

HIGH COURT OF ANDHRA PRADESH

* * * *

CONTEMPT CASE No.1032 OF 2019

Between:

P. Satyanarayana Reddy

.....Petitioner.

AND

Smt M. Saraswathi, Deputy Director, Tribal Welfare I.T.D.A,
Rampachodavaram, East Godavari District.

.....Respondent

DATE OF JUDGMENT PRONOUNCED: 07.11.2023

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
3. Whether Your Lordships wish to see the fair copy of the Judgment? Yes/No

RAVI NATH TILHARI, J

*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**

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P. Satyanarayana Reddy

.....Petitioner.

And

\$ Smt M. Saraswathi, Deputy Director, Tribal Welfare I.T.D.A,
Rampachodavaram, East Godavari District.

.....Respondents

! Counsel for the Petitioner: Sri. Kishore Kumar

^ Counsel for the respondent: Sri K. Amrith Raj

< Gist :

> Head Note:

? Cases Referred:

¹ 2016 (1) ALD 579

² (1986) 2 ALT 131

³ AIR 1999 SC 3215

⁴ (2013) 14 SCC 127

⁵ (1984) 3 SCC 405

⁶ (2007) 11 SCC 374

⁷ (2014) 7 SCC 280

⁸ (2002) 5 SCC 352

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

CONTEMPT CASE No.1032 of 2019

ORDER:-

1. Heard Sri Kishore Kumar, learned counsel for the petitioner and Sri K. Amrith Raj, learned counsel for the respondent.
2. This contempt case is filed against the respondent Smt. S. Saraswathi, Deputy Director, Tribal Welfare I.T.D.A., Rampachodavaram, East Godavari District, (Presently Director) with respect to the judgment and order dated 14.08.2019 passed by the writ Court in W.P.No.11279 of 2019.

FACTS:

3. The petitioner was working as Secondary Grade Teacher, in Ashram Upper Primary School, Kansuluru Village, Chinturu Mandal, East Godavari District. He was not considered for promotion to the post of School Assistant (Maths). He had given representations to the 1st respondent, the last being dated 18.07.2019, but when there was no response and two of his juniors were already promoted he filed W.P.No.11270 of 2019 for the following relief:

“... to declare the Orders passed by the Respondents in not treating B Tech with Chemical Engineering with Maths as one of the subjects as required qualification as per G O Ms No 45 Social Welfare TW SER II/A1 Department dated 28 6 2011 for promotion to the post of School Assistant Maths as

Illegal arbitrary discriminatory and violates the Article 14 16 and 21 of Constitution of India and consequently direct the respondents to effect promotion of the petitioner with effect from 16 7 2019 with all consequential benefits and to pass...”

4. The Writ Court, disposed of the writ petition vide order dated 14.08.2019 directing the 1st respondent to consider the petitioner's representation dated 18.07.2019 strictly in accordance with law, and bearing in mind all the relevant Rules as well as the G.Os., applicable to the case of the petitioner, within a period of four (4) weeks from the date of receipt of copy of the order.

5. The order dated 14.08.2019 reads as under:

“Heard Sri P.V. Ramana, learned counsel for the petitioner, and learned Government Pleader for Social Welfare representing the respondents.

2. The petitioner is now working as Secondary Grade Teacher in Ashram Upper Primary School, Kansuluru Village, Chinturu Mandal, East Godavari District. His grievance is that he is not being considered for promotion to the post of School Assistant (Maths), even though he is meeting all the requirements as per G.O.Ms.No.45, Social Welfare (TW.SER.III/A-1) Department, dated 28.06.2011. In this context, it is brought to the notice of this Court by the learned counsel for the petitioner that in Category (1) of Annexure II of this G.O., there is a specification that the candidate for such promotion must possess a Bachelor Degree with Maths as a main subject or one of the three equal optional subjects or a Post Graduate Degree in Maths and a Bachelor of Education Degree with mathematics as

one of the main subjects. In this context, the petitioner had also given representations to the 1st respondent, the last one of which is dated 18.07.2019. It is represented by the petitioner that there is no response with reference to such representation so far from the 1st respondent and in as much as two of his juniors were already promoted, any delay in considering his representation would affect him and thus he would suffer loss in promotional avenue.

