A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.4710 of 2026
CNR No- ODHC010559672026

(In the matter of an application under Article 215 of the Constitution of India read with Sections 11 and 12 of the Contempt of Courts Act, 1971)

Prema Manjari Nayak **....** ***Petitioner (s)***

-versus-

Shri Doda Venkat Swamy, IAS, Principal Secretary to Govt. of Odisha, Labour & ESI Department, Bhubaneswar & Anr. **....** ***Opp. Party (s)***

Advocates appeared in the case through Hybrid Mode**:**

For Petitioner (s) : *Ms. Saswati Mohapatra, Adv.*

For Opp. Party (s) : *Ms. Gayatri Patra, ASC*

CORAM:
HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI
DATE OF HEARING:-08.09.2026
DATE OF JUDGMENT:-30.10.2026

Dr. Sanjeeb K Panigrahi, J.

1. The Petitioner, serving as the District Labour Officer, Bhadrak, has filed the present contempt petition alleging wilful disobedience of the interim order dated 12.12.2024 passed by this Court in W.P.(C) No.31364 of 2024 and seeking appropriate action against the Opposite Parties/Contemnors for non-compliance with the aforesaid order.

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I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are that the Petitioner had preferred W.P.(C) No. 31364 of 2024 challenging the order of transfer dated 09.12.2024 from Bhadrak to Kandhamal. The said order was challenged on the ground of her recent posting at Bhadrak. According to her, vide order dated 09.12.2024, she was directed to be transferred to Kandhamal after serving for only nine months at Bhadrak.

3. Be that as it may, on 12.12.2024, while considering the aforesaid writ petition, this Court, having regard to the submission advanced on behalf of the Petitioner that her transfer in the midst of the academic session was likely to prejudice the educational interests of her children, directed, as an interim measure, that the Petitioner shall not be disturbed pursuant to the order of transfer dated 09.12.2024 till the next date of listing. The said interim order was subsequently continued by order dated 07.01.2025.

4. The Petitioner has contended that, notwithstanding the aforesaid interim order and the pendency of the writ petition, the authority concerned, vide order dated 25.06.2026, once again directed her transfer, this time to Kendrapara.

5. Subsequently, by communication dated 17.07.2026, the Divisional Labour Commissioner, Kendrapara, addressed the Labour Commissioner, Odisha, regarding the non-relieving of the Petitioner and the applicability of the earlier interim order to the subsequent transfer.

6. Alleging that the issuance of the subsequent transfer order and the communication dated 17.07.2026 amounted to a breach of the interim order passed by this Court on 12.12.2024, the Petitioner has instituted the present contempt petition.

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II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

7. Learned counsel for the Petitioner earnestly made the following submissions in support of her contentions:

i) Learned counsel for the Petitioner submitted that notwithstanding the subsistence of the interim order dated 12.12.2024 passed by this Court and the pendency of the aforesaid writ petition, the Opposite Parties/Contemnors had once again directed the transfer of the Petitioner to Kendrapara vide order dated 25.06.2026. It was contended that the issuance of the subsequent transfer order, during the subsistence of the interim protection granted by this Court, constituted a clear violation of its order and rendered the Opposite Parties/Contemnors liable for contempt.

ii) Learned counsel for the Petitioner further submitted that the aforesaid action of the Contemnors demonstrated deliberate disregard of the order passed by this Court and undermined the authority of the judicial process, thereby occasioning a miscarriage of justice.

iii) It was further contended that the communication dated 17.07.2026 had been issued without authority and that the Contemnor concerned had sought to decide the issue in question while the writ petition remained pending before this Court, thereby overreaching its order. It was, therefore, contended that the conduct of the Contemnors warranted appropriate action in accordance with law.

iv) On the aforesaid premises, learned counsel for the Petitioner prayed that the contempt petition be allowed and appropriate action be

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taken against the Contemnors for the alleged violation of the order passed by this Court on 12.12.2024.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY(S)/ CONTEMNOR(S):

