



Cont.P.No.856 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Contempt Petition No.856 of 2024

Durgadevi Venkatesan
Panchayat President
Palayanur Village Panchayat
Palayanur Village and Post
Tiruvannamalai.

... Petitioner

VS.

Thiru Baskara Pandian, I.A.S.,
District Collector,
Thiruvannamalai District.

... Respondent

PRAYER: Contempt Petition is filed under Section 11 of the Contempt of Courts Act, to issue of contempt to the Respondent and punish the Respondent for contempt for wilful disobedience of the orders of this Court dated 21.09.2023 in W.P.No.24920 of 2023.



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For Petitioner : Mrs.AL.Gandhimathi
Senior Advocate
M/s.L.Palanimuthu

For Respondent : Mr.J.Ravindran
Additional Advocate General
Assisted by Mr.K.Tippu Sulthan
Government Advocate

ORDER

This Contempt Petition has been filed to punish the respondent for his alleged wilful disobedience of the order passed by this Court dated 21.09.2023 in W.P.No.24920 of 2023.

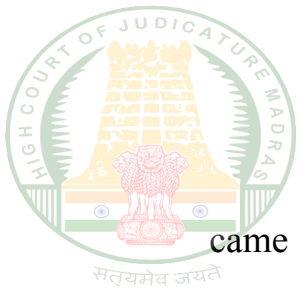
2. The petitioner herein filed the above writ petition challenging the order passed by the respondent dated 24.07.2023 withdrawing the cheque signing power available to her in her capacity as President of the Panchayat and transferring the said power in favour of concerned Block Development Officer, who was arrayed as 4th respondent in the writ petition. The above said writ petition was allowed by this Court on 21.09.2023 and order impugned therein was quashed. However, the respondent, who functioned as District Collector/Inspector of Panchayat of Thiruvannamalai District at that point of time, failed to implement the order passed by this Court by restoring the cheque signing power to the petitioner.



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3. It is stated by the petitioner that pursuant to the allowing of the writ petition, she made a representation to the respondent on 09.12.2023 requesting him to restore her powers to sign the cheques and other incidental financial powers in her capacity as President of the Panchayat. Though the said representation was received by the respondent as seen from the postal acknowledgment card dated 11.12.2023, the order passed by this Court has not been implemented and consequently, the cheque signing power has not been restored. Therefore, the petitioner issued a contempt notice on 20.01.2024 through her counsel requesting the respondent to restore the cheque signing power by implementing the order passed by this Court. The contempt notice issued by the petitioner's counsel was received by the respondent on 27.01.2024 as seen from the postal acknowledgment card. Even then, the order passed by this Court has not been implemented by restoring *status quo ante* (i.e., restoration of cheque signing power). Therefore, the petitioner was constrained to file the present contempt petition with the above said prayer.

4. It is seen from the papers that the contempt petition was presented before this Court on 19.02.2024. After numbering, the contempt petition



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came up for first hearing on 26.03.2024. On that day, Mr.N.Naveenkumar,

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learned Government Advocate had taken notice for the respondent and sought time to get instructions. At his request, the matter was adjourned to 26.04.2024. On 26.04.2024, at the request of learned counsel for the respondent, the matter was adjourned to 14.06.2024. On that day, again, at request of the learned counsel for the respondent, the matter was adjourned to 21.06.2024. On 21.06.2024 for the first time it was represented by the respondent's counsel that writ appeal had been preferred challenging the order passed in the writ petition and the same was yet to be numbered. Recording the same, the matter was adjourned to 12.07.2024. On 12.07.2024, it was represented on behalf of the respondent that the writ appeal was listed on 15.07.2024 for hearing. Therefore, the matter was again adjourned to 16.08.2024. On 16.08.2024, the matter was not listed and the matter was only listed on 19.08.2024. On that day, the matter was adjourned to 23.08.2024. On 23.08.2024 at request of learned counsel for the respondent, the matter was adjourned to 06.09.2024. On 06.09.2024 again at request of the learned counsel for the respondent, the matter was adjourned to 13.09.2024. On 13.09.2024, at request of learned counsel for the respondent, the matter was adjourned to 30.09.2024. On 30.09.2024, it



