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Suo Motu Contempt Petition No.2287 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 13.04.2023

DELIVERED ON: 28.06.2023

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE TMT.JUSTICE K.GOVINDARAJAN

THILAKAVADI

Suo Motu Contempt Petition No.2287 of 2022

High Court of Madras,
High Court, Madras-600 104.

.. Petitioner

vs.

1.Fr.Asir Packia Singh,
Correspondent, Women Christian College,
Nagercoil, Kanyakumari District.

2.Dr.C.Poornachandran,
Principal, Tirutani Government Arts College,
(At the relevant time works as Director of
Collegiate Education)

3.N.Jayanthi
W/o. T.Gnanadhas,
Assistant Professor of Economics,
Women Christian College,
Nagercoil, Kanyakumari District. . Contemors

4.Dr.Mrs.K.S.Meena,
Deputy Director of Collegiate Education,
Tirunelveli Region,



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Tirunelveli-627 008. .. Respondent
(4th respondent impleaded as per the order dated
Cont.P.Nos.2287 & 2597 of 2022 dated 05.01.2023)

Prayer: Suo Motu Criminal Contempt proceedings initiated against the contemnors herein as per the order of this Court dated 19.10.2022 made in W.A.Nos.2837 of 2018, 353 and 354 of 2019.

For Respondents : Mr.L.Chandrakumar for R1
Mr.T.Mohan, Senior Counsel
for Mr.E.Monoharan for R2
Mr.S.R.Rajagopal, Senior Counsel
for Mrs.Selvi George for R3

Dr.R.Govri for R4
Mr.V.Vijay Shankar (Amicus Curiae)

JUDGMENT

D.KRISHNAKUMAR, J.

W.P.Nos.11564 and 21696 of 2014 were filed by one Dr.N.Saravana Amudha Kumari to direct the Director of Collegiate Education, Chennai to approve her appointment as Assistant Professor of Economics in the Womens' Christian College, Nagercoil with effect from 02.01.2012 on the basis of the first appointment order dated 22.12.2011 in the light of the order dated 25.02.2014 made in W.P.No.5615 of 2014 with all monetary benefits and to forbear the Director of Collegiate Education, Chennai and the Joint Director of Collegiate Education,



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Tirunelveli from approving the appointment of one Ms.N.Jayanthi as Assistant Professor in Economics in the Womens' Christian College, Nagercoil in the vacancy caused by Dr.Selvi Devadas.

2. Both the aforesaid writ petitions were disposed of vide common order dated 01.08.2018. W.P.No.11564 of 2014 was disposed of quashing the order of appointment of the petitioner from 09.04.2014 and with a direction to the 4th respondent college to submit a proposal to approve the appointment of the petitioner to the Director of Collegiate Education, Chennai from 02.01.2012 pursuant to the letter of appointment on 22.11.2011 and release the monetary benefits thereof. Insofar as W.P.No.21696 of 2014 is concerned, the said writ petition was disposed of stating that this Court does not want to restrain the 2nd respondent/Director of Collegiate Education, Chennai not to approve the appointment of the 6th respondent therein if she had been appointed against any sanctioned vacancy available then, in accordance with law and no rival claim is there for the same, notwithstanding her appointment has been identified against a retiral vacancy of Dr.Selvi Devadhas which was already consumed by the petitioner's appointment.



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3. Challenging the aforesaid order passed by the writ Court, the 4th respondent College viz., Womens' Christian College filed a Writ Appeal in W.A.No.2837 of 2018 and the sixth respondent therein, namely Ms.N.Jayanthi has filed W.A.Nos.353 and 354 of 2019. All these writ appeals were disposed of vide common order dated 13.09.2022, wherein the Division Bench of this Court has observed as under:

“6. It is also noted that, during the course of hearing of these appeals, it had come to the notice of this Court that, the actions of the appellants of these three writ appeals and the officers of the State working in Collegiate Education Department, would require scrutiny, keeping in view Section 2(c) of the Contempt of Courts Act, 1971. Before taking cognizance thereof in accordance with law, it was required to arrive at, at least prima facie satisfaction in that regard. For this purpose, necessary parties were joined in their personal capacity being respondent nos. 7, 8 and 9 in these appeals and their say is taken into consideration, as noted in orders dated 04.08.2022, 08.08.2022, 16.08.2022, 26.08.2022, 29.08.2022 and 02.09.2022. Those orders be treated as the part of the present order. On conjoint consideration of the material which has come on record, it transpires prima facie that, the actions of the parties to these appeals require further scrutiny, keeping in view Section 2(c) of the Contempt of Courts Act, 1971 and subsequent cognizance thereof in accordance with law. For this purpose, first the papers need to be submitted to Hon-ble the Chief Justice for appropriate consideration and orders.