8. On the contrary, learned counsel for the Opposite Parties/ Contemnors made the following submissions:

(i) Learned counsel for the Opposite Parties/Contemnors submitted that the subject matter of the aforesaid writ petition was the order of transfer dated 09.12.2024, in respect of which this Court had granted interim protection vide order dated 12.12.2024, having regard to the fact that the transfer, at that stage, would have coincided with the academic session of the Petitioner's children. It was further submitted that more than one and a half years had elapsed since the passing of the interim order and that the circumstances which weighed with this Court while granting interim protection had since undergone a material change.

(ii) Learned counsel further submitted that the interim order was confined to the transfer order dated 09.12.2024 and could not be construed as imposing a perpetual restriction upon the authorities from issuing any subsequent transfer order. Referring to the communication dated 17.07.2026, it was contended that the subsequent transfer order dated 25.06.2026 had been issued on account of administrative exigencies, particularly having regard to the requirement of posting a District Labour Officer (Welfare) and a District Labour Officer (Enforcement) at Kendrapara. It was, therefore, submitted that the issuance of the subsequent transfer

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order in changed circumstances ought not to be construed as wilful disobedience of the order passed by this Court.

(iii) On the aforesaid grounds, learned counsel for the Opposite Parties/Contemnors prayed for dismissal of the present contempt petition.

IV. COURT'S REASONING AND ANALYSIS:

9. Heard learned counsel for the Petitioner and learned counsel appearing for the Contemnors and perused the materials on record.

10. At the outset, this Court considers it apposite to advert to the principles governing the exercise of contempt jurisdiction before proceeding to examine the facts and circumstances of the present case.

11. Section 2(b) of the Contempt of Courts Act, 1971 defines civil contempt as wilful disobedience of any judgment, decree, direction, order, writ or other process of a court, or wilful breach of an undertaking given to a court.

12. It is well settled that the jurisdiction in civil contempt is not attracted by every breach of a judicial order. What the law proscribes is wilful disobedience, which must be deliberate and intentional, with a conscious disregard of the authority of the Court. The order alleged to have been violated must be sufficiently clear and unambiguous to admit of no reasonable doubt as to the obligation imposed upon the alleged contemnor. The jurisdiction, being quasi-criminal in nature, requires the charge of contempt to be established beyond reasonable doubt. Where the order is reasonably capable of more than one interpretation, or where the act complained of does not fall plainly within its prohibition, the Court

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would ordinarily exercise restraint before invoking its power to punish for contempt.

13. In ***Ram Kishan v. Tarun Bajaj***[1], the Supreme Court, while examining the nature of contempt proceedings and the essential requirement of wilful disobedience, observed as follows:

> *"11. The contempt jurisdiction conferred on to the law courts power to punish an offender for his wilful disobedience/contumacious conduct or obstruction to the majesty of law, for the reason that respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen that his rights shall be protected and the entire democratic fabric of the society will crumble down if the respect of the judiciary is undermined. Undoubtedly, the contempt jurisdiction is a powerful weapon in the hands of the courts of law but that by itself operates as a string of caution and unless, thus, otherwise satisfied beyond reasonable doubt, it would neither be fair nor reasonable for the law courts to exercise jurisdiction under the Act. The proceedings are quasi-criminal in nature, and therefore, standard of proof required in these proceedings is beyond all reasonable doubt. It would rather be hazardous to impose sentence for contempt on the authorities in exercise of the contempt jurisdiction on mere probabilities. (Vide V.G. Nigam v. Kedar Nath Gupta [V.G. Nigam v. Kedar Nath Gupta, (1992) 4 SCC 697 : 1993 SCC (L&S) 202 : (1993) 23 ATC 400] , Chhotu Ram v. Urvashi Gulati [Chhotu Ram v. Urvashi Gulati, (2001) 7 SCC 530 : 2001 SCC (L&S) 1196] , Anil Ratan Sarkar v. Hirak Ghosh [Anil Ratan Sarkar v. Hirak Ghosh, (2002) 4 SCC 21] , Bank of Baroda v. Sadruddin Hasan Daya [Bank of Baroda v. Sadruddin Hasan Daya, (2004) 1 SCC 360] , Sahdeo v. State of U.P. [Sahdeo v. State of U.P., (2010) 3 SCC 705 : (2010) 2 SCC (Cri) 451] and National Fertilizers Ltd. v. Tuncay Alankus [National Fertilizers*

[1] (2014) 16 SCC 204.

