



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

COCP-1425-2025 (O&M)
Reserved on : 28.10.2025
Pronounced on: 27.11.2025
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Inderbir Kaur

....Petitioner

V/s

Sh. Kamal Kishore Yadav

....Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by: Mr. Kamal Sehgal, Senior Advocate with
Mr. Chiranji Lal, Advocate and
Mr. Ravinder Pankaj, Advocate, for the petitioner.
Mr. Sourav Verma, Addl. Advocate General, Punjab.

VIKRAM AGGARWAL, J.

The instant contempt petition has been preferred under Sections 11 and 12 of the Contempt of Courts Act, 1971 (hereinafter referred to as the “1971 Act”) read with Article 215 of the Constitution of India alleging violation and disobedience of directions issued vide judgment/order dated 25.04.2024 (Annexure P-1) passed in CWP-9348-2017 titled as ***Inderbir Kaur vs. State of Punjab and others.***

2. The petitioner (Inderbir Kaur) was working as a Lecturer of Geography in Government College, Mohali. She had initially joined as a Lecturer in Shaheed Bhagat Singh Municipal College, Kotkapura on 12.08.1983. The said college was taken over by the Government of Punjab vide notification dated 12.05.1997. The petitioner was, therefore, granted benefit of her previous service towards her pay fixation and grant of leave etc.

3. She applied for and was granted Ex-India Leave w.e.f. 29.04.2008 to 28.07.2008 as a result of which, she proceeded to Canada. It is her case that she developed medical problems in Canada and applied for

extension of leave. The same was, however, rejected. Charge-sheet dated 24.07.2009 was thereafter issued to her for alleged unauthorized absence from duty w.e.f. 29.07.2008. She submitted her resignation on 02.11.2011, pursuant to which, she received a letter dated 11.07.2013 requiring her to deposit her salary for three months. She deposited Rs.1,65,447/- on 14.08.2012. Despite the same, her resignation was not accepted and on the contrary, an enquiry was conducted against her and vide order dated 18.10.2016, she was dismissed from service.

4. She instituted CWP-9348-2017 which was disposed of by a coordinate Bench vide judgment/order dated 25.04.2024;

9. Having considered the facts and circumstances of the case, the punishment appears to be harsh and disproportionate to the alleged misconduct, moreso, given the long length of service rendered by the petitioner and it being satisfactory, since nothing was placed on record to prove otherwise, thereby shocking the conscience of this Court.

10. Sequentially, the impugned order of dismissal dated 12.10.2016 is set aside and the competent authority is directed to revisit the quantum of punishment and so as to balance equities, the amount of Rs.1,65,447/- be refunded, without interest, but forthwith."

5. It is the case of the petitioner that despite the order of dismissal having been set aside and the matter having been remitted to the respondents for revisiting the quantum of punishment, the respondents reiterated the same punishment vide order dated 21.01.2025 (Annexure P-5), leading to the filing of the instant contempt petition.

6. The respondents submitted a reply by way of affidavit of the Secretary to Government of Punjab, Department of Higher Education. It has been averred that in compliance of the order dated 25.04.2025 passed in CWP-9348-2017, the case of the petitioner was revisited and communications dated 04.07.2024 and 05.08.2024 were issued to the petitioner whereby, she was called upon to submit certain documents viz. copy of passport, type of visa and travel history, old medical records of India and foreign, copy of the medical certificate issued by the Medical Board. It

has been averred that in reply to the aforesaid communications, the

petitioner submitted some documents i.e. copy of passport, copy of OCI (Overseas Citizen of India), copies of medical records from India and Canada and medical certificate etc.