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7. In view of above, the following order is passed:~

7.1 The impugned common order dated 01.08.2018 recorded on W.P.Nos.11564 and 21696 of 2014 is confirmed, with modification, on the concession of the successful writ petitioner that, the appointment of the writ petitioner ~ Dr.N.Saravana Amutha Kumari on the post in question ~ Assistant Professor (Economics), is directed to be approved with effect from 01.06.2012. No further order needs to be passed so far the merits of the order under challenge is concerned. All the three writ appeals and connected C.M.Ps are disposed of accordingly. No costs.

7.2. Registry is directed to place the papers of these appeals before Hon-ble the Chief Justice for appropriate consideration and orders, since this Court has, during the course of hearing of these appeals, prima facie found, as noted in orders dated 04.08.2022, 08.08.2022, 16.08.2022, 26.08.2022, 29.08.2022 and 02.09.2022 that the actions of the parties to these appeals require further scrutiny and subsequent cognizance thereof in accordance with law, keeping in view Section 2(c) of the Contempt of Courts Act, 1971.”

4. Accordingly, a note was placed before the Hon'ble Acting Chief Justice on 15.09.2022 and it was approved by the Hon'ble Acting Chief Justice on 16.09.2022 and thereafter, numbered as Suo Motu Contempt Petition No.2287 of 2022.

5. Heard the respective learned Senior Counsel and learned counsel



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appearing for the parties, learned Amicus Curiae and also perused the entire materials available on record.

6. Section 2(c) of the Contempt of Courts Act, 1971 reads as

under:

“2(c) “criminal contempt” means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which—

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;”

7. Let this Court will analyze and consider as to whether the action of the parties scandalises or tends to scandalise or lowers or tends to lower the authority of this Court?

8. The fact remains that Dr.N.Saravana Amutha Kumari was successful before the Writ Court, against which the fourth respondent as well as the contesting candidate, namely N.Jayanathi / sixth respondent



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therein had preferred writ appeals before this Court. However, the conduct of the parties during the pendency of the writ appeals have lead to the initiation of this Suo Motu Contempt Proceedings.

10. It is not in dispute that there was a compromise entered into between the parties on 05.08.2019, during the pendency of these appeals, wherein the writ petitioner has agreed to approve her appointment with effect from 01.06.2012, instead of 22.12.2011 and the proposal has to be sent by the Management of the college and the same to be approved by the State. However, instead of complying with the same as per the compromise entered into, the writ petitioner was placed under suspension, allegedly for not cooperating with the Management. Therefore the Division Bench of this Court was constrained to note in the order dated 04.08.2022 that when there was already a written concession on behalf of the writ petitioner that she agreed for 01.06.2012, being the date of her approval of appointment instead of 22.12.2011, as ordered by the learned Single Judge, what further cooperation she was expected to extend, may be required to be inquired. The Division Bench further observed in the said order that *prima facie* it appears that, further



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scrutiny of the actions of the Management of the College, so also the State Authorities, lead to a situation where, it may be required to be inquired whether any proceedings beyond the sustainability of the order under challenge, including initiation of proceedings for obstructing the administration of justice, is required and accordingly, impleaded the respondents 7 to 9, in the writ appeals, namely Joint Director and Director of Collegiate Education and the Correspondent of the 4th respondent College and sought for their written instructions in the form of affidavits.

11. Subsequently, after repeated follow up by this Court, the Joint Director of Collegiate Education, Tirunelveli has passed an order dated 27.08.2022 approving the appointment of the writ petitioner in the post of Assistant Professor (Economics) with effect from 01.06.2012 and that is how the challenge made by the college Management came to be end. As regards the appeal made by the sixth respondent in the writ petition, the Division Bench having taken note of the observations made in the order dated 31.01.2018 in W.P.(MD) No.14686 of 2011, observed that neither of the appellants have referred to the order of the learned Single Judge



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dated 31.01.2018 in W.P.(MD)No.14686 of 2011, which would have direct bearing on the findings qua writ petitioner, sixth respondent and above all the so called settlement projected before the Division Bench on these appeals. Thus, the action of the parties as noted in the orders dated 04.08.2022, 08.08.2022, 16.08.2022, 26.08.2022, 29.08.2022 and 02.09.2022 had led to the initiation of suo motu contempt proceedings.