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Ltd. v. Tuncay Alankus, (2013) 9 SCC 600 : (2013) 4 SCC (Civ) 481 : (2014) 1 SCC (Cri) 172] .)

12. Thus, in order to punish a contemnor, it has to be established that disobedience of the order is "wilful". The word "wilful" introduces a mental element and hence, requires looking into the mind of a person/contemnor by gauging his actions, which is an indication of one's state of mind. "Wilful" means knowingly intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. It excludes casual, accidental, bona fide or unintentional acts or genuine inability. Wilful acts does not encompass involuntarily or negligent actions. The act has to be done with a "bad purpose or without justifiable excuse or stubbornly, obstinately or perversely". Wilful act is to be distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It does not include any act done negligently or involuntarily. The deliberate conduct of a person means that he knows what he is doing and intends to do the same. Therefore, there has to be a calculated action with evil motive on his part. Even if there is a disobedience of an order, but such disobedience is the result of some compelling circumstances under which it was not possible for the contemnor to comply with the order, the contemnor cannot be punished. "Committal or sequestration will not be ordered unless contempt involves a degree of default or misconduct." (Vide S. Sundaram Pillai v. V.R. Pattabiraman [S. Sundaram Pillai v. V.R. Pattabiraman, (1985) 1 SCC 591] , Rakapalli Raja Ram Gopala Rao v. Naragani Govinda Sehararao [Rakapalli Raja Ram Gopala Rao v. Naragani Govinda Sehararao, (1989) 4 SCC 255 : AIR 1989 SC 2185] , Niaz Mohammad v. State of Haryana [Niaz Mohammad v. State of Haryana, (1994) 6 SCC 332 : AIR 1995 SC 308] , Chordia Automobiles v. S. Moosa [Chordia Automobiles v. S. Moosa, (2000) 3 SCC 282] , Ashok Paper Kamgar Union v. Dharam Godha [Ashok Paper Kamgar Union v. Dharam Godha, (2003) 11 SCC 1] , State of Orissa v. Mohd. Illiyas [State of Orissa v. Mohd. Illiyas, (2006) 1 SCC 275 : 2006 SCC (L&S) 122 : AIR

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2006 SC 258] and Uniworth Textiles Ltd. v. CCE [Uniworth Textiles Ltd. v. CCE, (2013) 9 SCC 753] .)

14. The aforesaid principles were reiterated by the Supreme Court in ***U.N. Bora v. Assam Roller Flour Mills Assn.***[2], wherein the Court, while examining the requirement of wilful disobedience and the limitations governing the exercise of contempt jurisdiction, observed as follows:

> *"8. We are dealing with a civil contempt. The Contempt of Courts Act, 1971 explains a civil contempt to mean a wilful disobedience of a decision of the Court. Therefore, what is relevant is the "wilful" disobedience. Knowledge acquires substantial importance qua a contempt order. Merely because a subordinate official acted in disregard of an order passed by the Court, a liability cannot be fastened on a higher official in the absence of knowledge. When two views are possible, the element of wilfulness vanishes as it involves a mental element. It is a deliberate, conscious and intentional act. What is required is a proof beyond reasonable doubt since the proceedings are quasi-criminal in nature. Similarly, when a distinct mechanism is provided and that too, in the same judgment alleged to have been violated, a party has to exhaust the same before approaching the court in exercise of its jurisdiction under the Contempt of Courts Act, 1971. It is well open to the said party to contend that the benefit of the order passed has not been actually given, through separate proceedings while seeking appropriate relief but certainly not by way of a contempt proceeding. While dealing with a contempt petition, the Court is not expected to conduct a roving inquiry and go beyond the very judgment which was allegedly violated. The said principle has to be applied with more vigour when disputed questions of facts are involved and they were raised earlier but consciously not dealt with by creating a specific forum to decide the original proceedings."*

[2] (2022) 1 SCC 101.