3. Considering the material so placed and the submissions made on behalf of the petitioner, in as much as the interim relief sought is quite innocuous in nature, **finding prima facie that the petitioner is meeting all the requirements of G.O.Ms.No.45 referred above, the 1 respondent is directed to consider the representation of the petitioner, dated 18.07.2019**, strictly in accordance with law, and bearing in mind all the relevant Rules as well as the G.Os., applicable to the case of the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order.
4. With the above direction, the writ petition is disposed of. There shall be no order as to costs. ”

6. The petitioner served a copy of the order to the respondent on 07.09.2019. The time as granted, expired on 07.10.2019. The respondent did not comply and did not pass any order.
7. The petitioner filed contempt petition.
8. Notice before admission was issued on 24.08.2020.
9. The respondent filed counter affidavit dated 06.09.2021, submitting inter alia that as per the G.O.Ms.No.45, Social Welfare (TW.SER.III/A-1) Department, dated 28.06.2011, the candidate

must possess a Bachelor degree with Maths as main subject or as one of the three equal optional subjects or a Post Graduate Degree in Maths and Bachelor of Education Degree with Mathematics as methodology subject. The petitioner having Chemical Engineering in B.Tech., Graduation and Mathematics as one of the subject but neither as main subject nor one of the three equal optional subject and as such not being qualified for the post of School Assistant (Maths), his case, by speaking order dated 12.04.2021 was rejected.

10. Proceedings of the Deputy Director, TW, Rampachodavaram dated 12.04.2021 reads as under:

“ORDER:

As per the G.O.M.s.No.45 Social Welfare (TW.SER.III/AI) dated 28.06.2011 for the purpose of method of appointing and promotions, to get promotion, the candidate must possess a Bachelor Degree with Maths as Main subject or one the three equal optional subjects or a Post Graduate Degree in Maths and Bachelor of Education Degree with Mathematics as methodology subject.

After careful examination, it is observed that Sri P. Satyanarayana Reddy, SGT has acquired B. Tech (Chemical Engineering) and B.Ed (Maths, English as methodologies). After careful consideration in connection with the G.O.Ms.No.45 Social Welfare (TW.Ser.III/A1) Department dated 28.06.2011. The individual having Chemical Engineering in B.Tech Graduation and Mathematics is one of the subject only but neither main subject nor one of the three equal optional subject and the individual not having a Post Graduate Degree

in Mathematics. Hence, as per the G.O Ms.No.45 Social Welfare (TW.Ser.III/AI) Department, dated 28.06.2011, the qualifications of the individual has not fulfilled and not qualified for the post of School Assistant (Maths). However, this office has requested claridiactionf romthe Director of Tribal Welfare. AP, Vijayawada on the qualifications of the individual that whether he is eligible for promotion for the post of School Assistant (Matchs) or not vide reference 3rd cited. As and when clarification received from the Director of Tribal Welfare, AP, Vijayawada, accordingly action will be initiated as per the clarification.

In the reference 4th cited, Sri P. Satayanarayana Reddy, SGT has submitted representation stating that he has filed W.P.No.11279/2019 before the High court of A.P to consider hm for the promotion for the post of School Assistant (Maths) and the Court has passed orders dated 14.08.2019 in I.A.No.1 of 2019 in W.P.No.11279 of 2019 and requested to consider as per the court orders. Accordingly, this office has requested the Director of Tribal Welfare, A.P, Vijayawada to accord necessary clarification duly making copy to the individual vide reference 5th cited.