12. Pursuant to the initiation of suo motu contempt proceedings and issue of notice dated 27.10.2022, the first contemnor, namely the Correspondent of the Women Christian College, Nagercoil has filed affidavits dated 21.11.2022 and 10.01.2023 tendering his unconditional apology and stated as follows:

(i) The interim order dated 28.08.2019 on the basis of the Memorandum of Understanding as arrived inter-parties was recorded on 28.08.2019 and the copy of the order was received on 04.09.2019.

(ii) On this basis, the Governing Body was called upon on 06.09.2019 to appropriately modify the appointments of the 1st and 6th respondents in writ appeal (Dr.N.Saravana Amutha Kumari and N.Jayanthi) on 01.06.2012 and 22.07.2012 respectively by being placed before the Administrative Committee / Members of the Governing Board.



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(iii) *On the very same day, Resolutions were adopted for modification of the order of appointment of the writ petitioner from the earlier appointment orders dated 22.12.2011 and 09.04.2014 to be modified to that of 01.06.2012.*

(iv) *It is on the basis and sequel to the above Governing Board Minute dated 06.09.2019, approval of appointment of the 1st respondent was addressed to the competent authority on 09.09.2019 followed by necessary enclosures and other requirements which are to be considered for the purpose of approval of appointment was duly enclosed and addressed to the Joint Director on 17.09.2019 and 18.09.2019 respectively.*

(v) *The Qualification Approval from the University was also obtained on 19.11.2019 and sequel thereto by proceedings of the Joint Director dated 03.12.2021, the 6th respondent's appointment (N.Jayanthi) stood approved w.e.f. 22.07.2012 and insofar as the 1st respondent (Dr.N.Saravana Amutha Kumari) is concerned, by proceedings dated 14.12.2021 the approval was made effective from 09.04.2014.*

(vi) *As there had occurred an error in the implementation of the compromise memo, as the same was misconstrued by the official respondents that the 1st respondent (Dr.N.Saravana Amutha Kumari) would be eligible only from 09.04.2014 due to certain inadvertent error having crept in and also without recourse to the order of the learned Single Judge who had set aside the said date of approval of appointment ; however directed reconsideration w.e.f. 22.12.2011 and that the said date there having been neither any vacancy nor any*



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availability of sanctioned post and the said vacancy being caused on the retirement of the incumbent on 31.05.2012 only, the 1st respondent's (Dr.N.Saravana Amutha Kumari) approval was sought to be revised w.e.f. 01.06.2012 not only as per the availability of the vacancy, but also with reference to the memo of compromise entered into on 29.07.2019 and endorsed by this Court on 28.08.2019, giving liberty to the official respondents to find out the feasibility of the compromise, therefore, the Correspondent cannot be faulted at. The above appraisal may be appropriately considered by this Hon'ble Court."

13. The second contemnor, namely Dr.C.Poornachandran, Principal, Tirutani Government Arts College, Tiruvallur District, who was the Director of Collegiate Education at the relevant point of time, has filed his affidavit dated 09.01.2023, wherein it has been stated as follows:

"6. It is respectfully submitted that the proceedings dated 09.10.2019 by the Regional Joint Director, Tirunelveli Division, had made reference only to the Interim Order dated 28.08.2019 in Writ Appeal 2837 of 2018. The Report does not contain details pertaining to what transpired in W.P.No.11564 of 2014. There were also no details with regard to the case filed in Madurai. Based on the information forwarded, this Respondent with the intention to resolve the matter and report the same to the Hon'ble Court, gave advice to the Regional Joint Director, Tirunelveli Division in light of the information provided to call the parties to explore the possibility of an agreement between the contesting parties.



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7. This Respondent respectfully submits that based on the above Proceedings Dt: 24.07.2021, the then Joint Regional Director had vide Proceedings Na.Ka.No.1203/U4/2019 Dt:04.08.2021 called Appellant, Dr.N.Saravana Amutha Kumari (1st Respondent in WA No.2837/2018) herein to appear before his office on 06.08.2021 with regard to obtaining consent in pursuance to the Proceedings of this Respondent Dt: 24.07.2021. It is respectfully submitted that thereafter the then Joint Regional Director, Tirunelveli Division, vide Proceedings: Na.Ka.No.1203/U4/2019 Dt:10.08.2021 informed this Respondent that while Tmt.N.Jayanthi (6th Respondent in WA No.2837/2018) had accepted / consented to the date of 22.07.2012, Dr.N.Saravana Amutha Kumari (1st Respondent in WA.No.2837/2018) has refused to accept to the proposed date of 09.04.2014 and would only accept to the Dt: 01.06.2012, as recorded in the Joint Compromise Memo.

