



Cont.P.No.2361 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.03.2024

Coram:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

Contempt Petition No.2361 of 2023

&

Sub Applications(OS)Nos.211 and 212 of 2024

R.Gnanasekar

Retired Joint Commissioner HR & CE Department,

Residing at No.B88, Periyar Nagar,

Chennai 600 082.

.. Petitioner

/versus/

1.Thiru.K.Manivasan, I.A.S.,
The Secretary to Government,
Tourism, Culture and Religious
Endowment Department,
Fort St. George, Chennai-9.

2.Thiru.K.V.Muralidharan, I.A.S.,
The Commissioner Hindu Religious and
Charitable Endowment Department,
Nungambakkam, Chennai-34.

.. Respondents

Prayer: Contempt Petition has been filed under Section 11 of the Contempt of Courts Act, 1971, praying to punish the respondents herein for the wilful disobedience of the orders of the Hon'ble High Court made in W.P.No.340 of 2017 dated 19.06.2017.



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For Petitioner :Mr.R.Singaravelan,
Sr.Counsel for
Mr.V.Ravikumar

For Respondents :Mr.J.Ravidran, Senior Counsel
Asst.by
Mr.A.V.R.Arun Natarajan,
Spl.Govt.Pleader

ORDER

This Contempt Petition has been filed to punish the respondents for their wilful default disobedience in implementing the order dated 19.06.2017 in W.P.No.340 of 2017 passed by this Court in true letter and spirit.

2. The learned counsel appearing for the petitioner submits that while allowing the said writ petition, this Court had set aside the impugned order therein and directed the respondents to consider the petitioner's promotion to the post of Additional Commissioner, HR and CE, for the year 2016-2017 and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of the order. Against the said order, the respondents therein filed a writ appeal in W.A.No.1870 of 2019, a Division Bench of this Court by judgment dated 05.07.2019, has dismissed the said writ appeal. Aggrieved by the same, the appellants therein preferred a S.LP before the



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Hon'ble Apex Court and the same was also dismissed on 14.10.2022.

Thereafter also the order dated 19.06.2017 passed by this Court in W.P.No.340 of 2017 was not implemented by the respondents. Meanwhile, the petitioner retired on 31st March 2023. Against the wilful disobedience of the respondents in implementing the order of this Court, the petitioner has constrained to file the present contempt petition on 06.09.2023.

3. On 03.11.2023, one Mr.K.Karthikeyan, the learned Government Advocate (HR & CE) appeared on behalf of the respondents and sought time to get instructions. On 17.11.2023, at the request of the learned counsel for the respondents', this case was posted to 15.12.2023 for compliance. Again, it was posted to 18.01.2024 under the caption 'for reporting compliance'. Again when this case was listed on 23.01.2024, this Court found that though sufficient time is granted, the order is not complied with or the respondents did not choose to file the counter affidavit also. Then, this case was adjourned to 06.02.2024 for filing counter-affidavit by the respondents and it is made it clear that if the counter affidavit is not filed, by the next date of hearing, the respondents shall appear before this Court personally along with the connected records. Thereafter, the respondents filed their counter-affidavit. On perusal of the counter-affidavit and the materials available on record, this Court *prima facie*



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satisfied that the respondents have committed contempt of the order of the Court and directed the Registry to issue Statutory Notice to the respondents, by an order dated 15.02.2024. Accordingly, on 15.03.2024, the respondents present before this Court.

4. After advancing the arguments by both sides, Mr.J.Ravindran, the learned Senior Counsel appearing for the respondents sought time for compliance. Accordingly, it was posted to 20.03.2024 for compliance of the order. On 20.03.2024, the learned Senior Counsel appearing for the respondents has placed a copy of G.O.(Ms).No.177, Tourism, Culture and Religious Endowments (RE 2-2) Department, dated 16.03.2024 before this Court stating that the order of the Court is complied with. But, on noticing the reasons stated in the said G.O., this Court expressed its displeasure towards the contents of the Government Order and accordingly, the learned counsel sought further time and accordingly, it was adjourned today.