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15. The aforesaid observations reiterate the settled position that wilful disobedience is an essential ingredient of civil contempt. In determining whether such disobedience has occurred, the Court must have regard to the terms of the judicial direction, the nature of the alleged violation and the circumstances in which the act complained of was committed. Where the order is reasonably capable of more than one interpretation, the element of wilfulness cannot readily be inferred. The exercise of contempt jurisdiction, therefore, calls for considerable care and caution.

16. A second principle is equally well settled. In contempt jurisdiction, the Court is concerned with whether the order alleged to have been violated has been obeyed in its letter and spirit. It does not sit in judgment over the merits or legality of a subsequent administrative order merely because such order has been passed during the subsistence of an earlier judicial direction. If the subsequent order gives rise to a fresh grievance, the aggrieved party must seek its redress in an appropriate proceeding known to law. The jurisdiction in contempt cannot be converted into a forum for adjudicating the validity of such an order.

17. In ***Sudhir Vasudeva v. M. George Ravishekaran***[3], the Supreme Court, while considering the scope and limitations of contempt jurisdiction, observed as follows:

> *"19. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the*

[3] (2014) 3 SCC 373.

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same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. The Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or wilful violation of the same. Decided issues cannot be reopened; nor can the plea of equities be considered. The Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. "

18. Similarly, in ***J.S. Parihar v. Ganpat Duggar***[4], the Supreme Court held that where an administrative decision taken pursuant to judicial directions gives rise to a fresh cause of action, its correctness must be examined in appropriate proceedings. The Court further held that contempt jurisdiction cannot be invoked to undertake a fresh adjudication of the merits of such a decision or to issue further directions on that basis.

19. In the present case, the interim order dated 12.12.2024 must be construed within the confines of its express terms and the circumstances in which it came to be passed. The direction was specific, inasmuch as the Petitioner

[4] (1996) 6 SCC 291

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was not to be disturbed pursuant to the order of transfer dated 09.12.2024, whereby she had been posted to Kandhamal. The consideration that weighed with this Court was the likelihood of disruption to the academic session of the Petitioner's children. The order must, therefore, be understood in the context of the particular transfer then under challenge and the exigency that warranted interim protection.

20. It is made clear that the order did not confer upon the Petitioner an indefeasible right to remain posted at Bhadrak and did not impose a perpetual embargo upon the competent authority from reconsidering her posting in the future. Further, the order cannot be construed to restrain the authority from passing a fresh order of transfer in changed circumstances, subject to the subsisting judicial directions and the requirements of law. If this Court construes the interim order as an absolute prohibition against any future transfer, irrespective of its terms, purpose or circumstances, it would be to enlarge the command of this Court beyond what was directed and to attribute to it a restraint that it never expressed.

21. In the considered view of this Court, the subsequent transfer order dated 25.06.2026 cannot, on the face of it, be regarded as a mere reiteration or continuation of the earlier order dated 09.12.2024. It was issued more than eighteen months later, directing the Petitioner's posting to a different district, namely Kendrapara, and formed part of a wider administrative exercise involving the transfer and posting of several District Labour Officers. The communication dated 17.07.2026 further indicates that the subsequent transfer was sought to be justified on the ground of administrative exigencies, particularly the requirement of posting a

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District Labour Officer (Welfare) and a District Labour Officer (Enforcement) at Kendrapara.