In this context, it is hereby informed that in connection with the G.O.Ms. No 45, Social Welfare (TW Ser.III/A1) Department, dated 28.06.2011, the individual having Chemical Engineering in B.Tech Graduation and Mathematics is one of the subject only but neither main subject nor one of the three equal optional subject and the individual not having a Post Graduate Degree in Mathematics. Hence, as per the G.O.Ms.No.45, Social

Welfare (TW.Ser.III/A1) Department, dated 28.06.2011, the qualification of the individual has not fulfilled and not qualified for the post of School Assistant (Maths). Further, in obedience to the orders passed by the Hon'ble Court and receiving the representation of the individual, the representation of the individual is hereby considered and as per the GO's in force, the representation of the individual is hereby rejected as the individual has not qualified for the post of School Assistant (Maths).

Deputy Director,
TW, Ramapachodavaram."

11. By order dated 02.05.2023, finding no explanation for highly belated consideration, notice in Form-I was issued.

CHARGES:

12. On 27.06.2023, the following charges were framed:

"(a) You, Smt. M. Saraswathi, working as Director, Tribal Welfare, ITDA, Deputy Rampachodavaram, East Godavari District, by not passing the order on the petitioner's representation within the time; and by passing the order of rejection dated 12.04.2021, after 17 months, though the petitioner was eligible for promotion, on which, the writ Court recorded that the petitioner is meeting all the requirements of G.O.Ms.No.45, wilfully violated the order of this Court, dated 14.08.2019 passed in W.P.No.11279 of 2019, and has committed Contempt of Court."

"(b) On proof of Charge (a), why you be not punished under Section 12 of the Contempt of Court Act, 1971." "

ANALYSIS:

13. The respondent was granted time to file affidavit/evidence.
14. The respondent filed, affidavit, dated 22.07.2023 *inter alia*, submitting that the copy of the order dated 14.08.2019 was received on 24.09.2019. The respondent *vide* letter RC.No.D12/DD(TW)/178/2019, dated 27.09.2019, followed by reminder letter dated 25.09.2020 requested the Director, Tribal Welfare, for clarification if the petitioner who had studied B.Tech., in Chemical Engineering, as per the G.O.Ms.No.45 Social Welfare (TW.SER.III/A1) Dept., dated 28.06.2011, fulfilled the requisite qualification. Such clarification was requested as according to the respondent, as per G.O.Ms.No.45, dated 28.06.2011, the candidate must possess a Bachelor's Degree with Maths as main subject or one of the three equal optional subjects or a Post Graduate Degree in Maths and Bachelor of Education Degree with Mathematics as Methodology subject, whereas the petitioner's qualifications was chemical engineering in B.Tech., and Mathematics as one of the subjects. It is further submitted that the respondent found that the qualification criteria mentioned in G.O.Ms.No.45 was the Bachelor Degree which according to the respondent was normally understood as B.Sc./B.Com/B.A., where the study course is for three years, with three main subjects and two ancillary subjects, whereas in B.Tech., Degree the study course is for 4 years, duly

focusing on Engineering subjects only. However, any clarification was not received. The respondent, therefore, passed an order dated 12.04.2021 rejecting the petitioner's representation on the ground that the petitioner did not possess the qualification for the post of School Assistant (Maths) as per G.O.Ms.No.45.

15. In the affidavit the respondent has further deposed that she proceeded on leave and the in-charge Dy. Director vide letter dated 19.03.2022 again requested the Director for clarification. The Tribal Welfare Department issued Memo Rc.No.(354574) SOW03-14021(32)/30/2019-K SEC-COTW, dated 25.09.2022, to allow the petitioner for promotion as School Assistant (Mathematics), as per G.O.Ms.No.12, dated 23.01.2009, if he fulfilled all other conditions.
16. The Memo dated 25.09.2022 of the Director, Tribal Welfare reads as under:

**“GOVERNMENT OF ANDHRA PRADESH TRIBAL WELFARE
DEPARTMENT**

Memo Rc.No.(954574) SOW02-14021(32)/30/2019 KSEC-
COTW date 25.09.2022.

It is to inform that the Deputy Director (TW), Rampachodavaram, East Godavari District has informed that Sri P. Satyanarayana Reddy, SGT, AUPS, Kansuluru who are qualified B.Tech (Chemical Engineering) with Maths as one of the subject and B.Ed with Maths, English subjects, has requested to issue necessary clarification, whether the

individual is eligible for promotion for the post of School Assistant (Maths) or not, vide reference 1st cited.