5. Today (i.e) on 21.03.2024 the learned Senior Counsel appearing on behalf of the respondents has placed a copy of G.O.(Ms)No.180, Tourism, Culture and Religious Endowments (RE 2-2) Department, dated 20.03.2024, before this Court and he submits that by issuing the Government Order, the



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order of this Court is complied with in true letter and spirit and sought to close the contempt case.

6. This Court carefully perused G.O.(Ms)No.180, Tourism, Culture and Religious Endowments(RE 2-2) Department, dated 20.03.2024. It is stated that in the said G.O. that in compliance with the order dated 19.06.2017 in W.P.No.340 of 2017, the petitioner was promoted as Additional Commissioner with effect from 01.01.2017 and allowed to retire as Additional Commissioner with all monetary benefits by creating a supernumerary post from 01.01.2017 to 31.03.2023.

7. The learned counsel appearing for the petitioner also submits that by issuing G.O.(Ms) No.180, Tourism, Culture and Religious Endowments (RE 2-2)Department, dated 20.03.2024, the order of this Court in W.P.No.340 of 2017 has been complied with. But the learned counsel appearing for the petitioner sought direction to fix some time for payment of terminal benefits for which the petitioner is legally entitled to.



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8. In the contempt proceedings, this Court cannot issue any direction to the respondents, beyond the scope of order passed by this Court earlier.

However, this Court grants liberty to the petitioner to make an appropriate application to restore the contempt case, if his apprehension become true at the later point of time.

9. With respect to the contempt case, it is admitted fact that the respondents made every attempt to defeat the order of the Court. Though the special leave petition was dismissed by the Hon'ble Apex Court on 14.10.2022, till date, inspite of order of appearance of the respondents before this Court, they did not move their little finger to implead the order of this Court. After 1 and ½ years of dismissal of the SLP by the Hon'ble Apex Court, they passed G.O.(Ms)No.180, dated 20.03.2024 to implement the order of the Court to extend the benefit to the petitioner.

10. Undoubtedly, there is a delay of 1 ½ years in implementing the order of the Court without any reasonable cause. Whenever they want to implement it, it is not in compliance with the order of this Court in true letter and spirit. The order of this Court has to be complied with within the reasonable time, if no time is stipulated in the order. In the present case, this Court stipulated the



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time of eight weeks in the writ order. So, the respondents ought to have complied with the order within eight weeks from the date of a receipt of a copy in the order of SLP.

11. Under these circumstances, this Court is of the considered opinion that the respondents failed to comply with the order of the Court in true letter and spirit and as such, they are liable for punishment under the provision of the Contempt of the Courts Act, 1971.

12. At paragraph No.24 of the counter affidavit filed by the respondents, the respondents have tendered unconditional apology. But, on perusal of the entire averments made in the paragraph No.24, this Court is of the opinion that the apology tendered by the respondents is not bona fide. Accordingly, it is rejected.

13. At this stage, the learned Senior Counsel appearing for the respondents requested the Court that the respondents, who are personally present before this Court today are ready to tender their unconditional apology to this Court for the delay in implementing the order of the Court and requested to take a lenient view against them, instead of punishing them.



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14. The respondents, who are present before this Court tendered their unconditional apology and assured that they will be more vigilant in implementing the orders of this Court in future.

15. Considering the request of the learned Senior Counsel appearing for the petitioner and the unconditional apology tendered by the respondents before the Court and their assurance, in our considered view, it is appropriate to close the contempt petition by taking a lenient view towards the respondents.

16. Accordingly, this Contempt Petition is closed.

17. Consequently, connected sub applications are closed.

21.03.2024

Index:yes/no
Internet:yes/no
Speaking order/non speaking order
Neutral Citation:yes/no
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BATTU DEVANAND,J.

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