22. Whether the administrative justification so advanced is genuine, necessary or legally sustainable falls within the domain of judicial review of the subsequent transfer order and cannot be adjudicated in the present contempt proceeding. The jurisdiction of this Court is confined to determining whether the issuance of the subsequent transfer order constituted wilful disobedience of the interim order dated 12.12.2024. A fresh administrative order may furnish a cause for independent challenge, but its mere issuance does not establish contempt of Court.

23. Upon a careful consideration of the terms of the interim order, the circumstances in which it was passed and the nature of the subsequent transfer order dated 25.06.2026, this Court is unable to conclude that the Contemnors have wilfully disobeyed the judicial direction. The essential element of civil contempt, therefore, remains unestablished.

24. Having said so, this Court cannot approve of the reasoning reflected in the communication dated 17.07.2026. The said communication proceeds on the premise that the interim order was in the nature of status quo ante and could not be permitted to operate in perpetuity. It further records that the circumstances which had occasioned the grant of interim protection no longer subsist. Both propositions betray a fundamental misconception of the nature and effect of a judicial order. An interim order cannot be recharacterized by the executive authority according to its own understanding, nor can its binding force be made contingent upon the authority's unilateral assessment that the circumstances justifying its

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grant have ceased to exist. So long as the order remains operative, its command binds those to whom it is addressed. If the circumstances have materially changed in the meantime, the proper course is to seek clarification, modification or vacation of the subsisting order from the Court that passed it. The executive cannot, by its own assessment of changed circumstances, assume unto itself the power to determine that a judicial order has outlived its efficacy. Until modified or vacated by the competent Court, the order must be obeyed in letter and spirit.

25. The discipline of the rule of law demands that an order of the Court be obeyed so long as it remains in force. The scope and duration of an interim order must be determined from its terms and the subsequent orders passed in the proceedings. Where any doubt arises concerning its operation, the authority concerned must seek appropriate clarification from the Court.

26. In the present case, the communication dated 17.07.2026 also records that the Petitioner had not been relieved from Bhadrak and that clarification had been sought regarding the effect of the earlier interim order. Although the reasoning adopted in the communication concerning the duration and effect of interim protection cannot determine the binding character of a judicial direction, the material on record does not establish deliberate disobedience of the specific restraint imposed by this Court. The subsequent transfer order related to a different posting and was not shown to have been issued merely to give effect to the earlier transfer order dated 09.12.2024.

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27. This Court, therefore, expects the authorities to remain mindful of their obligation to respect judicial directions and to seek appropriate clarification wherever any doubt arises concerning their scope or continuing operation. It must, however, be clarified that the present conclusion rests upon the distinct nature and grounds of the subsequent transfer order dated 25.06.2026. Had the said order merely reproduced or re-enacted the earlier transfer order dated 09.12.2024, notwithstanding the restraint imposed by this Court, the matter would have required a different consideration.

28. With the aforesaid caution, and having regard to the fact that the subsequent transfer order dated 25.06.2026 is a distinct administrative order based on separate grounds, this Court is unable to hold that wilful disobedience of the interim order dated 12.12.2024 has been established to the requisite standard.

29. The failure to establish contempt, however, does not foreclose the Petitioner's remedy against the subsequent order of transfer. She may be at liberty to challenge the same in an appropriate proceeding, including by seeking leave to amend W.P.(C) No. 31364 of 2024, in accordance with law. Correspondingly, the Opposite Parties are at liberty to seek vacation or modification of the interim order dated 12.12.2024 in the pending writ petition, if they consider that the circumstances so warrant. Any such application shall be considered independently, on its own merits and in accordance with law. It is made clear that this Court has expressed no opinion on the legality, validity or substantive merits of either order of transfer, all such questions being left open for adjudication in appropriate proceedings.

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V. CONCLUSION:

30. In the result, the CONTC is disposed of with the observations and liberty noted above. The contempt proceeding against the Opposite Parties/Contemnors is dropped.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 30TH October, 2026

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