In this regard, the Commissioner of School Education, Andhra Pradesh, Vijayawada has issued clarification on the issue as mentioned hereunder.

The pre-requisite qualification for the post of School Assistant (Mathematics) as per G.O.Ms.No.12, School Education (Ser.) Department, dated 23.01.2009 & G.O.Ms.No.74, School Education (Ser.) Department, dated: 20.09.2017 is as follows:

“The individual possess a Bachelor Degree with Mathematics/ Applied Mathematics/ Statistics as a Main subject or one of the three equal optional subjects and B. Ed., with Mathematics as a methodology subject" is eligible for the promotion post of School Assistant (Mathematics).”

Hence, informed to allow the individual for promotion as School Assistant (Mathematics) as per G.O.Ms.No.12, dated 23.01.2009, since, the individual has passed degree with mathematics as one of the subject and completed B.Ed,m as Mathematics as a methodology subject, if he fulfills all other conditions for promotion".

Hence, the Deputy Director (TW), Rampachodavaram, Alluri Seetharamaraju District is requested to take necessary action on the above issue accordingly.

Director.”

17. Thereafter, the petitioner was selected for promotion, for the post of School Assistant (Maths) and also for the post of LFL Head Master *vide* list dated 12.05.2023. Counseling was conducted on 16.05.2023, in which the petitioner opted for the post of LFL Head Master and as per the option exercised, he was promoted as LFL

Head Master, on which post he joined *vide* proceedings Rc.No.D9/DD(TW)/133/2021-20, dated 17.05.2023.

18. From the aforesaid the following facts become evident:

(i) in writ petition this Court, *prima facie*, found the petitioner meeting all the requirements of the G.O.Ms.No.45 and consequently directed the respondent to consider his representation, within four weeks

(ii) The respondent after 17 months, rejected the representation on 12.04.2021.

(iii) The petitioner's qualification of B.Tech,(Graduation) with Maths, as one of the subjects, is not disputed. His requisite B.Ed qualification with maths is also not disputed.

(iv) The clarification of Director Tribal Welfare, dated 25.09.2022 is that the petitioner was eligible for promotion.

(v) After about 8 months from the clarification the petitioner was granted promotion on 12.05.2023 only after in the contempt case Form-I notice was issued, vide order dated 02.05.2023.

19. The defence of the respondent is that vide letters dated 27.09.2019 and 25.09.2020 clarification with respect to the petitioner's eligibility in terms of G.O.Ms.No.45, was requested from the Director of the Tribal Welfare Department, which was not received previously but only on 25.09.2022.

20. The respondent rejected the petitioner's case on 12.04.2021 and the explanation for such delayed decision in substance is the same

that the response of the respondent's letters dated 27.09.2019 and 25.09.2020 seeking clarification was not received by that time.

21. The further defence is that the petitioner was having Chemical Engineering in B.Tech., and Mathematics as one of the subject only and did not fulfill the qualifications as per G.O.Ms.No.45.

22. The G.O.Ms.No.45, dated 28.06.2011 provides for the qualification for the post of School Assistant (Mathematics) as under:-

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department - Rules – Subordinate Service Rules – Andhra Pradesh Tribal Welfare Subordinate Service Rules –Issued.

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SOCIAL WELFARE (TW.SER.III/A1) DEPARTMENT

G.O.Ms.No. 45

Dated:28-06-2011.

Read the following:

1. From the OMC. Lr.No.377/OMC/SFP/Ser/89-2, dt.06/06/1990.
2. From the CTW, Hyd. Lr.No.A2/5994/89, dt.15/03/1996.
3. From the CTW, Hyd. Lr.No.A2/3207/91/ TRI, dt.11/04/1996.
4. From the CTW, Hyd. Lr.No.A1/3207/91/TRI, dt.26/11/1996.
5. From the CTW, Hyd. Lr.No.K2/11778/09, dt.18/12/2009.
6. From the CTW, Hyd. Lr.No.K2/11778/09, dt.01/01/2010.

