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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 307/2018**

**MINISTRY OF WORK, HOUSING & SUPPLY COOPERATIVE
HOUSE BUILDING SOCIETY LTD** Petitioner

Through: Mr. Gurpreet Singh & Mr. C. B.
Bansal, Advs.
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versus

**ASHOKTA TARNACHA (SECRETARY) SSR EDUCATIONAL &
WELFARE SOCIETY & ORS.** Respondents

Through: Mr. Pramod Gupta, Adv. with Ms.
Nandita Rathi, Ms. Saloni Narayan,
Ms. Adyanshi Kashyap & Ms. Nicole
Gomez, Advs.
M: 9991688829
Email: induslaw77@gmail.com

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

J U D G M E N T
16.04.2024

MINI PUSHKARNA, J:

1. The present petition has been filed alleging willful disobedience of the order dated 02nd September, 1999 passed in *W.P. (Crl.) No. 417/1999*, wherein statement had been made by the respondents that the premises shall not be used for the purposes other than running of a nursery school. The contempt has been alleged since the respondent-society is running the school till Standard 8th.



2. The facts relevant for the present case are as follows:-

2.1 The petitioner society was allotted 222 bighas 4 biswas of land at Village Mandawali Fazalpur (Trans-Yamuna), Delhi by Delhi Administration, Land Housing Department, Vikas Bhawan, New Delhi. Subsequently, perpetual lease dated 10th February, 1977 was executed in favour of the petitioner society, wherein the society popularly known as “Nirman Vihar” exists.

2.2 It is the case of the petitioner that the DDA did not handover complete possession of the land to the petitioner-society and had handed over only 203 bighas and 13 biswas. There was encroachment on 18 bighas 11 biswas of land. Neither the said encroachment was removed by DDA, or the land handed over to the society, nor was the cost refunded to the petitioner society.

2.3 Subsequently, DDA allotted the school plot situated at D Block adjoining D-276 and D-277 in the petitioner-society to the respondent no. 1 admeasuring 0.25 acres.

2.4 Being aggrieved by the aforesaid allotment of land to respondent, the petitioner-society filed a writ petition before this Court, being *W.P. (C) 5083/1997, inter-alia*, praying for cancellation of the allotment made in favour of the respondent. An interim order dated 8th October, 1998 came to be passed in favour of the petitioner, which continued till 8th January, 1999, when the same was vacated.

2.5 Thereafter, the respondent sought to undertake construction of the school. Since there was obstruction to the construction of the said school building, respondent no. 1 filed a criminal writ petition bearing *W.P. (Crl.) No. 417/1999*, praying for directions to the local police to provide adequate



security to the respondent no. 1 herein for construction of the school.

2.6 The said criminal writ petition was disposed of vide order dated 02nd September, 1999, by recording the statement on behalf of respondent no. 1 herein that the premises shall not be used for purpose other than nursery school.

2.7 The aforesaid writ, i.e., *W.P.(C) 5083/1997* was ultimately dismissed vide order dated 27th April, 2009, thereby rejecting the prayer of the petitioner for cancellation of allotment of land in favour of the respondent.

2.8 Some of the residents of the area residing nearby the land allotted to respondent no. 1 filed a writ petition, being *W.P. (C) No. 4735/2000*, alleging use of land by the respondents in violation of the provisions of the Master Plan. The said petition was dismissed vide order dated 23rd October, 2002, thereby holding that the allotment of land to respondent no. 1 conforms to the layout plan of the area, as the same showed that a nursery school was provided on the land in question.

2.9 It is the case of the petitioner that the respondent no. 1 initially opened a nursery school on the allotted piece of land, but subsequently started running a school upto class 8th. Thus, as per the case put forward by the petitioner, the respondents have acted in violation of the order dated 02nd September, 1999, as the respondents had made statement that the allotted land shall not be used for any purpose, other than nursery school. Hence, the present petition has been filed.

3. Learned counsel appearing for the petitioner submitted that the respondent no. 1 has committed contempt of Court as the school is being run in complete contravention to the statement made on behalf of respondent no. 1. The respondent no. 1 opened the school in the name of KIDZEE and



projected it as a nursery school. However, the respondent no. 1 along with KIDZEE school, started “Mount Litera Zee School” having classes upto 8th Standard. Subsequently, the respondent no. 1 changed the name of the school from KIDZEE to Petals India’s Pre School Club.

