



CONT.P. (MD)No.859 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE BATTU DEVANAND**

**CONT.P.(MD)No.859 of 2019**  
**in W.P(MD)No.1352 of 2015**

The Correspondent,  
St. Joseph's Middle School  
Sarugani  
Sivaangai District.

...Petitioner/Petitioner

**Vs.**

Samy Sathiyamoorthy  
The District Educational Officer  
Devakottai  
Sivagangai District.

Previously:  
The District Elementary Educational Officer  
Sivagangai, Sivagangai District.

... Contemnor/Respondent

**Prayer:** Contempt Petition is filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent herein for his deliberate and willful disobedience of the Order of this Hon'ble Court dated 11.04.2018 in Writ Petition (MD) No.1352 of 2015.



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For Petitioner : M/s.A. Amala

For Respondent : Mr. V. Nirmalkumar

### **ORDER**

This Contempt Petition has been filed complaining that the order dated 11.04.2018 in W.P(MD)No.1352 of 2015 is not complied with in true letter and spirit.

2. This Court, while allowing the said Writ Petition, passed the following order:

“37.In the result, this Writ petition is disposed of with the following orders:

(i)The impugned order is set aside;

(ii)In view of the impugned order having been set aside, the proposal sent by the petitioner’s school on 08.08.2012 and subsequently, on 07.11.2012 for the appointment of the said Mrs. A.Gnana Sagaya Mary in the post of Sewing



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Mistress at the petitioner's school, shall be taken into account and such proposal shall be considered and orders to that effect approving the appointment shall be made by the third respondent;

(iii)Once such appointment is approved by the authorities, the incumbent, who has been appointed as Sewing Mistress and taking classes in the petitioner's school, shall be entitled to claim the salary for the said post from the date of her appointment;

(iv)All the aforesaid directions as indicated above shall be undertaken by the respondents especially, the second respondent within a period of six weeks from the date of receipt of a copy of this order;

(v)Since the proposal has already been returned by the second respondent, the same is to be once again resubmitted by the petitioner school within a period of two weeks from the date of receipt of a copy of this order and only on receipt of the same, the second respondent shall do the needful as indicated above, within the time frame set out therein.



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3. The learned counsel for the petitioner submits that the copy of the order is communicated to the respondent along with the proposal on 01.03.2019. Since there was no response, the petitioner also sent reminder on 21.07.2019. The learned counsel would submit that time of six weeks stipulated by the Court expired on 14.04.2019. However, the respondent did not comply the order till date.

4. It appears on 07.12.2021, on considering the submissions of the respondent's counsel that they filed a Writ Appeal in W.A(MD)No.1539 of 2019 and no interim order was passed by the Division Bench in the Writ Appeal, this Court directed the respondent to comply with the order subject to the result of the Writ Appeal and report the same and directed the Registry to list the matter on 15.12.2021. Though there is a specific direction from this Court on 07.12.2021, till date the order of this Court is not complied with.



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5. Considering the facts and circumstances of the case and in the absence of counter affidavit, this Court came to *prima facie* opinion that the respondent willfully disobeyed the order of the court and by order dated 14.07.2023, issued Statutory Notice seeking appearance of the respondent before this Court today. Accordingly, the respondent is present before this Court.

6. On behalf of the respondent, after 4 years, an affidavit is filed on 28.07.2023. In the said counter affidavit, it is averred that the respondent assumed charge in the Office of the District Educational Officer (Elementary), Devakottai on 24.09.2018. During the review meeting and on the verification of pending files, he came to understand that all the petitioner's case files have been forwarded to higher officials and the same got mixed up with other similar case and on coming to that, after hectic efforts, the case files have been traced in the month of April 2019. After getting legal advice, he filed a Writ Appeal in W.A(MD)No.1539 of 2019. The



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said Writ Appeal is pending. It is further averred that he has been promoted and transferred and posted as Chief Educational Officer, Kancheepuram on 12.02.2020 and transferred to various places and he attained the age of superannuation on 31.07.2022.

7. The learned counsel appearing for the respondent submits that during the tenure of the respondent, he has taken earnest steps to prosecute the Appeal and subsequently due to his transfer and retirement, he could not proceed further.

8. Having heard the submissions of the respective counsels and upon careful perusal of the entire materials on record, it is an admitted fact that this Court by order dated 11.04.2018 directed the second respondent to grant approval to the proposal sent by the petitioner and pay the salary to the incumbent from the date of her appointment and all aforesaid directions as indicated in the order shall be undertaken by the respondent within a period of six weeks



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from the date of receipt of a copy of the order.

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9. As per the contention of the learned counsel of the petitioner, they received the order copy after eleven months from the date of the order i.e only in the month of March, 2019 and they submitted the order copy to the respondent along with proposal on 01.03.2019. As per admission of the respondent, he is working as the District Educational Officer, Devakottai with effect from 24.09.2018 till 12.02.2020.

10. As such, it is clear that as on the date of receipt of the order and as on the date of the direction of this Court in Contempt Petition dated 07.12.2021, wherein this Court directed the respondent to comply with the order subject to the result of the Writ Appeal and to report the same in view of the fact that the respondent failed to obtain any stay order in the Writ Appeal also, he was working as the District Educational Officer, Devakottai. But the



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respondent did not comply the orders of the Court for which he is answerable to the Court. Except saying that Writ Appeal was filed and the same is pending, no proper and acceptable answer is with the respondent.

**11.** In view of the above, in the considered opinion of this Court, the respondent wilfully disobeyed to implement the order of the order passed on 11.04.2018. Accordingly, this Court holds that the respondent is found guilty of contempt. As such, the Contemnor is liable for punishment under the provision of Contempt of Court Act.

**12.** Though the contemnor tendered his unconditional apology through the affidavit filed by him, in my opinion, in view of the facts and circumstances of the case, the unconditional apology tendered by him is not *bonafide* and accordingly, it is ejected.



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**13.** For the above mentioned reasons, this Contempt Petition is allowed. The contemnor is sentenced to undergo simple imprisonment for a period of two weeks and with a fine of Rs.1,000/- (Rupees One Thousand Only), failing to pay the fine, he shall undergo 3 days simple imprisonment.

**14.** At the request of the learned counsel appearing for the contemnor, the sentence is suspended for a period of two weeks.

**28.07.2023**

Index : Yes / No  
NCC : Yes / No  
CM

To,

1.Samy Sathiyamoorthy  
The District Educational Officer  
Devakottai  
Sivagangai District.

2. The District Elementary Educational Officer  
Sivagangai  
Sivagangai District.



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**BATTU DEVANAND, J.**

CM

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**in W.P(MD)No.1352 of 2015**

**28.07.2023**