ORDER:

The following notification will be published in the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling the Governor of Andhra Pradesh hereby make the following special rules for the Andhra Pradesh Tribal Welfare

Subordinate Service. The Special and Adhoc rules mentioned below as amended from time to time in so far as they relate to the posts covered by this service are hereby repealed.

Short title.

These rules may be called the Andhra Pradesh Tribal Welfare Subordinate Service Rules.

Constitution:

The Service shall consist of the following classes and categories of posts in the Andhra Pradesh Tribal Welfare Subordinate Service.

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Annexure – I

Class & Category	Designation	Method appointment	Appointing Authority
1	2	3	4
CLASS - C			
Category (1)	School Assistant (Mathematics)	By Direct Recruitment 2. By Transfer or Promotion from the Qualified persons based on the combined seniority of all categories of Class - D.	Deputy Director (TW) in Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal, Adilabad Districts. District Tribal Welfare Officers in Krishna, Guntur, Nellore, Prakasam, Chittoor, Kadapa, Ananthapur, Mahabubnagar, Nalgonda, Hyderabad & Ranga Reddy, Nizamabad and Karimnagar. Project Officer, ITDA, Srisailam in case of schools functioning under the control of ITDA, Srisailam.

ANNEXURE -II

Class & Category	Designation	Method of Appointment	Unit of appointment Dist./Zone/ State	Qualification.
1	2	3	4	5
CLASS - C				
Category (1)	School Assistant (Mathematics)	By Direct Recruitment By Transfer or Promotion from the Qualified persons based on the combined seniority of all categories of Class - D.	District concerned	Must possess a Bachelor Degree with Maths as a main subject or one of the three equal optional subjects or a Post Graduate Degree in Maths and a Bachelor of Education Degree with Mathematics as a methodology subject.

23. The G.O.Ms.No.45 (Social Welfare (TW.SER.III/A1) Department) dated 28.06.2011 is very clear. The qualification possessed by the petitioner is also not in dispute. The petitioner had the Graduation Degree (B.Tech) with Maths as one of the subjects. B.Tech degree is also a Bachelor's Degree. The contention raised by the respondent that the Bachelor Degree, is normally understood as B.Sc./B.Com./B.A., with three years course and B.Tech., degree is four years study course, is nothing but after thought and an effort to justify the act of seeking clarification from the Director of Tribal Welfare which is unexpected of the respondent who held the post of Dy. Director at that point of time and as per her letters seeking clarification, possess the educational qualification of M.A., LL.B. Besides, in the order of the writ Court it was clearly observed that, ".....finding prima facie the petitioner

is meeting all the requirements of G.O.Ms.No.45, Social Welfare (TW.SER.III/A1) Dept., dated 28.06.2011.....”. Nothing has been brought on record, contrary to such prima facie finding of the writ Court to justify seeking of clarification from the Director of Tribal Welfare as also for not considering the petitioner’s case in accordance with the order of the writ court. The rejection after 17 (seventeen) months, holding the petitioner not qualified as per G.O.Ms.No.45, is in clear defiance of the order of the writ court. The subsequent Memo dated 25.09.2022 of the Director, Tribal Welfare also clearly holds the petitioner fulfilling the qualification, but in spite thereof also, it was only after about 8 (eight) months that the petitioner was granted promotion.

24. In ***K. Mallaiah v. Sandeep Kumar Sultania***¹ the Division Bench of this Court held that if a party who is fully in the know of the order of the Court, or is conscious and aware of the consequences and implications of the Court's order, ignores it or acts in violation thereof, it must be held that the disobedience is willful. It may not be possible to prove the actual intention behind the act or omission. A Court can approach the question only objectively, and it may presume the intention from the act done as every man is presumed to intend the probable consequence of his act. To establish contempt of court, it is sufficient to prove that the

¹ 2016 (1) ALD 579

conduct was willful and that the contemnor knew of all the facts which made it a breach of the order. It is not necessary to prove that he appreciated that it did breach the order.

