

*CACP No. 28 of 2024 (O&M)
in COCP No. 2811 of 2024
in CWP No. 15149 of 2022*

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

**CACP No. 28 of 2024 (O&M)
in COCP No. 2811 of 2024
in CWP No. 15149 of 2022
Reserved on: 27.11.2024
Pronounced on: 07.1.2025**

Dr. Manish Bansal

.....Appellant

Versus

Subhash Chander Malik and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. Ankur Mittal, Addl. A.G., Haryana
Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana,
Mr. Saurabh Mago, DAG, Haryana
Ms. Kushaldeep K. Manchanda, Advocate and
Mr. Siddhant Arora, Advocate
for the appellant.

Mr. Ankur Sheoran, Advocate for
Mr. Samrat Malik, Advocate
for the respondents.

SURESHWAR THAKUR, J.

1. The instant appeal has been directed against the order dated 21.8.2024, as passed by the learned Contempt Bench of this Court in COCP No. 2811 of 2024.

Brief facts of the case.

2. The respondents herein, who were appointed as Laboratory Technicians (Malaria) by way of direct recruitment, had instituted CWP No. 15149 of 2022 before this Court with a prayer therein to direct the authorities concerned, to pay them the salaries from the date of their appointment, at par with the Laboratory Technicians, who became

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appointed by way of promotion, along with all arrears at the market rate interest.

3. During the pendency of the petition (supra), CWP No. 16100 of 1999 titled as Rajesh Kumar and others versus State of Haryana and others, filed by other recruited Lab Technicians (Malaria) became decided by this Court through an order made thereons on 18.4.2022, and, the LPA No. 949 of 2022 directed against the said order, became dismissed by this Court through an order made thereons on 18.1.2024.

4. Vide order dated 5.2.2024, CWP No. 15149 of 2022, preferred by the present respondents, was disposed by this Court. The relevant portions of the said order become extracted hereinafter.

“Counsel for the petitioners contends that the present writ petition may also be disposed of while directing the respondents to consider and decide the pending representation(s) of the petitioners in view of the decision taken by this Court vide judgment dated 18.04.2022 in CWP-16100-1999 which has been affirmed by the Division Bench in LPA No.949 of 2022.

Learned State Counsel has no objection to the prayer made by learned counsel for the petitioners.

Accordingly, with the consent of the parties and without commenting anything on the merits of the case, the present petition is disposed of with a direction to the Competent Authority-respondent No.3 to consider and decide the representation(s) of the petitioners in a time bound manner and preferably within a period of three months from the date of receipt of certified copy of this order.

Needless to mention that upon considering the said representation(s), if any amount is found due and payable to the petitioners, the same shall be disbursed in favour of the

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petitioners within a further period of three months ”

5. Since the order dated 5.2.2024 remained purportedly uncomplied, thereby the respondents herein preferred COCP No. 2811 of 2024, before this Court, with a prayer therein to initiate contempt proceedings against the contemnors concerned, thus on account of the appellant herein purportedly wilfully disobeying the order (supra) passed by this Court. It has been further alleged therein, that even after the passing of the order dated 5.2.2024, the respondents concerned have not complied with the directions of this Court, which amounts to wilful disobedience on their part.

6. The learned Contempt Court concerned, vide order dated 21.8.2024, passed the hereinafter order upon the COCP (supra).

“Considering the fact that directions to consider the claim of the petitioners was passed on 05.02.2024, a period of more than 6½ months has elapsed, thus, in case the compliance report is not filed within the aforesaid stipulated period, the officer concerned shall join the proceedings through video-conferencing and would be liable to pay litigation costs to the petitioners to the tune of Rs.50,000/- from his/her own pocket. ”

7. The order (supra), passed by the learned Single Judge (Contempt Court) has caused pain to the appellant herein and has led him to file thereagainst the instant appeal before this Court.

8. In pursuance to the said order, the appellant filed a status report, thus detailing therein that through a speaking order dated 22.8.2024 (Annexure R-1) passed by the competent authority concerned, the claim of the respondents herein has been rejected. Resultantly, there was no vestment in the present respondents to claim any right in terms of supra order, unless the speaking decision made on the representation (supra), thus was successfully challenged. Since the

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speaking decision made on the representation (supra), rather has remained unchallenged, thereby no right became vested in the present respondents to canvass the remedy of contempt.