4. As per the petitioner-society’s sanctioned layout plan, the site allotted by DDA to the respondent no. 1 is meant for nursery school only. However, the respondents have acted in violation of the order dated 2nd September, 1999 as the school has been upgraded from nursery till 8th Standard.

5. Per contra, learned counsel appearing for the respondents submitted that the present petition is barred by limitation, as the petitioners had knowledge of the middle school being run from the said premises since 2016, and even prior.

6. It was further submitted that vide order dated 27th September, 2013 issued by the Directorate of Education (“DOE”), Government of NCT of Delhi (“GNCTD”), land norms for schools established before 2010 on DDA land upto elementary level, were relaxed. Pursuant thereto, vide Communication dated 19th December, 2013, the school was granted provisional recognition for running classes from Class 1 to Class 8th. The DOE also granted permission to change the name of the school in question from Mount Litera Zee School to Petals World School, vide communication dated 22nd April, 2016.

7. It is further submitted on behalf of respondents that the law itself permitted the respondents to run the school upto 8th Standard. This position was not prevalent at the time when the order dated 2nd September, 1999 was passed.

8. I have heard learned counsel for the parties and have perused the



record.

9. The moot question to be decided by this Court is as to whether any contempt has been committed by the respondents in running a school upto 8th Standard at present, when a statement had been recorded on their behalf that the premises shall not be used for purposes other than the nursery school.

10. At the outset, this Court notes the stand of the respondents that at the time when the aforesaid statement was recorded in the order dated 2nd September, 1999, the respondent no. 1-society had been allotted 0.25 acres of land and as per the prevailing norms at that point of time, only a nursery school was allowed to be run on the said size of the plot.

11. Subsequently, the land norms for recognition of schools were changed by the DOE, wherein it was stated that for recognition purpose, the DOE need not strictly adhere to the DDA planning norms, and should have a measure of flexibility so as to cater to the growth needs of schools in the planned areas. The Minutes of Meeting held on 12th January, 2004 in this regard, as issued by DOE, reads as under:

**GOVERNMENT OF NCT OF DELHI
DIRECTORATE OF EDUCATION
OLD SECRETARIAT DELHI-110054**

**MINUTES OF THE MEETING HELD IN RAJ NIWAS ON 12
JANUARY, 2004 REGARDING LAND NORMS FOR
RECOGNITION OF SCHOOLS
BY THE DIRECTORATE OF EDUCATION**

A meeting was convened by the Hon'ble Lt. Governor to discuss The land norms to be followed by the Directorate of Education for grant of recognition to private schools.

The following were present:-

- 1. Minister of Education, Govt. of NCT of Delhi*



2. Secretary Education, Govt. of NCT of Delhi
3. Secretary to Lt. Governor
4. Commissioner (Land Disposal), Delhi Development Authority
5. Director of Education, Govt. of NCT of Delhi
6. Addl. Secretary to Lt. Governor
7. Commissioner (Planning), Delhi Development Authority.

That land norms of 1999 issued by the Directorate of Education, the new norms prescribed by the Directorate of Education in December 2002 and the land norms of CBSE affiliation of schools in Delhi, were discussed. It was felt that land being scarce and valuable commodity in Delhi, land norms for schools impact on several facets of basic education. In areas not planned by DDA, such as the walled city, the unauthorized colonies, the unauthorized regularized colonies etc., it was not feasible to have norms for recognition at par with those for planned areas. In the trans Yamuna very little land was available. In other areas, availability of land of the planned dimension was limited in many cases; it was difficult to come by parcels of land of the exact prescribed size. Large norms of land also implies that only the big and well endowed societies and trusts can come forward in the field of education, eliminating the smaller bodies, to the detriment of wider spread of education. Another corollary of high capital investment in land would be higher school fees which will have the effect of making education in the privately run institutions costly and less affordable. In view of these consideration both the existing land norms, in the DDA for planning purpose, and in the Education Dept. for recognition purpose need to be rationalized. A major rationalization was already effected on the planning side by reducing the land norms from 4 acres to 2 acres for Senior Secondary Schools; further rationalizations will be effected under the new Master Plan. For recognition purpose, the Directorate of Education need not strictly adhere to the DDA planning norms, and should have a measure of flexibility so as to cater to the growth needs of schools in the planned areas. In areas not planned by DDA such as the Special Area, unauthorized regularized colonies, rural areas etc., more realistic norms are called for.