7. It was averred that on thorough examination of the documents submitted, it emerged that the petitioner was already holding a permanent residency (PR) of Canada from 09.06.2005 i.e. even before she applied for the Ex-India Leave in 2008. However, she never informed the department about this fact. Nevertheless, an opportunity of hearing was granted to her on 17.09.2024, which the petitioner attended through video conference as she was living in Canada. During the hearing, it emerged that the petitioner had acquired Citizenship of Canada in 2013, which the petitioner admitted during the hearing. It was revealed that from the initial stage, the intention of the petitioner was *mala fide* and she did not have any intention to come back. It has been averred that on considering the new facts, which had emerged, the matter was reconsidered and it was decided that the punishment of dismissal was commensurate to the act of the petitioner. It has been averred that even while filing CWP-9348-2017, the petitioner represented herself as a citizen of India whereas, she had acquired Canadian citizenship in 2013 and even in the contempt petition, the position is the same. It has been averred that the sum of Rs.1,65,447/- was refunded to the petitioner and in so far as the punishment is concerned, the order of dismissal has been reiterated.

8. Learned counsel for the parties were heard.

9. Learned Senior Counsel for the petitioner strenuously urged that once the coordinate Bench had set aside the punishment of dismissal and had directed the respondents to revisit the same, there was no occasion for the respondents to reiterate the punishment of dismissal and this amounts to willful disobedience of the directions issued by the coordinate Bench. Learned Senior Counsel referred to the directions passed by the coordinate Bench and the speaking order passed by the respondents pursuant thereto. In support of his contentions, learned counsel placed reliance upon the

judgments of the Hon'ble Supreme Court of India in the case of ***Mohinder Singh Gill and others vs. Chief Election Commissioner, New Delhi and others, AIR 1978 SC 851, Ashok Paper Kamgar Union and others vs. Dharam Godha and others, (2003) 11 SCC 1, Anil Ratan Sarkar and others vs. Hiral Ghosh and others, (2002) 4 SCC 21, Jhareswar Prasad Paul and others vs. Tarak Nath Ganguly and others, (2002) 5 SCC 352 and Ram Kishan vs. Tarun Bajaj, (2014) 16 SCC 204.***

10. *Per contra*, learned State counsel, with equal vehemence, submitted that the petitioner not only misled and concealed vital facts from the Department but also from this Court. He referred to the speaking order and submitted that no willful disobedience of the directions passed by the coordinate Bench has been committed. It was also submitted that the only remedy with the petitioner is to assail the speaking order and not to institute the instant contempt petition.

11. I have considered the submissions made by learned counsel for the parties.

12. Concededly, the coordinate Bench had given a finding that the punishment appeared to be harsh and disproportionate to the alleged misconduct and under the circumstances, set aside the order of the dismissal. The matter was remitted to the competent authority and the competent authority was directed to revisit the quantum of punishment. Further, the amount of Rs.1,65,447/- was directed to be refunded forthwith.

13. The speaking order, vide which the punishment of dismissal has been reiterated, at the first blush, appears to have been passed in disobedience of the aforesaid directions, for, the order of dismissal had been set aside by the coordinate Bench. However, if one delves little deeper into the matter, it emerges that some new facts came to the notice of the respondents, which were not available with them when initially the enquiry had been conducted. The said facts were;

- i) The petitioner having obtained permanent residency of Canada since 2005 and, therefore, having concealed the said

fact from the respondents when she obtained Ex-India Leave in 2008;

ii) The petitioner having acquired citizenship of Canada in 2013;

iii) The petitioner never having returned to India after 2008 and

iv) The petitioner still being in Canada and having joined the personal hearing through video conference.

14. The respondents, therefore, revisited the matter and re-imposed the punishment of dismissal. In the considered opinion of this Court, this would not amount to willful disobedience of the directions passed by the coordinate Bench but would amount to the order having been passed on account of new facts emerging during the course of re-examination of the matter. The only recourse available to the petitioner, under such circumstances, is to, if so advised, avail remedies as admissible in law against the said order. It appears that a contempt petition has been instituted with a view to exert pressure on the respondents. It is reiterated that the provisions of the 1971 Act are not intended for such purpose and are intended to punish condemners for willful disobedience of the directions passed by the Court.