9. On 18.11.2024, when COCP-2811-2024 listed for hearing before the learned Contempt Bench concerned, the following order was passed by the learned Contempt Bench concerned.

“On 16.09.2024, the respondents sought time for filing SLP and now, it has been informed that the same has been preferred only on 13.11.2024. Dr. Manish Bansal, Director General, Health Services, Haryana, who is present in person, submits that the same is likely to be taken up within a period of one week and thus, he prays for some time. List on 26.11.2024. In case of non-compliance, the respondents shall remain present in Court and the erring official would be liable to pay litigation costs to the petitioners to the tune of Rs.50,000/- from his/her own pocket.”

Submissions of the learned counsels for the appellant

10. The learned counsels for the appellant have argued before this Court that the Hon’ble Contempt Bench rather has exceeded its jurisdiction by imposing costs of Rs. 50,000/- that too, on the first date of hearing of the contempt petition. They further submit that the order imposing costs of Rs. 50,000/- is incidental to and/or is inextricably connected with an order qua the imposition of fine of Rs. 2,000/- as mandated in Section 12 of the Contempt of Courts Act, 1971. Therefore, it is argued, that the said imposed fine amount, that too at the very threshold of the contempt petition, thus tantamounts to the imposition of punishment, upon the present appellant. Resultantly, it is argued, that as such, the instant appeal is maintainable before this Court, and, that the impugned order dated 21.8.2024, as passed by the learned Single Judge, be quashed and set aside.

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11. The learned counsels further contend, that though the appellant had apprised the learned Contempt Bench qua the filing of SLP in Rajesh Kumar's case (supra) on 13.11.2024 vide Diary No. 54243 of 2024, and, moreover when the speaking order has also been passed on 22.8.2024 yet the learned Contempt Bench has directed the appellant to pay Rs. 50,000/-.

12. Reiteratedly, the learned counsels contend, with much vigour before this Court, that when as such the impugned order is proclived towards imposing punishment upon the contemnors, and, that too, without asking from the appellants rather a well reasoned explanation qua therebys compliance theretos thus wanting. Therefore, it is further argued, that since the appellants did have the supra permissible valid defence rather for accounting for the delay, if any, in the making of compliance to the order (supra). However, since the supra valid explanation has not been well considered. Consequently, it is argued that in a most slipshod and arbitrary manner, the learned Contempt Court, has proceeded to make the order (supra), which as stated supra, is proclived towards imposing punishment, upon the present appellants, besides therebys it intends to, without making the requisite discernments from the records, rather create a right in the respondent to seek enforcement of the order (supra), despite the same not being complyable at all.

13. In nutshell, the learned counsels for the appellant have argued, that therebys the instant case is covered within the domain of principle No. IV of the verdict made by Hon'ble Apex Court, in case

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titled as “**Midnapore Peoples’ Coop. Bank Ltd. And others V. Chunilal Nanda and others**” reported in **(2006) 5 SCC 399**. The said principle is extracted hereinafter.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of ‘jurisdiction to punish for contempt’ and therefore, not appealable under section 19 of CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under section 19 of the Act, can also encompass the incidental or inextricably connected directions.

14. In addition, the learned counsels for the appellant, have argued, that the instant case is not covered within the domain of principle No. V of the judgment (supra), as at the outset, the learned Contempt Court, did not decide any issue, nor made any decision on the merits of the dispute, wherebys alone the said decision was open to a challenge in an intra-court appeal, than in an appeal filed within the domain of principle No. IV.

15. The reason which the learned counsel for the appellant, thus assigns for making the above submission, is grooved in the factum that, since the pleadings were not complete at the stage of making of the order (supra). Therefore, only when the pleadings are complete, whereafters upon making well informed discernments of the pleadings, thus when subsequently a well informed decision or direction becomes passed, rather covering the merits of the dispute emerging amongst the parties. Resultantly therebys alone the impugned directions may have been covered within the ambit of principle No. V, as enclosed in **Midnapore Peoples’ Coop. Bank Ltd.’s** case (supra). Consequently,

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the learned counsels submit, that the instant case is not covered within the ambit of principle No. V, as enclosed in the judgment (supra) rendered by the Apex Court, rather the instant case is covered within the ambit of principle No. IV of the judgment (supra).