25. It is apt to refer para-36 of the judgment in ***K. Malaiah*** (supra) as under:

“36. If a party who is fully in the know of the order of the Court, or is conscious and aware of the consequences and implications of the Court's order, ignores it or acts in violation thereof, it must be held that the disobedience is wilful. It may not be possible to prove the actual intention behind the act or omission. A Court can approach the question only objectively, and it may presume the intention from the act done as every man is presumed to intend the probable consequence of his act. (N.S. Kanwar). To establish contempt of court, it is sufficient to prove that the conduct was willful and that the contemnor knew of all the facts which made it a breach of the order. It is not necessary to prove that he appreciated that it did breach the order. (*St. Helens Ltd. v. Transport & General Workers Union; Adam Phones Ltd. v. Goldschmidt* 1999 4 ALLER 486). While the jurisdiction exercised in cases of contempt is quasi-criminal in nature and the court must be satisfied, on the material before it, that contempt of court was in fact committed, such satisfaction may be derived from the circumstances of the case. (*Ram Autar Shukla v. Arvind Shukla; Bank of India v. Vijay Transport* 2000 8 SCC 512). For the purposes of judging ‘civil contempt’, intention or mens rea is not relevant. The question is only whether the breach was on

account of willful disobedience i.e, whether it was not casual or accidental and unintentional. (*V.C. Govindaswami Mudali v. B. Subba Reddy* 1986 2 ALT 131).”

26. In ***V. G. Govindaswami Mudali v. B. Subba Reddy***² the High Court of Andhra Pradesh held that for the purposes of judging ‘civil contempt’ intention or *mens rea* is not relevant. The question is only whether the breach was on account of willful disobedience i.e., whether it was not casual or accidental and unintentional.

27. In ***Kapildeo Prasad Sah v. State of Bihar***³, the Hon’ble Apex Court held that even negligence and carelessness can amount to disobedience, particularly when attention of the person is drawn to the Court’s order and its implication.

28. From the aforesaid judgments, it is very much clear that even where the Court’s order is ignored a case of civil contempt is made out if the party fully knew of the order of the court and was conscious thereof. Even negligence and carelessness can amount to disobedience, particularly when attention of the person is drawn to the Court’s order. It is not necessary to prove that he appreciated that it did breach the order.

² (1986) 2 ALT 131

³ AIR 1999 SC 3215

29. In view of the aforesaid consideration, I hold that the charge No.1 as framed against the respondent stands proved. The respondent rejected the case of the petitioner vide order dated 12.04.2021 after 17 months though the petitioner fulfilled the requisite qualifications under G.O.Ms.No.45 dated 28.06.2011. The respondent has deliberately and willfully disobeyed the order dated 14.08.2019 passed by the writ court in W.P.No.11279 of 2019.

APOLOGY:

30. The respondent has tendered apology.

31. In ***Arun Kumar Yadav v. State of U.P.***⁴, the Hon'ble Apex Court held that no one has the authority to conduct in a manner which would demean and disgrace the majesty of justice which is dispensed by a Court of law. The administration of justice is the paramount role of the Court. It was held that the apology should be prompt and genuine. The concept of mercy and compassion is ordinarily attracted keeping in view the infirmities of the man's nature and the fragile conduct, but in a Court of law a counsel cannot always take the shelter under the canopy of mercy for the law has to reign supreme.

32. In ***Arun Kumar Yadav*** (supra) the Hon'ble Apex Court referred to the judgment in ***L.D.Jaikwal v. State of U.P.***⁵ in which

⁴ (2013) 14 SCC 127

⁵ (1984) 3 SCC 405

it was observed that “We do not think that merely because the appellant has tendered his apology we should set aside the sentence and allow him to go unpunished, otherwise, all that a person wanting to intimidate a Judge by making the grossest imputations against him has to do, is to go ahead and scandalize him, and later on tender a formal empty apology which costs him practically nothing. If such an apology were to be accepted, as a rule, and not as an exception, we would in fact be virtually issuing a ‘licence’ to scandalize Courts and commit contempt of Court with impunity”.