After deliberations the following decisions were taken:-

- i) *In respect of areas other than those planned by the Delhi Development Authority, the Department of Education should follow the existing CBSE affiliation forms for recognition of schools upto secondary and Senior Secondary levels, which are as follows:*

- | | |
|--|----------------|
| ➤ Secondary School | 2000 Sq. Mtrs. |
| ➤ Senior Secondary School with 2 Streams | 3000 Sq. Mtrs. |



➤ *Senior Secondary School with all the 4 streams 4000 Sq. Mtrs.*

Further, in sue areas, the current land norms of 1000 Sq. Mtrs. for middle school was considered appropriate. The Education Department should accordingly follow this norm.

ii) The land norms laid down by the DDA for areas planned by it are planning norms and the Directorate of Education need not for purpose of recognition, strictly adhere to the condition of “level of school” put by the DDA in its lease deed. In order to encourage societies and trust to come forward for opening schools, the Directorate of Education may in areas planned by DDA, grant recognition on level above the level of school mentioned in the DDS's land lease and the letter of allotment. For example, if the DDA has allotted land for primary school and the land is sufficient as per land norms prescribed for recognition by the Directorate for middle level then recognition should be granted by the Directorate of Education upto middle level. Similar level jumping should be allowed for secondary and senior secondary schools in areas planned by DDA.

iii) Proposals on the above lines should be placed before the Delhi School Education Advisory Board for their recommendations, which should then, be put up to the Lt. Governor.

The meeting ended with a vote of thanks to the Chair.

F. 15/Act-/2004/2525-37

(RAJENDRA KUMAR)
DIRECTOR OF EDUCATION)
Dt. 1-3-04”

12. Subsequently, the DOE issued order dated 27th September, 2013 wherein the land norms for schools situated on DDA land upto elementary level, were relaxed from 1000 Sq. Meters to 800 Sq. Meters. The order dated 27th September, 2013 issued by DOE, reads as under:

**“GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI
DIRECTORATE OF EDUCATION
OLD SECRETARIAT, DELHI-110054**

No. 11145-11156

Dated 27.09.2013

ORDER



Subject: Relaxation of land norms for schools established before 01.04.2010 situated on DDA land upto elementary level.

The Lt. Governor of Delhi is pleased to grant relaxation of the land requirement norms for recognition of schools upto elementary level running on land allotted by the DDA and functioning as on the date of commencement of the Right of Children to Free and Compulsory Education Act, 2009 i.e. 01.04.2010 from the existing 1000 Sq. mtrs. to 800 sq. mtrs.

The grant of recognition will be further subject to the following conditions:-

- 1. The school will make provisions for the necessary infrastructure and comply with the provisions of the RTE Act, 2009 and the various instructions/directions issued under the provisions of the DSEAR, 1973.*
- 2. The classroom size shall be of the standard type and it should conform to all the infrastructural requirements.*
- 3. Relaxation of norms would be only upto elementary level and at no time school would be considered for upgradation to the secondary or senior secondary level.*

4. This relaxation shall not apply to the schools established after 01.04.2010.

5. All such schools desirous of seeking recognition under Right of Children to Free and Compulsory Education Act, 2009 are required to following the procedure as laid down below:-

(i) School shall submit an on line application in form 1 (C) on the official website of the Directorate of Education www.edudel.nic.in in three hard copies of the online application along with a demand draft in the name of Director of Education as procession fee of Rs. 500/- (Non-refundable) shall be submitted in the Office of the concerned Deputy Director of Education, Directorate of Education, GNCT of Delhi, along with the supporting documents, within 07 days of online submission of application.

(ii) The schools which fill in the online application and submit the hard copy of it along with the supporting documents shall be granted Certificate of Recognition by the Director of Education, GNCT of Delhi in Form IIA which shall be valid for one year or the order to the contrary is passed by the appropriate authority, whichever is earlier.

(iii) All such hard copies of the. application alongwith the connected documents shall be forwarded to the concerned Appropriate Authority to conduct inspection of the school within two months from the date of application, to confirm the claim of the school regarding conforming to the norms laid down in Schedule to Right to Education Act, 2009.



(iv) Therefore all the records of the school shall be kept ready and be made available to the Inspection team.