Submissions of the learned counsel for the respondents

16. On the other hand, the learned counsel appearing for the respondent has most vehemently contended, that the instant contempt appeal is not maintainable before this Court. In making the said submission, he refers to the provisions as embodied in Section 19 of the Contempt of Courts Act, 1971, (hereinafter referred to as ‘the Act of 1971’) provisions whereof becomes extracted hereinafter, wherein, it becomes mandated, that an appeal against an order passed by the Contempt Bench concerned, is maintainable, but yet only against such an order or a decision, as becomes made by the Contempt Bench concerned, whereby punishment for contempt becomes recorded.

“19. Appeals.—(1) An appeal shall lie as of right from any order or decision of the High Court in the exercise of its jurisdiction “to punish for contempt”—

(a) where the order or decision is that of a single judge, to a Bench of not less than two judges of the Court;

(b) where the order or decision is that of a Bench, to the Supreme Court:

Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.

(2) Pending any appeal, the appellate Court may order that—

(a) the execution of the punishment or order appealed against be suspended;

(b) if the appellant is in confinement, he be released on bail; and

(c) the appeal be heard notwithstanding that the appellant has

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not purged his contempt.

(3) Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2).

(4) An appeal under sub-section (1) shall be filed—

(a) in the case of an appeal to a Bench of the High Court, within thirty days;

(b) in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against.”

17. Furthermore, he also argues that since a reading of the impugned order, displays that no such order, thus becomes passed by the learned Contempt Court concerned, whereby but punishment has been imposed upon the contemnors. Resultantly, he argues that the instant appeal is not maintainable before this Court.

18. Furthermore, he argues that the supra order is only challengeable through a motion cast under Article 136 of the Constitution of India, becoming made before the Apex Court, than through the filing of the instant appeal before this Court.

19. In addition, he also submits that in the proceedings for contempt, the High Court is required to be deciding whether any contempt of Court is committed and, if so, what should be the punishment and the matter incidental thereto. He further submits, that the clear mandamus (supra) as embodied in the order rendered by this Court on 5.2.2024, did evidently become intentionally disobeyed. Therefore, he argues that through the making of the impugned operative part (supra), the learned Contempt Bench concerned, thus has remained within the frontiers of the jurisdiction conferred upon it, thereby there is no justification for any interference therewith being made, by this

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Court.

20. The learned counsel for the respondents further submit that in the speaking order dated 22.8.2024 passed by the competent authority concerned, wherebys the claim of the respondents became rejected, it has been clearly mentioned that the relief claimed by the respondents herein cannot be granted to them as the SLP is being filed by the Department concerned against the decision made upon LPA No. 949 of 2022. Moreover, since the SLP No. 30476 of 2024, titled as State of Haryana and others versus Rajesh Kumar and others, filed against LPA (supra) has been dismissed by the Apex Court on 17.12.2024, therebys the said justifiable cause for not implementing supra order is truthless/toothelss.

Inferences of this Court

21. Before proceeding to determine the validity of the making of the impugned order, it is necessary to initially extract the apposite regulatory guidelines, as become underlined in the judgment rendered by the Apex Court in case titled as ***State of J and K versus Mohd. Yaqoob Khan and others*** reported in ***(1992) 4 Supreme Court Cases 167*** has held as under:-

6. *We do not agree. The scope of a contempt proceeding is very different from that of the pending main case yet to be heard and disposed of (in future). Besides, the respondents in a pending case are at a disadvantage if they are called upon to meet the merits of the claim in a contempt proceeding at the risk of being punished. It is, therefore, not right to suggest that it should be assumed that the initial order of stay got confirmed by the subsequent orders passed in the contempt matter.*

7. *We, therefore, hold that the High Court should have first taken up the stay matter without any threat to the*