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was informed by the learned Additional Advocate General appearing for the respondent that the writ appeal filed against the order passed in main writ petition was numbered as W.A.No.2846 of 2024 and notice had been ordered to the respondent therein. Recording the same, the matter was adjourned to 19.10.2024. On 19.10.2024, this Court passed the following order:-

“It is seen from the records the contempt petition has been pending from 26.03.2024 and inspite of several adjournments, the respondent has not filed his counter affidavit till date. Though it is stated that writ appeal has been filed in W.A.No.2846 of 2024, no stay order has been produced. In such circumstances, the Registry is directed to issue statutory notice to the respondent, returnable by four weeks.

2. List the matter after four weeks.”

5. On 26.11.2024, the respondent was present before this Court and he also filed counter affidavit dated 18.11.2024. In the counter affidavit filed by the respondent, it is stated that writ appeal filed against the order passed in main writ petition was admitted and notice was ordered to the respondent therein. It was also stated that the respondent sought for stay of



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the order and necessary steps would be taken to list the writ appeal for hearing and to get necessary orders. It was further stated in the counter affidavit that the petitioner was removed from the post of Village Panchayat President by order passed by the respondent on 15.07.2024 in a proceeding initiated under Section 205 of the Tamil Nadu Panchayats Act, 1994 and the same was published in Government Gazette on 07.08.2024.

6. This Court after passing necessary orders to dispense with the personal hearing of the respondent, listed the matter for further hearing on 17.12.2024. On 17.12.2024 and 22.01.2025 at request of the learned Additional Advocate General appearing for the respondent, the matter was adjourned. Subsequently, when the matter came up for hearing on 28.01.2025, the arguments of the learned Senior Counsel for the petitioner was heard and the arguments made by the learned Additional Advocate General for the respondent was also heard in part and thereafter, at request of the learned Additional Advocate General, the matter was adjourned to 12.02.2025. Thereafter, the matter was listed on 19.02.2025, on that day, at request of the learned Government Advocate appearing for the respondent, the matter was adjourned to 25.02.2025 for arguments. On 25.02.2025, the



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arguments of the learned counsel for both the parties were heard and the matter was adjourned to 04.03.2025 for appearance of the respondent. On 04.03.2025, the respondent appeared in person before this Court and filed an affidavit dated 03.03.2025 and the same was taken on record. The further arguments of the learned Senior Counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondent were heard.

7. It is seen from the sequence of events mentioned above, though the order was passed by this Court quashing the order impugned in the writ petition withdrawing the cheque signing power of the petitioner on 21.09.2023, the respondent failed to implement the order upto 15.07.2024, the date on which the petitioner was removed from the post of President of the Panchayat. It is also seen from the records, the contempt notice was issued by the petitioner's counsel and the respondent received the same on 27.01.2024 and even thereafter, the respondent has not implemented the order. The contempt petition came up for first hearing on 26.03.2024 and that day, the learned Government Advocate took notice for respondent and thereafter, it was listed on 26.04.2024. On that day, at request of learned

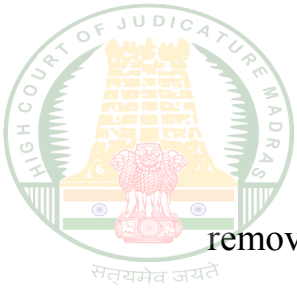


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counsel for the respondent, the matter was adjourned. Only thereafter, on 30.04.2024, the respondent filed writ appeal challenging the order passed in the main writ petition. Therefore, it is clear that the respondent has not challenged the order passed in the main writ petition till the second hearing in the contempt petition.