33. In ***All Bengal Excise Licensees’ Assn. v. Raghabendra Singh***⁶ the Hon’ble Apex Court held that it is settled law that a party to the litigation cannot be allowed to take an unfair advantage by committing breach of an interim order and escape the consequences thereof. It was observed that “under the constitutional scheme of this country orders of the High Court have to be obeyed implicitly and the orders of this Court – for that matter any Court should not be trifled with”. In that case it was found that the respondents therein acted deliberately to subvert the orders of the High Court. The Hon’ble Apex Court observed that “it is equally necessary to erase an impression which appears to be gaining ground that the mantra of unconditional apology is a

⁶ (2007) 11 SCC 374

complete answer to violations and infractions of the orders of the High Court or of this Court.”

34. It is apt to refer ***Bal Kishan Giri v. State of U.P.***⁷, as well in which the Hon’ble Apex Court held, in paras-13 to 17, as under:

“**13.** In *Asharam M. Jain v. A.T. Gupta* [(1983) 4 SCC 125 : 1983 SCC (Cri) 771] , while dealing with the issue, this Court observed as under : (SCC p. 127, para 3)

“3. ... The strains and mortification of litigation cannot be allowed to lead litigants to tarnish, terrorise and destroy the system of administration of justice by vilification of Judges. It is not that Judges need be protected; Judges may well take care of themselves. **It is the right and interest of the public in the due administration of justice that has to be protected.**”

14. In *Jennison v. Baker* [(1972) 2 QB 52 : (1972) 2 WLR 429 : (1972) 1 All ER 997 (CA)] , All ER p. 1006d, it was observed : (QB p. 66 H)

“... **The law should not be seen to sit by limply, while those who defy it go free, and those who seek its protection lose hope.**”

15. The appellant has tendered an absolute and unconditional apology which has not been accepted by the High Court. The apology means a regretful acknowledgment or an excuse for failure. An explanation offered to a person affected by one's action that no offence was intended, coupled with the expression of regret for any that may have been given. Apology should be unquestionable in sincerity.

⁷ (2014) 7 SCC 280

It should be tempered with a sense of genuine remorse and repentance, and not a calculated strategy to avoid punishment.

16. Sub-section (1) of Section 12 of the Act and the Explanation attached thereto enables the court to remit the punishment awarded for committing the contempt of court on an apology being made to the satisfaction of the court. However, an apology should not be rejected merely on the ground that it is qualified or tendered at a belated stage if the accused makes it *bona fide*. A conduct which abuses and makes a mockery of the judicial process of the court is to be dealt with iron hands and no person can tinker with it to prevent, prejudice, obstruct or interfere with the administration of justice. There can be cases where the wisdom of rendering an apology dawns upon only at a later stage. Undoubtedly, an apology cannot be a defence, a justification, or an appropriate punishment for an act which tantamounts to contempt of court. An apology can be accepted in case where the conduct for which the apology is given is such that it can be “ignored without compromising the dignity of the court”, or it is intended to be the evidence of real contrition. It should be sincere. Apology cannot be accepted in case it is hollow; there is no remorse; no regret; no repentance, or if it is only a device to escape the rigour of the law. Such an apology can merely be termed as “paper apology”.

17. In *L.D. Jaikwal v. State of U.P.* [(1984) 3 SCC 405 : 1984 SCC (Cri) 421] , **this Court noted that it cannot subscribe to the “slap-say sorry-and forget” school of thought in administration of contempt jurisprudence.**

Saying “sorry” does not make the slapper poorer. [See also *T.N. Godavarman Thirumulpad (102) v. Ashok Khot* [(2006) 5 SCC 1 : AIR 2006 SC 2007] .] So an apology should not be “paper apology” and expression of sorrow should come from the heart and not from the pen; for it is one thing to “say” sorry, it is another to “feel” sorry.”