(v) The grant of certificate In Form IIA shall not validate any illegality under any provisions of law related to land matter and in case of any such illegality certificate shall be void ab-initio.

(vi) Such school which are granted certificate in From IIA will have to fulfill the conditions laid down in the certificate of recognition (provisional) and orders/instructions issued under the Delhi School Education Act, 1973 and Rules made there under except for condition of grant of Essentially Certificate, within a period of one year.

(vii) The schools which are found conforming to the norms and standards laid down in schedule to Right to Education Act 2009 shall be granted certificate of recognition In Form II by the appropriate authority.

(viii) The Appropriate Authority for grant of Recognition in Form II shall be the same as defined in Delhi School Education Act & Rules, 1973.

(ix) Relevant amendments of Delhi Right of Children to Free and Compulsory Education Rules are being notified separately.

This issues with approval of Competent Authority.

(Dr. Madhu Rani Teotia, IAS)
Addl. Director of Education (Act-I)

To,
All un-recognized schools in Delhi.

xxx xxx xxx”

13. Pursuant to relaxation in the land norms, the respondent no. 1-society was granted provisional recognition from Class 1st to Class 8th vide letter dated 19th December, 2013 issued by the DOE, which reads as under:

“FORM IIA
DIRECTORATE OF EDUCATION
GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
OLD SECTT., DELHI-110054
(ACT-I BRANCH)

No.F.DE.15/Act.I/Rec./MLZS/East/2013/12835-42 Dated: 19.12.2013

To

The Head of School/Manager,



*Mount Litera Zee School,
D-Block, Nirman Vihar,
Delhi-110092.*

Subject: Grant of Recognition up to Elementary level under Right of Children to free and Compulsory Education Act, 2009.

Sir/Madam,

With reference to your application dated 10-06-2013, I convey the grant of provisional recognition under Rule 14 of Delhi Right to Free and Compulsory Education Rules 2011 and amendment Rules 2013 to the Mount Litera Zee School, D - Block, Nirman Vihar, Delhi - 110092 (Name of the school with address) for Class Ist to Class VIIIth for a period of one year w.e.f. 01.04.2013 to 31.03.2014 or till the order to the contrary is passed by the appropriate authority, whichever is earlier.

The above provisional recognition is subject to fulfilment of following conditions:

- 01. The grant of provisional recognition does not in any way imply any obligation for recognition beyond class V/VIII.*
- 02. The School shall abide by the provisions of Right of Children to Free and Compulsory Education Act, 2009 and the Delhi Right of Children to Free and Compulsory Education Rules, 2011.*
- 03. The School shall admit in class I (or in entry class, as the case may be), to the extent of 25% of the strength of that class, children belonging to weaker section and disadvantaged group In the neighbourhood and provide free and compulsory elementary education till its completion.*
- 04. For the children referred to in paragraph 3, the School shall be reimbursed in accordance with the provisions of sub-section (2) of section 12 of the Act. To receive such reimbursements school shall maintain a separate bank account.*

xxx xxx xxx”

- 14. As per submission of learned counsel appearing for the respondents, the said recognition to the respondent no. 1 for running the school till**



Standard 8th has been continued, till date.

15. Perusal of the aforesaid facts and circumstances clearly depict that the respondents have been running the school in question till Class 8th after due and valid approval from the DOE in terms of the modified norms. Thus, when the respondents are entitled in law to do an act in terms of subsequent change in the norms, they cannot be said to have committed any contempt of Court merely on the basis of a statement that was made in the past in terms of the prevailing law situation at that point of time. There cannot be any estoppel against law and the respondents cannot be forced to continue to run only a nursery school, when the norms prevalent presently, allow running of the school till Standard 8th.

16. It has been held time and again that the ingredient of willful disobedience must be there, before anyone can be hauled up for the charge of contempt and if there is no conscious or willful disobedience, a case for contempt cannot be held to have been made out. Thus, delving on the issue of contempt, Supreme Court in the case of *Dinesh Kumar Gupta Versus United India Insurance Company Limited and Others*, (2010) 12 SCC 770, has held that although disobedience might have been established, absence of willful disobedience on the part of the contemnor, will not hold him guilty unless the contempt involves a degree of fault or misconduct. Thus, it has been held as follows:

“xxx xxx xxx

17. This now leads us to the next question and a more relevant one, as to whether a proceeding for contempt initiated against the appellant can be held to be sustainable merely on speculation, assumption and inference drawn from facts and circumstances of the instant case. In our considered opinion, the answer clearly has to be in the negative in view of the well-settled legal position reflected in a catena of decisions of this Court that contempt of a civil nature can be held to



have been made out only if there has been a wilful disobedience of the order and even though there may be disobedience, yet if the same does not reflect that it has been a conscious and wilful disobedience, a case for contempt cannot be held to have been made out. In fact, if an order is capable of more than one interpretation giving rise to variety of consequences, non-compliance with the same cannot be held to be wilful disobedience of the order so as to make out a case of contempt entailing the serious consequence including imposition of punishment. However, when the courts are confronted with a question as to whether a given situation could be treated to be a case of wilful disobedience, or a case of a lame excuse, in order to subvert its compliance, howsoever articulate it may be, will obviously depend on the facts and circumstances of a particular case; but while deciding so, it would not be legally correct to be too speculative based on assumption as the Contempt of Courts Act, 1971 clearly postulates and emphasises that the ingredient of wilful disobedience must be there before anyone can be hauled up for the charge of contempt of a civil nature.

xxx xxx xxx

23. Besides this, it would also not be correct to overlook or ignore an important statutory ingredient of contempt of a civil nature given out under Section 2(b) of the Contempt of Courts Act, 1971 that the disobedience to the order alleging contempt has to satisfy the test that it is a wilful disobedience to the order. Bearing this important factor in mind, it is relevant to note that a proceeding for civil contempt would not lie if the order alleged to have been disobeyed itself provides scope for reasonable or rational interpretation of an order or circumstance which is the factual position in the instant matter. It would equally not be correct to infer that a party although acting due to misapprehension of the correct legal position and in good faith without any motive to defeat or defy the order of the Court, should be viewed as a serious ground so as to give rise to a contempt proceeding.

24. [Ed.: Para 24 corrected vide Official Corrigendum No. F.3/Ed.B.J./146/2010 dated 14-12-2010.] . To reinforce the aforesaid legal position further, it would be relevant and appropriate to take into consideration the settled legal position as reflected in the judgment and order delivered in Ahmed Ali v. Supdt., District Jail [1987 Cri LJ 1845 (Gau)] as also in B.K. Kar v. High Court of Orissa [AIR 1961 SC 1367 : (1961) 2 Cri LJ 438] that mere unintentional disobedience is not enough to hold anyone guilty of contempt and although disobedience might have been established, absence of wilful disobedience on the part of the contemnor, will not



hold him guilty unless the contempt involves a degree of fault or misconduct. Thus, accidental or unintentional disobedience is not sufficient to justify for holding one guilty of contempt. It is further relevant to bear in mind the settled law on the law of contempt that casual or accidental or unintentional acts of disobedience under the circumstances which negate any suggestion of contumacy, would amount to a contempt in theory only and does not render the contemnor liable to punishment and this was the view expressed also in *State of Bihar v. Rani Sonabati Kumari* [AIR 1954 Pat 513] and *N. Baksi v. O.K. Ghosh* [AIR 1957 Pat 528] .

xxx xxx xxx”

(Emphasis Supplied)

17. Law is well settled that the Government authorities have a right to change their policy from time to time under the changing circumstances. Thus, if as per the changed norms, an act is allowed, a party cannot be held bound by an earlier norm, which already stands modified. Therefore, it cannot be held that the respondents are entitled to run only a nursery school as per the undertaking given before this Court in terms of the norms prevalent at that point of time, when the modified norms allow the respondents to run the school till 8th Standard.

18. Thus, Supreme Court in the case of *State of Punjab and Others Versus Ram Lubhaya Bagga and Others*, (1998) 4 SCC 117, has held as follows:

“xxx xxx xxx

23. The right of the State to change its policy from time to time, under the changing circumstances is neither challenged nor could it be.

xxx xxx xxx

25. Now we revert to the last submission, whether the new State policy is justified in not reimbursing an employee, his full medical expenses incurred on such treatment, if incurred in any hospital in India not being a government hospital in Punjab. Question is whether the new policy which is restricted by the financial constraints of the State to the rates in AIIMS would be in violation of Article 21 of the