15. In the case of **Mohinder Singh Gill and others** (supra), the Hon'ble Supreme Court of India while examining the order dated 22.03.1977 passed by the Election Commission of India cancelled the polls which had taken place for Election from 13-Ferozepur Parliamentary Constituency and extended the time for completion of the elections up to 30.04.1977. Mohinder Singh Gill was one of the principal contestants. He pleaded with the Election Commission to reconsider its decision. The same was, however, declined. Under the circumstances, he moved the High Court under Article 226 of the Constitution of India. However, the High Court held that it had no jurisdiction to entertain the writ petition but also rejected the matter on merits. Mohinder Singh Gill and others approached the

Hon'ble Supreme Court of India. During the course of examination of the matter, the Hon'ble Apex Court observed that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. The endeavour of learned counsel for the petitioner was, therefore, to submit that once the coordinate Bench passed the order and had set aside the order of dismissal, the respondents could not have supplemented the speaking order 02.01.2025 with fresh reasons. In the considered opinion of this Court, this observation of the Hon'ble Apex Court would not be of any assistance to the petitioner, for, it was made from a different perspective in an entirely different controversy.

16. In the case of **Ashok Paper Kamgar Union** (supra), the Hon'ble Apex Court was examining as to what would be willful disobedience and it was held as under:

“17. Section 2(b) of Contempt of Courts Act defines 'civil contempt' and it means willful disobedience to any judgment, decree, direction, order, writ or other process of a Court or willful breach of undertaking given to a Court. 'Wilful' means an act or omission which is done voluntarily and intentionally and with the specific intent to do something the law forbids or with the specific intent to fail to do something the law requires to be done, that is to say with bad purpose either to disobey or to disregard the law. It signifies a deliberate action done with evil intent or with a bad motive or purpose. Therefore, in order to constitute contempt the order of the Court must be of such a nature which is capable of execution by the person charged in normal circumstances. It should not require any extra ordinary effort nor should be dependent, either wholly or in part, upon any act or omission of a third party for its compliance. This has to be judged having regard to the facts and circumstances of each case. The facts mentioned above show that none of the respondents to the petition can be held to be directly responsible if the Scheme which had been formulated by Government of India on 28.6.1996 and had been approved by this Court by the order dated 8.7.1996 could not be implemented in letter and spirit as many factors have contributed to the same. The reasons given for non inclusion of Shri Umadhar Prasad Singh in signing of the agreement appear to be quite plausible. NCFIL has undoubtedly not discharged its liability of making payment of its entire liability of Rs. 6 crores. However it has come out with a case that

some additional expenditure has been incurred in running the unit. It is not possible to get the complete financial picture only on the basis of the affidavits filed in the present petition. On the material on record, therefore, it is not possible to hold that the charge of having committed contempt of Court on account of alleged non-compliance of the orders passed by this Court on 8.7.1996, 1.5.1997 and 31.7.2000 has been established against any one of the respondents.

17. There is absolutely no quarrel with the aforesaid, however, this Court finds no willful disobedience to have been committed by the respondents. In fact, what would amount to 'willful disobedience' has been catching the attention of Courts for a long time.

18. Section 2(b) of the 1971 Act defines civil contempt and Section 2(c) defines criminal contempt. We are here dealing with civil contempt, which is defined in Section 2(b) of the 1971 Act;

2. Definitions.—In this Act, unless the context otherwise requires

(a) xxx xxx xxx

(b) "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;

xxx xxx xxx"

A perusal of the aforesaid shows that civil contempt means willful disobedience to any judgment/decreed/direction/order/writ or any other process of a Court of willful breach of an undertaking given to a Court. The provision, therefore, has two parts. The first part is disobedience or breach and second part is willful disobedience or a breach. It, therefore, means that the disobedience or breach should be willful. Whether a breach is willful or not, would have to be determined by the Court concerned.

19. A Division Bench of this Court traced the entire law on contempts in the case of **Court on its motion vs. N.S. Kanwar, 1995 (1) RCR (CrL.) 201;**

“12. The idea of contempt of court has emerged with the emergence of the rule of law and generally speaking any conduct that tends to bring the authority and administration of law into disrepute or disrespect or any act which interfere with the administration of justice is contempt of court.