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respondents in the writ case of being punished for contempt. Only after disposing it of, the other case should have been taken up. It is further significant to note that the respondents before the High Court were raising a serious objection disputing the claim of the writ petitioner. Therefore, an order in the nature of mandatory direction could not have been justified unless the court was in a position to consider the objections and record a finding, prima facie in nature, in favour of the writ petitioner. Besides challenging the claim on merits, the respondent was entitled to raise a plea of non-maintainability of a writ application filed for the purpose of executing a decree. It appears that at an earlier stage the decree in question was actually put in execution when the parties are said to have entered into a compromise. According to the case of the State the entire liability under the decree (read with the compromise) has already been discharged. The dispute, therefore, will be covered by Section 47 of the Civil Procedure Code. It will be a serious question to consider whether in these circumstances the writ petitioner was entitled to maintain his application under Article 226 of the Constitution at all. We do not want to decide any of these controversies between the parties at this stage except holding that the orders passed in the contempt proceeding were not justified, being premature, and must, therefore, be entirely ignored. The High Court should first take up the stay matter in the writ case, and dispose it of by an appropriate order. Only thereafter it shall proceed to consider whether the State and its authorities could be accused of being guilty of having committed contempt of court.”

22. The further entwined therewith issue, which is required to be also decided is whether the Contempt Court, can substitute itself into an Executing Court, and, that too when an appeal against the relevant order/direction is subjudice. In the above regard, the Apex Court in case titled as ***R.N.Dey versus Bhagyabati Pramanik and others*** reported in ***(2000) 4 Supreme Court Cases 400***, has held as under:-

“7. We may reiterate that weapon of contempt is not to be

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used in abundance or misused. Normally, it cannot be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. Discretion given to the Court is to be exercised for maintenance of Court's dignity and majesty of law. Further, an aggrieved party has no right to insist that Court should exercise such jurisdiction as contempt is between a contemnor and the Court. It is true that in the present case, the High Court has kept the matter pending and has ordered that it should be heard along with the First Appeal. But, at the same time, it is to be noticed that under the coercion of contempt proceeding, appellants cannot be directed to pay the compensation amount which they are disputing by asserting that claimants were not the owners of the property in question and that decree was obtained by suppressing the material fact and by fraud. Even presuming that claimants are entitled to recover the amount of compensation as awarded by the trial Court as no stay order is granted by the High Court, at the most they are entitled to recover the same by executing the said award wherein the State can or may contend that the award is nullity. In such a situation, as there was no wilful or deliberate disobedience of the order, the initiation of contempt proceedings was wholly unjustified."

23. The further entwined therewith issue, which is required to become also adjudicated, is that, whether the Contempt Court can grant substantive relief, despite the same not being covered by the order/judgment. In the above regard, the relevant guidelines become embodied in the judgment rendered by the Apex Court in case titled as ***Sudhir Vasudeva, Chairman and Managing Director, Oil and natural Gas Corporate Limited and others versus M. George Ravishekaran and others*** reported in ***(2014) 3 Supreme Court Cases 373***. The

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relevant paragraph of the judgment (supra) becomes extracted hereinafter.

“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 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. 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 willful violation of the same. Decided issues cannot be reopened; nor the plea of equities can be considered. 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. The above principles would appear to be the cumulative outcome of the precedents cited at the bar, namely, Jhareswar Prasad Paul and Another v. Tarak Nath Ganguly and Others, (2002) 5 SCC 352, V.M.Manohar Prasad v. N. Ratnam Raju and

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Another, (2004) 13 SCC 610, Bihar Finance Service House Construction Cooperative Society Ltd. v Gautam Goswami and others (2008) 3 SCC 339 and Union of India and Others v. Subedar Devassy PV (2006) 1 SCC 613.”

24. Therefore, the maintainability of the instant appeal against the order (supra) made by the learned Contempt Bench, but is required to be both delved into, besides is required to be adjudicated upon.

25. Be that as it may, this Court is also required to impart a signification to the statutory coinage “jurisdiction to punish for contempt” as occurs in sub-Section (1) of Section 19 of the Act of 1971. Though, the meaning imparted thereto, by the learned counsel for the respondents, is that, unless an order for imposition of punishment is made upon the present appellant, thereby alone the instant appeal directed against the impugned order, rather is maintainable, whereas, the impugned order rather not imposing punishment upon the present appellant, thereby the appeal filed thereagainst is not maintainable.