8. In other words, the appeal stated to have been presented on 30.04.2024 nearly after 35 days from the date of receipt of notice in contempt petition. The respondent neither complied with the order passed by this Court nor challenged it by filing writ appeal till second hearing in the contempt petition. It is seen from the records, the writ appeal was filed with a delay, after condonation of the delay, the writ appeal stated to have been numbered and notice was ordered to the respondents therein somewhere in September-2024. It is undisputed fact that the respondent has not obtained any order of stay from the Division Bench in the writ appeal filed by him.

9. In the meantime, the respondent proceeded with proceeding initiated under Section 205 of the Tamil Nadu Panchayats Act, 1994 and



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removed the petitioner from the post of Village Panchayat President by order dated 15.07.2024. Therefore, it is clear that the respondent had opportunity to comply with the order passed by this Court from 21.09.2023 till the removal of the petitioner from the post namely 15.07.2024. In the affidavits dated 18.11.2024 and 03.03.2025, the respondent has not given any explanation for his failure to comply with the order passed by this Court from 21.09.2023 to 15.07.2024, when he had an opportunity to comply with the same.

10. The sequence of events narrated above make it clear that the respondent had no intention of complying with the order passed by this Court. The act of filing writ appeal with delay after receipt of notice in contempt petition and his failure to comply with the order passed in writ petition for several months only underlines the intention of the respondent to float the order passed by this Court. When this was pointed out to the learned Additional Advocate General appearing for the respondent in the hearing dated 25.02.2025, the respondent came up with an affidavit dated 03.03.2025 tendering unconditional apology for his failure to implement the order passed by this Court in the main writ petition.



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11. If the respondent has got any grievance with the order passed by this Court, he should have filed writ appeal immediately or atleast within the time allowed by law or atleast within the reasonable period. In the case on hand, the respondent has not chosen to challenge the order passed by this Court till the second hearing in the contempt petition. After two hearings in the contempt petition, wisdom suddenly dawned upon the respondent to challenge the order passed by this Court. His failure to challenge the order till the second hearing in the contempt petition only underlines lack of will on the part of the respondent to comply with the order passed by this Court. This Court expresses its displeasure in the way in which the respondent has failed in his duty towards court orders.

12. At the time of argument, it was submitted by the learned Additional Advocate General appearing for the respondent that once writ appeal is numbered, the Single Judge cannot take up the contempt petition and therefore, the contempt petition needs to be closed. He also relied on the judgment passed by this Court in ***Ponnuthai vs. V.M.Xavier Chrisso Nayagam, I.A.S.***, reported in ***2017 SCC Online Mad 37725***.



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13. The learned Senior Counsel appearing for the petitioner would submit that in the absence of stay by the Division Bench, there may not be any impediment for the Single Judge to proceed with the contempt petition and the respondent is duty bound to implement the order. In support of her condition, the learned Senior Counsel relied on the judgment of the Division Bench of this Court in ***M.Silamparasan vs. Nandakumar, I.A.S., in Contempt Petition No.914 of 2019, dated 18.07.2019.***

14. The issue with regard to the maintainability of the contempt petition in the absence of any stay by Appellate Court came up for consideration before the Division Bench of this Court in ***R.N.Manikandan vs. Franciscan Sisters of St. Joseph*** reported in ***(2018) 5 MLJ 641 : MANU/TN/2897/2018***. The relevant observation of the Division Bench reads as follows:-

“43. This decision relied on by the learned counsel for the respondent squarely applies to the facts of the present case. In this case, during the pendency of the writ appeal, particularly when only notice was ordered by the Division Bench in the petition for interim stay, we are of the view that