8. This Respondent respectfully submits that in the light of the party Respondents not coming to a consensus on the proposal forwarded in Na.Ka.No.167/AP2/2014 Dt: 28.10.2021 wherein he has directed the then Joint Regional Director, Tirunelveli Division to obtain Legal Opinion from the Special Government Pleader and to take decision at their official level. This Respondent had directed the then Joint Regional Director to ensure that there is no error/slip-up/violations in the matter.

9. It is respectfully submitted that this Respondent tenders his unconditional apology and reiterates that it was only his intention to find an amicable solution to the issue at hand and report to the Hon'ble Court and it is with that intention that this Respondent had proceeded, as stated above. This Respondent submits that it was or never is his intention to obstruct the administration of justice. This



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Respondent submits that after consensus was not achieved on the lines recommended by the Joint Regional Director, I have accordingly revised my Proceedings and also instructed that there should be no violations, which includes the orders of the Hon'ble Court or the rights of the respective party Respondents concerned. Therefore, the determination of the date of appointment was to be decided at the level of the Joint Regional Director, who had access to all the records and could verify everything and ensure compliance with the orders of this Hon'ble Court.

10. It is submitted that the Respondent has been diligently discharging his duty for the last 31 years and is due to retire in 2026. The above facts would show that this Respondent has acted only with a bonafide intention to resolve the issue and never with an intention to obstruct the administration of justice. This Respondent again tenders his unconditional apology.”

14. The sixth respondent in the writ petition/third contemnor has also filed an affidavit dated 24.01.2023 wherein she stated as follows:

“5. I respectfully state that for Chennai case, I have engaged a different counsel from Chennai and by oversight and owing to sheer inadvertence, I had by oversight failed to inform the Chennai Lawyer about the order passed in writ petition No.14686 of 2011 and Rev. Petition No.8 of 2018. This is merely an act of omission and without knowing the repercussion and consequences. The same cannot be construed as one wilful or wanton. It is not my intention either to suppress or to mislead and the same is only owing to an inadvertent mistake. I have



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no intention to take any kind of advantage of the order. Now I realise that I should have informed the Hon'ble Courts above the case filed by me and I really feel very sorry for such mistake and tender my unconditional apology for the same. I assure that I would not repeat the same in future. The omission to inform this Hon'ble Court about the status of the case filed at Madurai is neither wilful nor wanton and the same is only due to ignorance and at the time, my health condition, as I was suffering from wheezing, High Blood Pressure and was practically unwell to undertake travel.

6. I respectfully state that I have no conducted myself in a manner that would amount to wilful disobedience of any of the order passed by this Hon'ble Court not have any intention to disobey, disrespect the orders of this Hon'ble Court. I have great regards and respect for this Hon'ble Court and its orders. In any event, I hereby tender my unconditional apology and I request my unconditional apology may be accepted and I may be purged from this proceedings.”

15. The fourth respondent, namely Mrs.K.S.Meena, has filed a counter affidavit in compliance of the order passed by this Court dated 05.01.2023. It is stated in the said affidavit that as per the Department records, the appointment of Dr.N.Saravana Amutha Kumari from 02.01.2012 was considered and shown as Guest Lecturer and she has been working in the regular vacancy from 09.04.2014, as is evident from the proceedings in Na.Ka.No.4317/F2/2014 of the Director of Collegiate



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Education dated 27.11.2014. The fourth respondent has also stated that the communication dated 09.10.2019 has been sent by him contains the particulars with respect to appointment of N.Jayanthi for taking decision by the Director of Collegiate Education and the nature of his communication dated 09.10.2019 would only amount to furnishing requisite particulars to take appropriate decision. The fourth respondent has also filed additional counter affidavit dated 13.04.2023 reiterating the very same stand.