Constitution of India. So far as questioning the validity of governmental policy is concerned in our view it is not normally within the domain of any court, to weigh the pros and cons of the policy or to scrutinize it and test the degree of its beneficial or equitable disposition for the purpose of varying, modifying or annulling it, based on howsoever sound and good reasoning, except where it is arbitrary or violative of any constitutional, statutory or any other provision of law. When Government forms its policy, it is based on a number of circumstances on facts, law including constraints based on its resources. It is also based on expert opinion. It would be dangerous if court is asked to test the utility, beneficial effect of the policy or its appraisal based on facts set out on affidavits. The court would dissuade itself from entering into this realm which belongs to the executive. It is within this matrix that it is to be seen whether the new policy violates Article 21 when it restricts reimbursement on account of its financial constraints.

xxx xxx xxx”

(Emphasis Supplied)

19. Likewise, holding that the Government has the power and competence to change the policy on the basis of ground realities, Supreme Court in the case of ***State of Madhya Pradesh Versus Narmada Bachao Andolan and Another, (2011) 7 SCC 639***, has held as follows:

“xxx xxx xxx

37. Thus, it emerges to be a settled legal proposition that the Government has the power and competence to change the policy on the basis of ground realities. A public policy cannot be challenged through PIL where the State Government is competent to frame the policy and there is no need for anyone to raise any grievance even if the policy is changed. The public policy can only be challenged where it offends some constitutional or statutory provisions.

xxx xxx xxx”

(Emphasis Supplied)

20. Therefore, if the prevalent norms entitle the respondents to run a school till Class 8th and the same is being done by the respondents legally and validly, after due approval from the DOE, no case of contempt can said to lie against the respondents.



21. This Court also notes the submission made by the respondents in their additional affidavit, which reads as under:

“xxx xxx xxx

9. I state that the recognition so granted by Directorate of Education was as per the permissible and prevalent land norms, notified by Hon’ble Lieutenant Governor and various functionaries of Directorate of Education and Delhi Development Authority, in meeting dated 12.01.2004, wherein Directorate of Education was permitted to not to be bound by the terms of lease for the purpose of optimum utilization of resources. ***This position was not prevalent at the time when the statement was made by Ld. Sr. Counsel for Petitioner and order dated 02.09.1999 was passed by this Hon’ble Court, law and circumstances have thereafter changed, whereby new rights have been created, which were not even in existence in 1999.*** Thus, in view of the changed circumstances which were post 1999, Respondents were of the bonafide belief that it can run School upto VIIIth standard from the same land, for which the DOE itself has granted recognition in 2013.

10. I state that Respondents were under the bonafide belief that since the recognition of school upto Middle level is in accordance with law, its actions may not be considered as a willful and deliberate violation of Order of this Hon’ble Court. However, Respondents reiterate that they have the highest regards and respect for this Hon’ble Court and again tender our unconditional apology to this Hon’ble Court.

xxx xxx xxx”

22. Holding that it is only when a clear case of contumacious conduct, not explainable otherwise, arises that the contemnor must be punished, Supreme Court in the case of ***Debabrata Bandopadhyay and Others Versus State of West Bengal and Another, 1968 SCC OnLine SC 91***, has held as follows:

“xxx xxx xxx

9. A question whether there is contempt of court or not is a serious one. The court is both the accuser as well as the judge of the accusation. **It behoves the court to act with as great circumspection as possible making all allowances for errors of judgment and difficulties arising from inveterate practices in courts and tribunals.**



It is only when a clear case of contumacious conduct not explainable otherwise, arises that the condemner must be punished. It must be realised that our system of courts often results in delay of one kind or another. The remedy for it is reform and punishment departmentally. Punishment under the law of Contempt is called for when the lapse is deliberate and in disregard of one's duty and in defiance of authority. To take action in an unclear case is to make the law of contempt do duty for other measures and is not to be encouraged.

xxx xxx xxx”

(Emphasis Supplied)

23. This Court also notes that the present petition has been filed in the year 2018, while the documents on record clearly show that the petitioner has been in the knowledge that the respondents have been running the school till Class 8th, since the year 2015 and earlier. Various representations written by the petitioner-society from the year 2015 onwards are on record.

24. Thus, the letter dated 27th July, 2015 written by the petitioner-society regarding the respondents running the school upto Class 8th, is on record. Similarly, letter dated 17th January, 2016 issued by the petitioner-society with regard to running of middle school by the respondents, is on record. Likewise, letters dated 18th January, 2016 and 3rd October, 2016 written by the petitioner-society with regard to the respondents running a middle school, are also on record.