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the appellant ought to have complied with the order of the learned single Judge instead of waiting for the disposal of the writ appeal. Further, the Writ Appeal itself was ultimately disposed of by the Division Bench by upholding the order passed by the learned single Judge on 07.06.2017 without interfering with the same. In such circumstances, merely because the appellant has filed W.A. No. 670 of 2017, it will not absolve him of his failure to comply with the directions issued by the learned single Judge on 07.06.2017. In this context, reference can be made to the decision of the Honourable Supreme Court in the case of (Dr. H. Phunnndre Singh and others vs. K.K. Sethi and another) reported in MANU/SC/1321/1998 : (1998) 8 Supreme Court Cases 640 wherein it was held as follows:-

“2. In our considered view, in the facts of the case, particularly when the order passed by the learned single Judge of the High Court was not stayed by the Division Bench, the contempt petition should have been disposed of on merits instead of adjourning the same till disposal of the appeal, so that question of deliberate violation of the subsisting order of the Court is considered and enforceability of the Court's order is not permitted to be diluted. In the facts of the case, we feel that the contempt petition should be disposed of within a period of three months from the date of the communication of



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this order and we order accordingly. It is further directed that before disposal of the contempt petition, the pending appeal should not be taken up for hearing. The appeal is accordingly disposed of.”

44. The above decision of the Honourable Supreme Court would squarely apply to the facts of the present case, In this case also, in the writ appeal preferred by the appellant before the Division Bench of this Court, along with an application for interim stay, the Division Bench did not grant interim stay. While so, the appellant ought to have complied with the order passed by the learned single Judge of this Court without waiting till the disposal of the petition for interim stay. Mere pendency of writ appeal, especially when there was no interim stay granted, will not be a ground for non-compliance of the order passed by the learned single Judge.

45. It is needless to mention that the scope of appeal is different from that of the contempt proceedings. The appeal filed by an appellant will result in either upholding the order of the learned single Judge or reversing or modifying it. Even assuming that the order of the learned single Judge is reversed by the Division Bench, still the appellant can be proceeded with contempt proceedings for violation or disobedience of the order passed by the learned single Judge in the absence of any



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interim stay having been granted by the appellate Court. The scope of contempt proceedings is to ensure that stream of justice in the Country remains pure, that it's course is not hindered or obstructed by any one in any manner.”

15. In the above mentioned case law, the Division Bench relied on the judgment of the Apex Court in ***H. Phunindre Singh and others vs. K.K. Sethi and others*** reported in ***(1998) 8 SCC 640***, wherein it was categorically held when order of the Single Judge of the High Court was not stayed by the Division Bench, the contempt petition shall be disposed of on merits instead of adjourning the same till the disposal of the appeal. In the light of the law settled by the Apex Court in ***H. Phunindre Singh*** case cited supra and order of Division Bench of this Court in ***R.N.Manikandan*** case mentioned above, the argument made by the learned Additional Advocate General appearing for the respondent that filing of writ appeal by the respondent would relieve the respondent of the contempt proceedings is rejected. Mere filing of the appeal would not amount to automatic stay of the order passed by this Court in writ petition.

16. This Court would like to refer to the latest judgment passed by the



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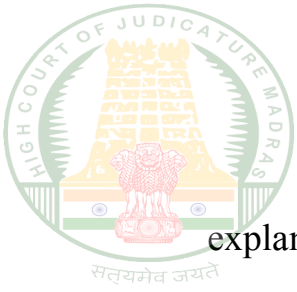
Apex Court in *Smt.Lavanya C and another vs. Vittal Gurudas Pai* reported in **2025 INSC 325**, and *Samee Khan vs. Bindu Khan* reported in **(1998) 7**

SCC 59, wherein the Apex Court observed that even if the order of injunction passed by the Court is set aside in appeal, the failure of the respondent to comply with the order during which it was in force would amount to wilful disobedience.

17. In the light of the law settled in the above mentioned cases, in the absence of stay by the Division Bench, the contempt petition filed by the petitioner can be heard and disposed on merits.

18. In view of the subsequent development, namely the removal of the petitioner from the post of President of the Panchayat, as on today, the respondent has no opportunity to comply with the order. However, we have to see whether the failure of the respondent to comply with the order passed by this Court from 21.09.2023 to 15.07.2024, when he had an opportunity for implementing the order, would amount to wilful disobedience of the order passed by this Court.

