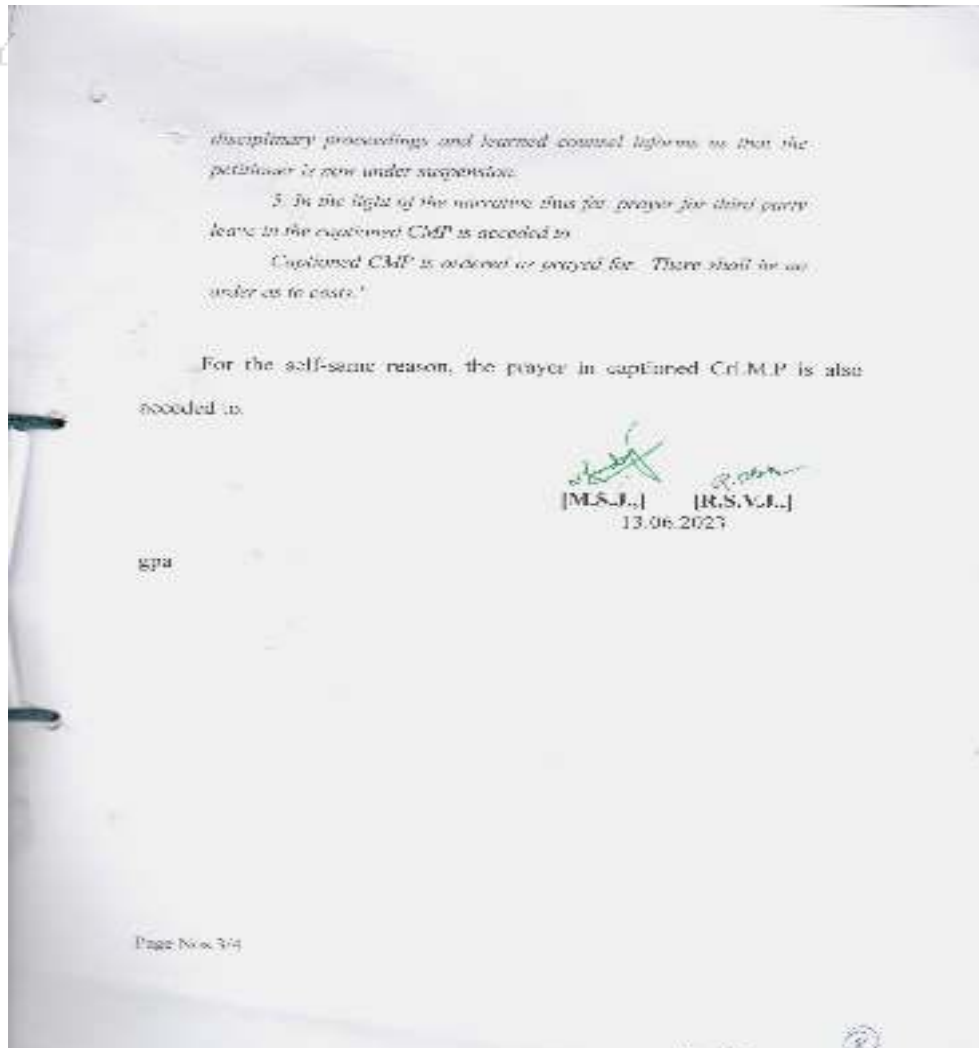
3. Learned counsel submits that the impugned order came to be made by Hon'ble single Judge, when the petitioner was in Court for a hearing and at this juncture it will suffice to say that the matter pertains to alleged unruly behavior in Court during Court hearing. At this juncture, we do not express any opinion on this aspect of the matter. Be that as it may, advertising to paragraph No 4 of the impugned order, learned counsel submits that while directing the Principal Secretary to Government (who was suo motu impleaded in the contempt petition on 24.03.2003) to initiate disciplinary action against the petitioner for alleged unruly behavior in Court Hon'ble Court has also directed the Principal Secretary to place the petitioner under suspension immediately. Learned counsel for petitioner submits that this amounts to punishment and therefore the petitioner is entitled to assail the order under Section 19 of Contempt of Courts Act, 1971 and the captioned leave C.M.P. has become necessary as the petitioner was not party to the contempt petition.

4. We perused the case file and we find that there is a specific directive to place the petitioner under suspension pending



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3. Aforementioned order captures the facts and therefore we deem it appropriate not to set out the same again.

4. Thereafter, there was a listing on 23.06.2023 and the following proceedings came to be made:



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*'Owing to the peculiar facts and circumstances of the case and trajectory the matter has taken, we deem it appropriate to direct learned counsel on record for appellant to serve one set of papers on counsel on record for contempt petitioner before Hon'ble single Judge (Advocate Mr.P.Arumugavel). Learned counsel is also requested to intimate Mr.P.Arumugavel about the next listing of the captioned contempt appeal.*

*2. This Bench is adopting this course owing to the unique / peculiar nature of the matter owing to which this Bench deems it appropriate to take up the matter for admission in the presence of counsel for contempt petitioner.*

*3. To be noted, Mr.S.John J.Raja Singh, learned Additional Government Pleader is in Court and he has instructions to accept notice for official respondents, if this Court is inclined to issue notice. Let the learned State counsel also be present in the next listing. We make it clear that we are not issuing notice today and the matter will be taken up for admission in the next listing. Though we have not issued notice, Registry to show the name of Mr.P.Arumugavel, learned counsel and Mr.S.John J.Raja Singh,, learned Additional Government Pleader only for convenience of counsel concerned and learned State counsel (to be present when the matter is taken up for admission).*

