



A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CONTEMPT APPLICATION (CIVIL) No. - 6468 of 2022

Radhey Shyam Yadav

.....Applicant(s)

Versus

Sri Ashok Nath Tiwari, the District Inspector of
Schools

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Awadhesh Kumar Malviya
Counsel for Opposite Party(s)	:	

Court No. - 9

HON'BLE KSHITIJ SHAILENDRA, J.

**RE: ARE WE PREPARED, RATHER ADAMENT TO MAKE A
MOCKERY AND UNDERMINE MAJESTY OF OUR OWN
COURTS AND THE LEGAL SYSTEM**

Civil Misc. Impleadment Application No.7 of 2025

1. This application has been filed by the applicant with a prayer to implead Mr. Prakash Singh, presently posted as District Inspector of Schools, Ghazipur as opposite party No.4 in the array of parties of this contempt application.

2. The application is **allowed**.

3. Learned counsel for the applicant is permitted to carry out necessary impleadment in the array of parties during course of the day.

Re: Contempt Application:

4. Pursuant to previous order of this Court, Mr. Prakash Singh is personally present in the Court, who has been duly identified by Shri Brijesh Kumar, learned Standing Counsel.

5. An affidavit has been filed by Mr. Prakash Singh explaining the reason for non-compliance of interim order passed by this Court stating that stay vacation application has been filed on behalf of State of U.P. in the writ petition on 12.05.2022 and a listing application has also been filed on

13.05.2026 and therefore the order has not been complied with. A request has been made to defer further proceedings of the present contempt application till final outcome of the stay vacation application. It is also submitted that 25.05.2026 is the next date fixed in the writ petition.

6. Learned counsel for the applicant submits that current salary of the petitioner-applicant was never paid in pursuance of interim order dated 18.04.2022 passed by the writ Court and, therefore, the order has been deliberately flouted. The writ petition was filed in the year 2017 and interim order was passed in the year 2022. A Special Appeal No. 385 of 2022 filed thereagainst was dismissed as withdrawn on 06.07.2022 with liberty to the Committee of Management, appellant therein, to file an application for recall of the order impugned.

7. Counsel for the applicant is not aware as to whether Committee of Management has filed any application in the pending writ petition or not, however, the stand taken by the DIOS in the affidavit filed today is that mere filing of stay vacation application at the instance of State of U.P. is a valid ground for non-compliance of the interim order, which may not have been vacated so far.

8. Learned Standing Counsel, placing reliance on the judgment of Hon'ble Supreme Court in **Vinay Kumar Pandey v. Committee of Management Shri Gandhi Inter College and another : Civil Appeal Nos.4007-4008 of 2020**, decided on 08.12.2020 and **Anil Kumar Sisodiya v. Virendra Kumar Mishra : SLP No.13990 of 2024**, decided on 24.05.2024 submits that till disposal of stay vacation application, contempt proceedings should be deferred.

9. I have considered the submissions made.

10. In the present case, period of four years has passed since when the interim order was passed and this contempt application is also pending for the last four years.

11. In case of **Vinay Kumar Pandey** (supra), an *ad-interim* order dated 15.07.2019 was passed by a learned Single Judge of this High Court in a writ petition staying operation of the order of the Director dated 03.06.2019 till the next date of listing, however, making any appointment subject to final decision in the writ petition. Special appeal was preferred against the said order in which an observation was made that instead of

entertaining an appeal against an interlocutory order, State would be advised to prefer an application for vacation of *ad-interim* order. Thereafter, stay vacation application along with counter affidavit was filed by the State on 14.10.2019 in the writ petition and while the same was pending, the High Court entertained the contempt application and framed charge against the alleged contemnors.

12. The alleged contemnors filed contempt appeal which was dismissed by the High Court as being not maintainable. Under the aforesaid circumstances, on further challenge being laid, the Hon'ble Supreme Court made following observations:-

"Without going into the issue of maintainability of the appeal before the Division Bench of the High Court, the basic facts which emerge from the record are that the contempt alleged is of non-compliance of the order dated 15.07.2019 which itself was an **ad-interim order** and appropriate application seeking vacation of that order is still pending consideration before the High Court.