19. As mentioned earlier, the respondent has not offered any



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explanation for his failure to comply with the order passed by this Court during the above mentioned period (21.09.2023 to 15.07.2024), during which he had opportunity to comply the order. The act of non-compliance continued inspite of receipt of petitioner's representation dated 09.12.2023 and contempt notice by her counsel dated 20.01.2024. As mentioned earlier, he filed Writ Appeal only after second hearing in the contempt petition. Therefore, this Court holds that the respondent has committed a wilful disobedience to the order passed by this Court.

20. In the affidavit filed by the respondent dated 03.03.2025, he tendered his unconditional apology for his failure to comply with the order and it was also stated that as a reparation for not having complied with the order passed by this Court, he had paid a sum of Rs.25,000/- to the Cancer Institute (WIA), Regional Cancer Centre, Adyar, Chennai on 28.02.2025. The relevant averment in the affidavit is extracted below:-

“8. I humbly submit that during the last hearing i.e. on 25.02.2025, an unconditional apology was sought for on behalf of the Respondent in view of the non-compliance of the order passed by this Hon'ble Court. I further submit that it was also volunteered on behalf of the Respondent that the



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Respondent will pay some reparation for not having complied with the solemn orders of this Hon'ble Court.

9. I humbly submit that in pursuance of the same, the Respondent has paid a sum of Rs.25,000/- (Rupees twenty-five thousand only) to the Cancer Institute (WIA), Regional Cancer Centre, Adyar, Chennai, on 28.02.2025 and the proof of said payment has been enclosed along with this affidavit.

10. I humbly submit that the non-compliance of the order dated 21.09.2023 made in W.P.No.24920 of 2023 is neither wilful nor wanton but due to the reasons stated in the foregoing paragraphs.”

21. The respondent also appeared in person on 04.03.2025 and tendered his apology for his failure to comply with the order passed by this Court. In view of the unconditional apology tendered by the respondent in person and through affidavit and also the fact that as an act of reparation he paid a sum of Rs.25,000/- towards a noble cause, this Court is inclined to take liberal view of the matter.

22. In this context, this Court would like to emphasis that the courts are respected not because of its power to punish for contempt, but because

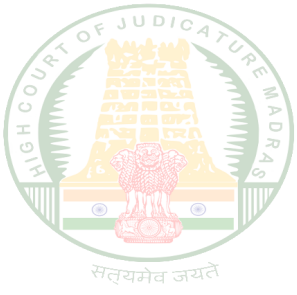


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of its ability to undo injustice. The respondent herein realised his mistake and expressed unconditional apology. Therefore, this Court decides to close this contempt petition by accepting unconditional apology tendered by the respondent, however, with a rider, any violation in future will be viewed very seriously.

23. Before parting with this petition, I would like to add that the narration of the events in this case make it clear, the officials are not properly sensitised in respect of their duty towards the courts as a litigant, while implementing the orders. If a party to a *lis* has got any grievance with the order, he can challenge the same in the manner known to law within time allowed by law of limitation. If it is not challenged, he owes a duty to implement the order in its letter and spirit. Aggrieved party cannot take his own time and file appeal after receipt of notice in the contempt petition and make an attempt to dilute the proceedings initiated by this Court. Therefore, the Registry is directed to forward the copy of this order to the Chief Secretary, Government of Tamil Nadu, who in his capacity as first among the Officialdom of the State has to take a call, as to the manner in which the Officials have to be sensitised with regard to their duty towards the court.



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12.03.2025

Index :Yes
Speaking order :Yes
Neutral Citation :Yes
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Note: The Registry is directed to mark a copy of this order to the Chief Secretary, Government of Tamil Nadu, Secretariat, Chennai-600009.



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S.SOUNTHAR, J.

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