*4. We find that in the captioned contempt appeal, CMP No.10029 of 2023 was moved by the appellant with a*



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prayer for third party leave and the prayer was acceded to by a detailed order dated 05.06.2023. Another CMP being CMP No.11920 of 2023 was moved by appellant with a prayer for dispensing with production of certified copy of the order and the same was allowed by an order dated 13.06.2023. These two orders have been stitched to case file in the first set alone though repeated instructions have been given to Registry, more particularly, in contempt matters saying that earlier proceedings have to be photocopied and enclosed in second set also. In spite of repeated oral instructions, this is recurring consuming judicial time which can be otherwise productively utilized. This is more so as one Hon'ble Judge is put at a disadvantage qua case file while hearing the matter. Registry should also ensure that earlier proceedings in matters of such nature are annexed to the order sheet file for ease of reference. Today, the scenario is, one Hon'ble Judge of this Bench is without copies of previous orders dated 05.06.2023 and 13.06.2023 in CMP Nos.10029 of 2023 and 11920 of 2023 respectively. This is extremely unfortunate as this is not the first occasion and this is not a one-off event. This has been recurring over a period of time. We requisition a report in this regard from the Registry by next listing.

5. List these matters under the same cause list caption i.e., 'FOR ADMISSION' on Tuesday. List on 27.06.2023.

6. Fortunately, learned counsel for appellant was able to give us hard copies of 05.06.2023 and 13.06.2023 orders made in two CMPs (CMP Nos.10029 and 11920 of 2023) by



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*downloading the same from official website and learned  
counsel was able to produce two sets of these orders.'*

5. As regards the earlier proceedings, Registry has placed before us a note regretting for the error and tendering unconditional apology. This unconditional apology is accepted and the matter is given a closure.

6. As regards the main matter today, Mr.C.Munusamy, learned counsel for appellant, Mr.P.Arumugavel, learned counsel for first respondent/contempt petitioner and Mr.S.John J.Raja Singh, learned Additional Government Pleader led by Mr.S.Silambanan, learned Additional Advocate General for respondents 2 to 5 are before us. To be noted, these are ranks as in the main contempt appeal.

7. The only complaint of the appellant is Honourable Single Judge in the impugned order has directed the fifth respondent to place the appellant under suspension from service forthwith. This is in the nature of punishment but the appellant was not heard. Learned counsel for first respondent submitted that being contempt petitioner, his scope is that of an informant. Be that as it may, learned Additional Advocate General very fairly submitted that this



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is a matter between the Honourable Court and the contemnor and therefore respondents 2 to 5 would remain neutral.

8. The aforementioned scenario makes the task of disposal of captioned contempt appeal fairly simple. We deem it appropriate to interfere with regard to that portion of the impugned order which directs the appellant to be placed under suspension immediately alone and request the Honourable Single Judge to decide on that aspect of the matter qua impugned order after giving an opportunity of being heard to the appellant.

9. In the light of the narrative, discussion and dispositive reasoning thus far, the following order is made:

*9.1 In the impugned order, paragraph 4 reads as follows:*

*'4.The Principal Secretary to Government, Law Department, is called upon to forthwith initiate disciplinary action against Mr.C.Nagarajan, by placing him immediately under suspension of service, in contemplation of such proceedings since it is stated that Mr.C.Nagarajan, has been assigned the duty to*



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*instruct the Government Pleaders on a routine basis.*

*The further course of action, as to whether this Court would proceed for criminal contempt, would be taken up in the next hearing date on 31.03.2023.'*

*(underlining and double underlining made  
for ease of reference)*

*9.2 That the double underlined portion which says '...by placing him immediately under suspension from service...' alone is set aside. In all other aspects, the impugned order dated 24.03.2023 made in Contempt Petition No.2622 of 2022 is sustained.*

*9.3 Pursuant to the aforementioned deleted portion, the fifth respondent acting on the same has caused G.O.Ms. No.187 Law (OP-III) Department dated 24.03.2023 in and by which the appellant has been suspended and this Bench is informed that the appellant remains suspended. Therefore, this G.O.Ms.No.187 dated 24.03.2023 being consequence/sequitur qua the deleted portion of the impugned order will also perish, in other words, G.O.Ms.No.187 dated 24.03.2023 is set aside.*

*9.4 It is made clear that other powers of*



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*suspension are preserved and it is open to the fifth respondent to proceed subject to the verdict that Honourable Single Judge may return after giving an opportunity to the appellant.*

*9.5 Honourable Single Judge is requested to give an opportunity of being heard to the appellant and then decide on the deleted portion of the impugned order albeit on its own merits and in accordance with law uninfluenced by any observation made in this order.*

10. Captioned contempt appeal is disposed of in the aforementioned manner with the aforementioned observations and request qua Honourable Single Judge. Consequently, captioned CMPs are disposed of as closed. There shall be no order as to costs.

**(M.S.,J.) (R.S.V.,J.)**

27.06.2023

Index : Yes/No  
Neutral Citation : Yes/No  
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**M.SUNDAR, J.,  
and  
R.SAKTHIVEL, J.,**



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## **Contempt Appeal No.4 of 2023**

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