16. Similarly, Mr.R.Baskaran, the Joint Director of Collegiate Education. Tirunelveli has filed an affidavit dated 03.02.2023 in Cont.P.No.2597 of 2022 filed by Dr.N.Saravana Amutha Kumari and tendered his unconditional apology for the delay in implementing the common order dated 13.09.2022 made in W.A.Nos.2837 of 2018, 353 and 354 of 2019. It is stated that originally approval was granted for appointment of the writ petitioner with effect from 09.04.2014, by order dated 14.12.2021, based on the interim orders of this Court dated



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28.08.2019. However, this Court was pleased to pass final order dated 13.09.202 wherein they were directed to approve the appointment of the writ petitioner w.e.f. 01.06.2012. In the meanwhile, based on the compromise memo filed before this Court, the writ petitioner has agreed to get approval of her appointment w.e.f. 01.06.2022 and based on the compromise memo, her appointment was approved from 01.06.2012 by order dated 27.08.2022 and subsequently, all the service benefit arrears have been settled in her favour. It is further stated that as regards the disbursement of monetary benefits to the writ petitioner, there were no deliberate delay on the part of the respondents and the delay in settlement was only due to bonafide procedural time.

17. In the decision in ***D.P.Choudharay v. State of Madhya Pradesh and Others reported in 2013 (2) MPLJ 150***, the facts of the case disclosed that the petitioner therein in his reply has not explained the circumstances in which the second writ petition was filed and the conduct of the petitioner in filing the second writ petition by suppressing the factum of dismissal of earlier writ petition as held to be highly deplorable



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and amounts to misuse of the process of law. In the facts of the case, the conduct of the petitioner therein who is a Principal and belongs to a noble profession of teaching is deprecated. However, taking into account the fact that the petitioner therein has tendered an unconditional apology and has joined at the transferred place of posting, he was directed to be more careful in future.

18. The aforesaid decision squarely applies to the instant case also, as the learned counsel for the sixth respondent in the writ petition / third respondent, namely N.Jayanthi, during the course of hearing the writ appeals, was not in a position to point out anything with regard to case filed by her in W.P.(MD) No.14686 of 2011 and so also its nature of disposal. However, the fact remains that the said writ petition came to be dismissed by the Madurai Bench of this Court on 31.01.2018 and the same was recorded by the Division Bench while disposing of the writ appeals.

19. As regards non disclosure of filing the writ petition by the sixth respondent in W.P.(MD) No.14686 of 2011 before the Madurai Bench of



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Madras High Court, this Court is of the view that the said order will not prejudice the rights of the writ petitioner. Moreover, the Division Bench, while disposing of the writ appeals, expressed serious view on the suppression of material fact, which according to us was done after the order of this Court has been complied with and after tendering unconditional apology for the error committed by the said respondents. The sixth respondent has not sought for any further relief in the writ appeal and the service benefits were also settled to the appellant/writ petitioner. Therefore, accepting the unconditional apology submitted by the sixth respondent, no further orders are necessary in this contempt petition.

20. Considering the fact that non-disclosure of the earlier writ petition filed by the sixth respondent has been seriously viewed by the Division Bench of this Court and now the parties have realised that due to inadvertence, the said mistake has been committed and in the interregnum, the order of this Court has been complied with and the respondents have also tendered their unconditional apology by filing respective affidavits, we are of the view that the said non-disclosure of



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material fact would not prejudice the rights of the parties. The said stand has not been raised by the appellant at the time of disposal of the writ appeals and therefore, we are not inclined to go into the aforesaid issue, as we are only concerned with the compliance of the order passed by this Court. The appellant/writ petitioner has not disputed the fact that the directions of this Court has been complied with and service benefits were settled to the appellant/writ petitioner.

21. In the light of the above discussions and accepting the aforesaid unconditional apology tendered by the contemnors through their respective affidavits filed before this Court, further proceedings against them stands dropped. Accordingly, this Contempt Petition stands closed.

[D.K.K., J.,] [K.G.T., J.]
28.06.2023

Index:yes/no

Internet:yes / no

Jvm

To

1.Fr.Asir Packia Singh,
Correspondent, Women Christian College,
Nagercoil, Kanyakumari District.



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2.Dr.C.Poornachandran,
Principal, Tirutani Government Arts College,
(At the relevant time works as Director of
Collegiate Education)

3.N.Jayanthi
W/o. T.Gnanadhas,
Assistant Professor of Economics,
Women Christian College,
Nagercoil, Kanyakumari District.

4.Dr.Mrs.K.S.Meena,
Deputy Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli-627 008.



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**D.KRISHNAKUMAR, J.,
&
K.GOVINDARAJAN THILAKAVADI, J.**

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**Order in
Suo Motu C.P.No.2287 of 2022**

28.06.2023