13. In India the history of "law of contempt" can be traced as early as in 1560 (Mughal period). Instances can be found in Tabaquat quoted by sterling in "crime and punishment in Mughal India". While Akbar was on his way to Punjab, Shah Abdul Mohwali in Jagrana of Hajar wanted to salute him while seated on his horse. Akbar felt annoyed and handed him over to Shahabuddin Ahmed Khan to be kept in custody as a prisoner. In Kautilya's Arthasastra, details can be found regarding the theory of contempt of King and King's Council. Even judges who violated law were held liable for punishment. Kautilya was of the view that all persons who violated law were to be punished including who administer law and in fact in the later case the punishment would be mere severe.

14. Oswald in his work on 'contempt of Court' defines contempt as any conduct that tends to bring the authority and administration of law into dis-respect of disrepute or to interfere with or prejudice parties or their witnesses during litigation.

15. The law of contempt of court in the modern sense as developed in our country is on the pattern of English Law. Source to punish contempt was an inherent power in England with all the courts of record. As soon as the courts of record were established India under different charters, the power to punish contempt was necessarily given to these courts. When the Constitution of India came into force in 1950 some provisions relating to contempt matters were also included in it. The contempt of the Supreme Court and the High Courts as topics for legislation have been mentioned in the Union list and Concurrent List. In the year 1952, the Parliament enacted the contempt of Courts Act, 1952. After examining the law of contempt which developed during a period of almost two decades, the Parliament enacted the Contempt of Courts Act, 1971. Under the Act of 1971, the term 'Contempt' has been defined in section 2, while section 2(b) defines Civil Contempts, section 2(c) defines 'Criminal Contempt'. For the purpose of the present case, it is sufficient to make reference to section 2(a) and (b) of 1971 Act :-

"2. In this Act unless the context otherwise requires (a) 'Contempt of Court' means civil contempt or criminal contempt; (b) 'Civil Contempt' means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court." "The above quoted

definition is in consonance with the views expressed by the English and Indian Courts from time to time and the Parliament in India has tried to give a concrete shape to the law of contempt by enacting 'Contempt of Courts Act, 1971'. The object of contempt proceedings is primarily to protect the public confidence in the system of administration of justice.

16. In *Brahm Prakash Sharma v. State of U.P.*, AIR 1954 Supreme Court 10, the Hon'ble Supreme Court underlined the object of contempt proceedings in the following words :-

"The summary jurisdiction exercised by superior courts in punishing contempt of their authority exists for the purpose of preventing interference with the course of justice and for maintaining the authority of law as is administered in the courts. The object of contempt proceedings is not to afford protection to Judges personally from imputations to which they may be exposed as individuals, it is intended to be a protection to the public whose interests would be very much affected if by the act or conduct of any party, the sense of confidence which people have in the administration of justice by it is weakened."

17. In *Aligarh Municipal Board v. Ekka Tonga Mazdoor Union and others*, AIR 1970 Supreme Court 1767, the Supreme Court has observed as under :

"The contempt proceedings against a person who has failed to comply with the courts order serves a dual purpose; (1) vindication of the public interest by punishment of contemptuous conduct and (2) coercion to compel the contemner to do what the law requires of him."

18. In *Advocate General Bijar v. Madhya Pradesh, Khair Industries*, 1980(3) SCC 311, the Supreme Court held :-

"It may be necessary to punish as a contempt, a course of conduct which abuses and makes a mockery of the judicial process and which thus extends its pernicious influence beyond the parties to the action and affects the interest of the public in the administration of justice. The Court has the power to commit for contempt of court, not in order to protect the dignity of the Court against insult or injury as the expression "contempt of Court" may seem to suggest, but to protect and to vindicate the right of the public that the administration of justice shall not be prevented, prejudiced, obstructed or interfered with. "It is a mode of vindicating the majesty of law, in its active manifestation against obstruction and outrage."

19. *In Hedkinson v. Hedkinson, 1952(2) All England Reporter 567, it has been held :*

"It is the plain and unqualified obligation of every person against or in respect of whom the order is made by a court of competent jurisdiction to obey it unless and until the order is discharged. The uncompromised nature of this obligation is shown by the fact that it extends even to cases where the persons affected by the order believes it to be irregular or even void."