26. However, the said argument is required to be rejected, inter alia on the following grounds:-

(a) The meaning to be imparted to the statutory coinage (supra) is not, that the contemnor has to await the pronouncement of punishment upon him. Contrarily the meaning to be imparted to the statutory coinage (supra), is that, any order or decision recorded by the learned Single Bench of this Court, while exercising contempt jurisdiction, rather manifesting any proclivities towards ultimately punishing the alleged contemnor for contempt. Resultantly thereby the apposite maneuverings (supra), as are also clearly discernible from the

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making of the apposite order, thus makings the apposite appeal to be maintainable before the Appellate Court.

(b) The coinage “to punish for contempt” which exists subsequent to the coinage “any order or decision of the High Court” is an expression, whose effective impact cannot be restricted to the era of ultimate awardings of punishment, as therebys any vitiated order passed during the pendency of the contempt proceedings, despite existence of valid extenuating explications (supra), thus well forbidding the learned Single Benches, from initiating contempt action, besides when for tangible reasons, rather apposite extensions of time are accordable, thus for making compliance(s) with the order alleged to be purportedly disobeyed, but may yet become also ill-countenanced. Resultantly therebys if yet this Court also overlooks the beneficent mitigating effects of all the possible, thus permissible extenuating pleas, thereupons the said raised possible extenuating pleas, as become earlier arbitrarily rejected by the learned Single Bench of this Court, but would also similarly become arbitrarily rejected even by this Court.

27. Resultantly therebys the learned Single Bench of this Court appears to rather than, as expostulated in verdicts (supra), that contempt jurisdiction is to be sparingly exercised or becoming potentialized only for upholding the majesty, and, dignity of the obeyable directions or the orders passed by the Courts of law, thus through initiating contempt action against the persons concerned, but contrarily rather has whimsically and arbitrarily miskewed the contempt jurisdiction.

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28. Ultimately, the preponderant reason, for this Court concluding that the above submission addressed before this Court by the learned counsel for the respondents, as appertains to the maintainability of the present appeal, is required to be rejected, whereas, in this Court declaring that the instant appeal becomes maintainable, thus becomes hinged upon the hereinafter principles, relating to the maintainability of appeals by the Appellate Court concerned, principles whereof, become engrafted in paragraph No.11 of the verdict made by Hon'ble Apex Court, in case titled as "**Midnapore Peoples' Coop. Bank Ltd. And others V. Chunilal Nanda and others**" reported in **(2006) 5 SCC 399**, paragraph whereof becomes extracted hereinafter.

"11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarized thus :

I. An appeal under section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the

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dispute between

the parties.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of 'jurisdiction to punish for contempt' and therefore, not appealable under section 19 of CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under section 19 of the Act, can also encompass the incidental or inextricably connected directions.

V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).

The first point is answered accordingly.”

29. Exceptions to the arguments raised (supra) by the learned counsel for the respondents against the maintainability of the present appeal, thus become well grooved in principle No. IV, wherein, it is expounded that any direction or decision which is incidental to or is inextricably connected with the order punishing for contempt, thereby, the said does make the contempt appeal maintainable. Conspicuously also when for all the reasons (supra), the learned Contempt Bench concerned, through the making of the impugned order, has evidently proclived towards punishing the contemnors for contempt, whereby

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also the instant appeal is maintainable.

30. Further, an argument is also raised by the learned counsel for the respondent that since CWP No. 16100 of 1999 filed by the other purportedly similarly situated litigants became decided on 18.4.2022, and further that since the LPA challenging the said order also became dismissed, besides the SLP challenging the said order passed in LPA (supra) also became dismissed, thereby since the present respondents were purportedly similarly situated to the successful litigants in the supra motions, as such, it is argued that similar relief be bestowed to the present respondents.

Reasons for rejecting the said argument

31. However, the above raised argument is required to be rejected. The reason for drawing the above inference, becomes grooved in the factum, is that, the decision recorded by the Apex Court on the SLP (supra), thus bestowing relief upon the respondents therein, thus was actionable only on the part of the therein arrayed respondents, and, that too, in case there was an intentional and willful disobedience of the orders passed upon the SLP (supra) by the Apex Court, thus at the instance of the department concerned. Contrarily, when the present respondents were not arrayed as parties in the writ petition (supra), besides were not arrayed as parties in the SLP (supra). Resultantly, if they intended to claim parity along with the claimants in the supra proceedings, thereby they were required to be establishing, thus the said right through their filing a separate writ petition before this Court, than theirs, merely on the basis of the decision passed in the writ

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petition (supra), which became affirmed in LPA (supra), besides became affirmed in the SLP (supra), claiming parity with the above claimants. Resultantly, the respondents herein ipso facto were not entitled to claim parity with the respondents in the writ petition (supra).