In the circumstances, unless and until the submission raised in that application seeking vacation is adequately addressed and rejected, no case for initiation of contempt proceedings was made out.

We, therefore, allow these appeals, set-aside the orders under appeal, and request the High Court to take up the application seeking vacation of the ad- interim order dated 15.07.2019 at the earliest.

The appeals are allowed in the aforesaid terms. No Costs."

13. A perusal of the order of the Hon'ble Supreme Court indicates that the High Court had passed an *ad-interim* order that was operative till the next date of listing and under such circumstances, the Hon'ble Supreme Court observed that no case of initiation of contempt proceedings was made out. The facts of the present case and nature of the interim order are slightly different, inasmuch as no *ad-interim* order was passed by the writ Court, rather in the writ petition that was pending since 2017, an interim order was passed in 2022 taking note of various interim orders passed in other

identical writ petitions and it was directed that the petitioner shall be paid his current salary during pendency of the writ petition.

14. There is nothing on record to indicate that State ever pressed its stay vacation application since 2022 and it is only on 13.05.2026, i.e., immediately after this Court directed personal appearance of DIOS in case of non-compliance within one month from 09.04.2026 that a listing application was filed in the writ petition on behalf of the State on 13.05.2026.

15. As far as order passed by Hon'ble Supreme Court in the case of **Anil Kumar Sisodiya (supra)** is concerned, in that matter, the learned Single Judge of this Court observed that if till the next date of listing of contempt application, the Division Bench did not stay the order passed by the learned Single Judge in the writ petition, the alleged contemnor would be required to remain present before the Court and show cause as to why contempt proceedings might not be initiated against them.

16. Before the Hon'ble Supreme Court, it was argued by learned Additional Advocate General for the State of U.P. that though various attempts had been made by the contemnors for moving the Division Bench to consider the application for stay of the order passed by the writ Court, the same could not be considered on account of huge pendency. In such circumstances, the Hon'ble Supreme Court made a request to the Division Bench to consider the application for stay filed by the State and deferred the contempt proceedings.

17. The facts of the present case are slightly different, as has been observed that stay vacation application being pending for the last four years and no effort having been made by the opposite parties to get the same listed or argued, request made at the stage when the Court is inclined to proceed with the matter on account of non-compliance of the order passed four years ago, the opposite party, would not get any benefit out of the orders relied upon which are distinguishable on facts.

DIGNITY OF CONSTITUTIONAL COURTS AND MAJESTY OF LAW

18. The majesty of law does not survive merely by passing of judicial orders. It survives because such orders command obedience. An order of a Constitutional Court is neither a mere advisory opinion nor a decorative

piece of paper to be admired and ignored at convenience. It carries with it the full authority of the Constitution and the solemn mandate of the rule of law. The moment litigants are permitted to treat judicial directions as optional, the very foundation of constitutional governance begins to erode.

19. A person against whom an interim order operates, cannot be permitted to arrogate unto himself the authority to decide whether he shall obey the order or not merely because he has filed an application for recall, modification, clarification, or vacation of that order. Filing of such an application does not eclipse, suspend, neutralize or render dormant the subsisting order of the Court. Unless the competent Court modifies, stays, recalls, or vacates its earlier order, the order continues to operate with full binding force. Any other proposition would strike at the heart of judicial discipline. If mere filing of an application were treated as a license to violate Court orders, every contemnor would conveniently avoid compliance by instituting repetitive applications and then taking shelter behind the pendency thereof.

20. In heavily burdened constitutional courts, like our Allahabad High Court, where around 400, 500, 600 and sometimes more than 800 cases are listed every day before every Judge, judicial proceedings may consume considerable time for disposal; sometimes years and sometime decades also. Still people all around may expect such overburdened judges to become ever-working super robots or super computers or super-human beings? If during such pendency, parties are permitted to openly defy operative directions, the administration of justice would descend into chaos and anarchy. The law does not countenance such audacity.

21. Courts cannot permit litigants to take pride in disobedience by proclaiming: “I have filed an application for vacation of the order; therefore, I shall not comply until it is decided.” Such an approach is nothing short of a frontal assault upon the authority of the judiciary. It reduces solemn judicial orders into meaningless declarations and converts the process of law into an object of ridicule. The principle is fundamental: an order of the Court, right or wrong, must be obeyed so long as it subsists. Disobedience cannot be justified by subjective dissatisfaction with the order. No litigant can assume the role of an appellate authority over judicial commands. If Courts tolerate such conduct, it would amount

to institutional self-destruction.