35. In ***Bal Kishan Giri*** (supra) the Hon’ble Apex Court held that a conduct which abuses and makes a mockery of the judicial process of the Court is to be dealt with iron hands and no person can tinker with it to prevent, prejudice, obstruct or interfere with the administration of justice. An apology tendered is not to be accepted as a matter of course by the Court.

36. The present is not a case of accidental or unintentional disobedience. The respondent acted deliberately to subvert the order of this Court. Her act is contumacious. The apology tendered by the respondent in the facts of the case is considered not *bona fide*. The apology tendered is rejected.

37. The subsequent compliance with the writ court order pending contempt petition, in the facts of the present case firstly by rejecting the case of the petitioner though he fulfilled the requirements of the G.O, is no answer to the willful disobedience of the writ court’s order.

38. The Hon'ble Apex Court in ***Jhaleswar Prasad Paul v. Tarak Nath Ganguly***⁸ held that the purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law, since the respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen and the democratic fabric of society will suffer if respect for the judiciary is undermined. It was further held that the Contempt of Courts Act, 1971 has been introduced under the statute for the purpose of securing the feeling of confidence of the people in general for true and proper administration of justice in the country. The power to punish for contempt of court is a special power vested under the Constitution of India in the Courts of record, and also under the statute.

39. In ***Kapildeo Prasad Sah*** (supra) the Hon'ble Apex court held that the disobedience of Court's order strikes at the very root of rule of law on which our system of governance is based. Power to punish for contempt is necessary for the maintenance of effective legal system. It is exercised to prevent perversion of the course of justice. The Hon'ble Apex Court referred to the famous passage of Lord Diplock in *Attorney General v. Times Newspapers Ltd.* {(1973) 3 ALL ER 54} in which it was said that there is also an element of public policy in punishing civil contempt, since

⁸ (2002) 5 SCC 352

administration of justice would be undermined if the order of any Court of law could be disregarded with impunity. Jurisdiction to punish for contempt exists to provide ultimate sanction against the person who refuses to comply with the order of the Court or disregards the orders.

CONCLUSIONS:

40. The charge No.1 against the respondent has been proved. Respondent is held guilty of committing civil contempt of the Court. The apology has been rejected. The act of the respondent substantially interferes with the due course of justice or due administration of justice. By the act of the respondent, the petitioner was prevented from justice by not complying with the order.

41. On charge No.2, I hold that the charge No.1 having been proved, the respondent deserves punishment under Section 12 of the Contempt of Courts Act, 1971.

42. In the facts and circumstances, mere imposition of fine will not meet the ends of justice. Sentence of imprisonment is necessary. However, the Court is taking a lenient view in imposition of sentence of imprisonment.

Punishment:

43. Consequently, this Court imposes the following punishment on the respondent under Section 12 of the Contempt of Court Act 1971;

The respondent shall undergo sentence of simple imprisonment for 2 days and shall pay fine of Rs.2,000/- (Rupees two thousand only);

44. The respondent shall be detained in a civil prison for the period of the sentence of simple imprisonment imposed.

45. The execution of the punishment, however, shall remain suspended for a period of 30 days from today.

46. It is further directed that subject to the orders in appeal, if so filed, on expiry of the aforesaid period, the respondent shall surrender before the Judicial Magistrate of the First Class, Rampachodavaram to serve the sentence, and if she does not so surrender, the Judicial Magistrate of the First Class, Rampachodavaram shall secure her custody and send her to civil prison to serve out the sentence.

47. If the fine is not deposited, the proceedings for recovery of fine shall be taken as per the provisions of Section 421 of the Code of Criminal Procedure, 1973.

48. The Registrar General of this Court shall ensure compliance and place on record the report of compliance

49. Let copy of this order be sent to the Judicial Magistrate of the First Class, Rampachodavaram along with the particulars of the respondent.

50. Contempt Case stands allowed in the aforesaid terms.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

RAVI NATH TILHARI, J

Date:07.11.2023

Note:

L.R copy to be marked.

B./o.

PSA/Gk

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

CONTEMPT CASE No.1032 of 2019

Date:07.11.2023

PSA/Gk