25. Accordingly, it is clear that the present petition is barred by limitation. Section 20 of the Contempt of Courts Act, 1971 clearly stipulates that no Court shall initiate any proceedings for contempt after the expiry of a period of one year from the date on which the contempt is alleged to have been committed. Thus, in the case of *Ajay Kumar Bhagat and Others Versus B.L. Sherwal and Another*, 2023 SCC OnLine Del 4636, a coordinate bench of this Court, has held as follows:



“xxx xxx xxx

24. Therefore, it is an established fact that the disobedience as required for initiation of contempt proceedings should be wilful disobedience. Before analyzing the instant case on the said parameter, it is pertinent to look whether the contempt proceedings are barred by limitation or not. Section 20 of the Contempt of Courts Act, 1971 provides for limitation on initiation of proceedings in following manner:

“20. Limitation for actions for contempt.—No court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.”

25. The said provision has been analyzed by Allahabad High Court in *Islamuddin v. Umesh Chandrara Tiwari*, 2009 SCC OnLine All 690 and it was held that the Court should not deal with the petition after expiry of one year from the date the contempt is alleged to have been committed. The relevant part of the judgment is reproduced herein:

“66. There is another reason for taking the above view. Section 29(2) of Act, 1963 provides that Sections 4 to 24 (inclusive) shall apply only in so far as and to the extent to which they are not expressly excluded by such special or local law. From the very reading of Section 20 of Act, 1971, we are of the view that it expressly excludes the power of the Court to condone delay in giving to itself jurisdiction to initiate proceedings for contempt after expiry of one year from the date the contempt is alleged to have been committed. Applicability of Section 5 of Act, 1963 to the bar contained in section 20 of Act, 1971 would make the mandate contained therein illusory for all purposes. Where the language of the statute is clear, it is not for the Court to interpret the provision of statute in a manner which would completely destroy the express provision of the statute. Reading Section 20 of Act, 1971 in consonance with Section 29(2) and 17 of Act, 1963, it can be said that it excludes the period taken beyond one year by a person in moving application, due to lack of information on account of the fraud played by the alleged contemnor and the benefit of Section 17 may be stretched to what extent as there is nothing contrary in Section 20 to exclude section 17 from its application but it does not mean that Section 5 can also be placed on the same pedestal since the purpose and object of Section 5 is totally different.”

26. In the case of *Yogesh P. Sukhanandi v. State of Gujarat*, 1995 SCC OnLine Guj 251, a Division Bench of the Gujarat High Court dismissed the petition on grounds of limitation and held as follows:



“6. Another aspect of the matter on which the applications are liable to be dismissed is that this Court while passing the order on 21-11-1991 has directed the authority to decide the application preferably on or before December 31, 1991. Both these applications are filed in the year 1993. Application No. 200/93 is filed on 20-12-1993 and rule came to be issued on 21-3-1994. Misc. C.A. No. 914/93 was filed on 18-1-1993 and rule came to be issued on 21-3-1994. In views of Section 20 of the Contempt of Courts Act, 1971, the court has no jurisdiction to take cognizance beyond one year of the act or omission committing or constituting contempt of the court. In view of these facts, both these applications are filed beyond the stipulated time. Hence this Court has no jurisdiction to take cognizance of the same.”

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32. One of the underlying principles behind insertion of limitation is to make the petitioners/aggrieved persons vigil about their rights so that they can act diligently and not sleep over their rights. In the instant case, the other aggrieved employees approached this Court immediately after non-compliance with the interim order, but the petitioners chose not to do so rather they kept on meddling between the respondent and the other authorities. Therefore, the petitioners in the instant case can be only termed as parties who did not exercise their right within the time as provided under Section 20.

33. In view of the above discussion, it is clearly established that the situation of the petitioners cannot be termed as an exceptional situation and is certainly barred by limitation of one year as provided under the Act.

34. Hence, the instant petition is liable to be dismissed on the ground of limitation as barred by Section 20 of the Act.

xxx xxx xxx”

26. In view of the aforesaid detailed discussion, no merit is found in the present petition. The same is accordingly dismissed.

**(MINI PUSHKARNA)
JUDGE**

APRIL 16, 2024/au/ak