32. Now assuming that in case the drivings of the present respondents to successive litigations merely given theirs not becoming arrayed as parties in the proceeding,s (supra), but was an avoidable exercise. However, yet the claimants were required to prima facie establish parity, with the employees, upon whom, thus conclusive rights became determined by the Apex Court. In case such parity became well established, but only after completion of pleadings, thus through a decision becoming made on the merits of the respective contentions, as such, only therebys the said made decision would be construable to be a decision on merits. As such therebys the said decision would fall within the ambit of Exception No. IV, as embodied in *Midnapore Peoples' Coop. Bank Ltd.*'s case (supra), wherebys alone there would be no competent contempt appeal preferable before this Court, rather the competent motion to be raised against such a decision pronounced on merits of the petition, was through an intra court appeal becoming preferred by the aggrieved concerned.

33. Lastly, the principles of law which are required to hereafter become considered to be applied by the learned Contempt Court, are the ones which are stated in the instant case and also are the ones, as become underlined in the verdict rendered by this Court in **CACP No. 20 of 2024**, titled as ***T.V.S.N. Prasad and others versus Resham Singh.***

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34. Despite repeated insistences being made upon the learned Contempt Bench of this Court to comply with the supra principles, yet the learned Contempt Bench of this Court has repeatedly failed to do so. Therefore, the learned Contempt Bench of this Court is directed to ensure that hereafter strict compliances become made to the supra principles, rather than in a slipshod and arbitrary manner, thus orders alike the ones which are impugned before this Court, thus becoming passed.

35. Significantly during the course of arguments, the learned counsels for the appellant have placed on record order dated 26.11.2024, passed by the learned Contempt Court in contempt petition bearing COCP No. 2811 of 2024, which is taken on record. The said order passed by the learned Contempt Court is extracted hereinafter..

“1. Learned State counsel representing the respondents informs that the order dated 21.8.2024 passed by this Court along with further proceedings has been stayed in an Appeal vide order dated 20.11.2024 passed in CACP No. 28 of 2024.

2. In view of the above, learned counsel for the petitioners does not press the present petition at this stage, however, with liberty to seek revival of the present petition, subject to final outcome of the appeal.

3. Dismissed as not pressed with the aforesaid liberty.

4. Rule stands discharged.”

36. The passing of the hereinabove extracted order by the learned Contempt Court concerned, despite an appeal bearing No. CACP-28-2024 being subjudice before this Court, to the considered mind of this Court, unnecessarily intrudes into the exercise of appellate jurisdiction by this Court upon CACP-28-2024, especially when the supra appeal seeking the invalidatings of the order rendered on

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21.8.2024 upon COCP No. 2811 of 2024 rather is under the active consideration of this Court. Since this Court for reasons (supra) has opined, that no contempt proceedings were drawable against the present appellant, therefore, it appears that the learned Contempt Bench, despite the contempt appeal (supra) being subjudice before this Court, has passed the order (supra) merely to escape the effects of this Court recording findings (supra), whereby this Court has declared illegal the makings of an order by the Contempt Bench, whereby imposition of costs has been made upon the appellant.

37. Conspicuously also when the present appeal is but a continuation of the apposite contempt petition, therefore, this Court alone held the competent jurisdiction to decide both the contempt petition as well as the appeal as has arisen therefrom.

38. Last but not the least in terms of the provisions of Section 23 of the Contempt of Courts Act, 1971, provisions whereof become extracted hereinafter, whereby the procedures for regulating the exercise of contempt jurisdiction becomes permitted to be created by the High Court, thus this High Court has formulated the relevant procedural rules which become nomenclatured as the Contempt of Court (Punjab and Haryana) Rules, 1974 (for short '*the Rules of 1974*').

“23. Power of Supreme Court and High Courts to make rules.—

The Supreme Court or, as the case may be, any High Court, may make rules, not inconsistent with the provisions of this Act, providing for any matter relating to its procedure.”