Again in Jennison v. Backer, AIR 1972(1) All England Reporter 997 Curtish Releigh, J. observed :-

"The law should not be seen to sit by simply, while those who defy it go free and those who seek its protection loose hope;"

In Bardkanta Mishra v. Bhimsen Dixit, AIR 1972 Supreme Court 2466, the Supreme Court observed as under :-

"The contempt of court is disobedience to the court by acting in opposition to the authority, justice, dignity thereof. It signifies a wilful disregard or disobedience dignity of the court's order. it also signifies such conduct as tends to bring the authority of the court and the administration of law into disrepute (vide 17 (Corpus Juris Secundum pages 5 and 6; Contempt by Edward N. Dancel (1939) End. page 14, Oswald's Contempt of Court (1910) Edn. pages 5 and 6)."

20. *These authorities clearly show that every one howsoever high he may be, is bound to carry out the courts order. The order passed by a court of competent jurisdiction is binding on all concerned. Those who disregard the Court's order, do so at their own peril. No one can think himself above the law and the court is under a duty to see that confidence of the public in the institution of courts is not shaken by the executive authorities by their disregard to the orders of the Court."*

20. In the case of **Dr. Iqbal Singh vs. Vikas Partap and another**, (COCP-1730-2017, decided on 18.09.2019), a coordinate Bench of this Court held that a Court must confine itself to the four corners of the directions issued and that the scope could not be enlarged. It was held that the onus was on the petitioner to prove willful disobedience and that a Court could not proceed on surmises and conjectures.

21. In **Niaz Mohammad and others vs. State of Haryana and others**, AIR 1995 SC 308, it was held by a Three Judges Bench of the

Supreme Court of India that before a contemner is punished for non-compliance of the directions of a Court, the Court must not only be satisfied about the disobedience but should also be satisfied that such disobedience was willful and intentional;

“9. Section 2(b) of the Contempt of Courts Act, 1971 (hereinafter referred to as 'the Act') defines "Civil contempt to mean "wilful disobedience to any judgment, decree, direction, order writ or other process of a court... Where the contempt consists in failure to comply with or carry out an order of a Court made in favour of a party, it is a civil contempt. The person or persons in whose favour such order or direction has been made can move the Court for initiating proceeding for contempt against the alleged contemner, with a view to enforce the right flowing from the order or direction in question. But such a proceeding is not like an execution proceeding under Code of Civil Procedure. The Party in whose favour an order has been passed, is entitled to the benefit of such order. The court while considering the issue as to whether the alleged contemner should be punished for not having complied and carried out the direction of the Court, has to take into consideration all facts and circumstances of a particular case. That is why the framers of the act while defining civil contempt, have said that it must be wilful disobedience to any judgment, decree, direction, order, writ or other process of a court, Before a contemner is punished for non compliance of the direction of a court, the court must not only be satisfied about the disobedience of any judgment, decree, direction or writ but should also be satisfied that such disobedience was wilful and intentional. The Civil Court while executing a decree against the judgment debtor is not concerned and bothered whether the disobedience to any judgment, or decree, was wilful. Once a decree has been passed it is the duty of the court to execute the decree whatever may be consequence thereof. But while examining the grievance of the person who has invoked the jurisdiction of the Court to initiate the proceeding for contempt for disobedience of its order, before any such contemner is held guilty and punished, the Court has to record a finding that such disobedience was wilful and intentional. If from the circumstances of a particular case, brought to the notice of the Court, the Court is satisfied that although there has been a disobedience but such disobedience is the result of some compelling circumstances under which it was not possible for the contemner to comply with the order, the Court may not punish the alleged contemner.”

22. In the backdrop of the statutory and legal position, as noted above and keeping in view the aforesaid discussion, this Court reiterates that there appears to be no willful disobedience of the directions passed by the writ Court by the respondents.

23. In view of the above, the instant contempt petition is found to be devoid of merit and is accordingly dismissed. The petitioner, would, however, be at liberty, if so advised, to avail all such remedies as shall be admissible in law for the redressal of her grievance qua the speaking order dated 02.01.2025.

Pending application(s), if any, shall also stand disposed of.

Pronounced on: 27.11.2025	(VIKRAM AGGARWAL)
vcgarg	JUDGE
Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No