LET COMMON MAN NOT LOSE FAITH

22. The dignity and authority of Constitutional Courts is inseparably connected with public confidence in the justice delivery system. When judicial orders are openly violated without consequence, the common citizen begins to lose faith in the efficacy of law itself. The perception inevitably emerges that Court orders are incapable of enforcement and may safely be ignored until the end of endless litigation. Such a situation would indeed amount to making a mockery of the legal system and symbolically placing a slap upon the face of the judiciary.

23. Contempt jurisdiction exists precisely to prevent such collapse of judicial authority. The Constitutional Courts are guardians of legality and their orders cannot be permitted to become dead letters awaiting uncertain fate for years or decades while parties continue to act in brazen violation thereof. Therefore, normally unless an interim order is specifically stayed, modified, or vacated by a competent Court, absolute obedience remains the unqualified obligation of every litigant. Anything less would not only weaken the authority of Courts but would ultimately imperil the very survival of constitutional democracy governed by the rule of law. Nevertheless, situation in an exceptional case can always be looked into by the Court based upon nature of order, ongoing proceedings on day to day basis in both courts or other situations of a like nature.

WORDS OF MAHATMA GANDHI, RELEVANT IN CONTEMPT JURISDICTION TOO

24. The celebrated dictum of Mahatma Gandhi, as expressed in his seminal work **MY EXPERIMENTS WITH TRUTH**, that **“no one can insult you without your permission,”** bears profound relevance even within the realm of contempt jurisdiction. An order passed by a Constitutional Court, so long as it remains operative and unvacated, carries binding force and unquestionable sanctity. If such an order is openly disobeyed and yet the Court abstains from enforcing compliance or initiating contempt action merely because an application for recall, modification, or vacation of the interim order is pending consideration, the resulting erosion of judicial authority cannot be attributed solely to the contemnor. **The majesty of the law stands diminished only when the**

Court permits its own command to be rendered ineffectual with impunity. In that sense, the continued non-enforcement of a subsisting judicial order amounts to a tacit permission for its violation, thereby attracting the very principle enunciated by Mahatma Gandhi-that insult survives not merely by the act of wrongdoer, but by the acquiescence of the authority which tolerates it.

DOCTRINE OF RESTITUTION

25. Even when an interim order is subsequently vacated, recalled, or set aside, the law does not render such a successful party helpless. In such a situation, the well-established doctrine of restitution would immediately come into operation, whereby the parties would be restored, as far as practicable, to the position which prevailed prior to the passing of the order. The legal consequences and benefits flowing from the earlier order would accordingly stand neutralized, reversed or restituted in accordance with law. Thus, no irreparable prejudice can be said to visit a party merely because it complied with a subsisting judicial mandate. Therefore, while adjudicating contempt proceedings, courts must remain conscious of the principle that every operative order, whether interim or final, carries with it an obligation of immediate and faithful compliance unless duly suspended or annulled by a competent court; otherwise, the very purpose of granting interim protection or issuing judicial directions would be rendered wholly illusory and nugatory.

26. In view of above discussion, at least this Court is not inclined to defer the proceedings of the present contempt application as the Court is more than satisfied that mere filing/pendency of the stay vacation application does not *ipso facto* amount to vacation of interim order and justification for non-payment of salary after a period of four years, taking shield of filing of stay vacation application in the writ petition cannot be accepted.

27. In view of the above discussion, the opposite party is found guilty of committing contempt of the order dated 18.04.2022 so as to warrant further proceedings in this matter.

28. Connect with **Contempt Application (Civil) No.6489 of 2022** and list this case on **08.07.2026** in **top ten cases** for **framing of charges** against the newly impleaded opposite party No.4 on which date he shall

remain **personally present** in the Court.

29. The opposite party No. 4 may still comply with the order of the writ Court and purge the contempt, if so advised.

(Kshitij Shailendra,J.)

May 19, 2026
Jyotsana