39. The relevant provisions which are of striking importance in the instant case become embodied in Rules 9, 10 and 11 of the Rules of

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1974, rules whereof become extracted hereinafter.

“9. In the case of a civil contempt other than a contempt referred to in section 14, the High Court may take action

- (a) on its own motion; or*
- (b) on a petition presented by the party aggrieved; or*
- (c) in the case of any civil contempt of a subordinate court, on reference made to it by that Court.*

10. (1) In the case of civil contempt, other than a contempt referred to in section 14, the person charged may file his affidavit by way of reply to the charge and shall serve a copy thereof on the petitioner on his counsel at least seven days before the date of hearing.

(2) No further return, affidavit or document shall be filed except with the leave of the High Court.

11. In the case of a civil contempt, the High Court may determine the matter of charge either on affidavits filed or on such further evidence as may be taken by itself or recorded by a subordinate court in pursuance of a direction made by it, and pass such order as the justice of the case requires, having regard to the provisions of sections 12 and 13 of the Act.”

40. Importantly it is stated in Rule 10 of the Rules of 1974 that when proceedings qua commission of any purported civil contempt, other than a contempt referred to in Section 14, thus become launched, therebys the person charged is required to file an affidavit by way of reply to the charge.

41. As such, the underpinnings which generate therefroms are that the successful trial of the formulated charge appertaining to the commission of any alleged civil contempt, thus is to be made, only after satisfaction becoming drawn by the learned Contempt Bench, that the person so charged but makes a feeble and weak plea in his reply on affidavit, rather for justifying the purported contumacy, as become

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allegedly committed by him. Resultantly therebys, since at the very threshold the learned Contempt Bench, even without framing a charge appertaining to the alleged commission of civil contempt, and, also subsequently without proceeding to consider the justifiable extenuating cause, as would become echoed in the reply on affidavit, wherebys the contemnor may be amenable for being discharged, rather reiteratedly has proceeded to conclude that civil contempt has been committed. Resultantly, in terms of the supra rules formulated by the High Court, the learned Contempt Bench of this Court but has, at the very threshold rather derogated from the supra stated established procedure, thus in its recording a finding, that the present appellants indulged in contumacious conduct.

42. Now the instant case is not the only one where the contemnors have been led to institute appeals against the alike instant impugned order(s), rather the said are repeatedly made, despite the appeals arising thereagainst becoming decided in favour of the appellants, and, with trite underpinnings therein, thus anviled upon the supra expostulations of law, which rather well forbade the learned Contempt Bench concerned, from drawing contempt proceedings, unless adherence becomes made to the supra established procedure(s). Therefore, the said repeated passing of orders deeply disturbs the judicial conscience of this Court.

43. Moreover, the edifice of the judiciary is erected upon the principle of propriety, besides upon the norm of constitutional decorum, as adherences theretos, thus preserves the exalted institution of the High

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Court. The well preservation theretos do spur, through strict adherences being made vis-a-vis the supra norms, as therebys alone public faith and confidence in this exalted institution rather remains uneroded.

44. Resultantly, the supra breaches vis-a-vis the norms of propriety by the learned Contempt Bench concerned, as emanate(s) from despite earlier orders being passed by this Court, in the exercise of appellate jurisdiction, thus wherebys orders alike the present one, thus became quashed, yet repeatedly thus alike the earlier quashed orders, but orders rather becoming re-rendered, by the learned Single Bench of this Court. The said does not well augur for preserving either the norm of propriety nor the supra departures augur well qua the necessity of instilling faith and public confidence in the administration of justice.

Final order

45. Hence, there is merit in the instant appeal and the same is allowed, and the impugned order dated 21.8.2024, as becomes drawn by learned Single Bench is quashed, and, set aside, and, the present appellant is discharged accordingly.

46. In addition, the order dated 26.11.2024, passed upon COCP No. 2811 of 2024 is declared to be holding no legal consequence.

47. The miscellaneous application(s), if any, is/are also disposed of.

48. A copy of this order be forthwith sent to the learned Contempt Bench concerned, for subsequently complete adherence being made to the above expostulated principles of law, and, it is expected that



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hereafter the supra norms of propriety and judicial decorum remain uneroded.

49. Moreover, a copy of this order be sent for the kind perusal of the Hon'ble Chief Justice.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

January 07, 2025
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No