BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2025

CORAM:

THE HONOURABLE **MR.JUSTICE SHAMIM AHMED**

Contempt Petition (MD)No.1206 of 2025
In
W.P.(MD)No.13965 of 2011

V.Arulmoni, S/o.Velu,
Door No.4/80, West Colony,
Lakshmipuram, Kovilpatti,
Thoothukudi District. Petitioner/Petitioner

Vs

1.Mrs.Sasikala, The Joint Director of School of Education,
E.V.K.Sampath Building, DPI Campus, College Road,
Nungambakkam, Chennai.

2.J.Prabhaharan, The District Educational Officer,
VOC School Campus, Kovilpatti,
Thoothukudi District. Contemnors/Respondents

PRAYER: This Contempt Petition is filed, under Section 11 of the Contempt of Courts Act, 1971 to punish the Contemnors/ Respondents 1 & 2 for wilfully disobeying and not complying with the order passed by this Court in W.P(MD)No.13965 of 2011, dated 25.07.2013.

For Petitioner : Mr.S.Saravanan
For Respondents : Mr.D.Sadiq Raja, AGP

ORDER

1. This is a Petition, seeking initiation of contempt proceedings against the Respondents for violation of the order, dated 25.07.2013 passed by this Court in W.P.(MD)No.13965 of 2011.

2. This Court heard Mr.S.Saravanan, the learned counsel for the Petitioner and Mr.D.Sadiq Raja, the learned Additional Government Pleader on behalf of the Respondents.

3. This Contempt Petition has been filed on 07.04.2025 for non compliance of the judgment and order dated 25.07.2013 passed in W.P.(MD)No.13965 of 2011. The learned Single Judge of this Court vide judgment and order dated 25.07.2013 allowed the said Writ Petition and it is reproduced below:-

> *"The prayer in the Writ Petition is to quash the order dated 09.09.2010 (12.09.2011) and direct the respondents to pay incentive increment to the petitioner with effect from 2006 onwards as per G.O.Ms.No.324, Education Science and Technology Department, dated, 25.04.1995.*
>
> *2. The case of the petitioner is that the petitioner is working as Physical Education Director, Grade I. Subsequently, the petitioner possessed M.Phil., degree in Physical Education and Sports Science in Annamalai University in the year 2006. According to the petitioner, the Government issued G.O.Ms.No. 324, Education Science and Technology Department, dated 25.04.1990 as per which the petitioner is entitled to get one set of incentive increment. Hence, he submitted representation*

before the respondents and the same was rejected by the impugned order dated 09.09.2010.

3. Heard the learned counsel appearing for the petitioner and the Special Government. Pleader appearing for the respondents.

4. The learned counsel appearing for the petitioners as well as the learned Special Government Pleader appearing for the respondents submitted that the matter in issue is covered by a judgment of a Division Bench of this Court in W.A.Nos 2604 to 2606 of 1999 batch and by judgment dated 20.06.2006, the Division Bench held as follows:-

"All the Writ Petitions have been preferred by the Writ Petitioners, who are P.G.Assistants and Headmasters, for grant of incentive increments for which, they were entitled to for having acquired higher qualifications, such as Degree M.A., M.Sc., M.Phil, or M.Ed. Etc.

2. The order, dated 12.02.1999 in W.P.Nos.17884 of 1998 etc., which was challenged in W.A.Nos.2604 to 2606 of 1999 was passed by this Court by following its earlier order, dated 18.04.1998 in a batch of Writ Petitions, i.e., W.P.Nos.7840 of 1995 etc. The learned Government Advocate appearing for the appellants is not able to bring to the notice of this Court with regard to finality of the said order as to whether it was set aside or modified. Moreover, the learned counsel appearing for the respondents, has produced a copy of the Judgment rendered by a Division Bench of this Court in W.A.No.2307 of 1999, wherein, similar issue in regard to payment of incentive Increments came up for consideration and after narrating all the relevant G.Os., relating to payment of incentive increments for acquiring higher qualifications, such as M.A., M.Sc., M.Phil., M.Ed, etc., the Bench has ultimately held as under:-

"6. Similarly after the said G.O., dated 09.12.1983, similar question came up for consideration before this Court in W.P.No.20437 of 1993. This Court by order dated 02.03.1994 has upheld the payment of third set of two advance increments to the P.G.Assistants. Likewise, entitlement of P.G.Teachers for third set of two advance increments also came up for consideration before this Court in W.P.No.8078 of 1994 and this Court by order dated 01.02.1995 has upheld the said order. For the above reasons, we find that the appellant is entitled to the benefit of G.O.Ms.No.747, Finance Department, dated 18.08.1986 together with G.O.Ms.No.1023, Education Science and Technology Department, dated 09.12.1993. Hence, we see merit in the order of the second respondent dated 29.11.1989 withdrawing the third set of two advance increments given to petitioner. Accordingly, the Writ Appeal impugned proceedings da 29.11.1989 and the order of the learned single Judge are set aside. No costs.

Considering all the above facts and circumstances, these Appeals fail and the same are dismissed. No posts. However concerned respondents in the respective Writ Petitions are direct implement the orders impugned in these Writ Appeals within eight from the date of receipt of copy of this order."

5.One of such similar order passed by this Court in W.P.No. 2528 of 2007, dated 20.12.2007, was challenged by the Department and the Division Bench of this Court, by Judgment dated 20.12.2007 W.A. (MD).No.426 of 2008, dismissed the said Writ Appeal.

6. I had an occasion to consider similar issue at Principal Bench in W.P.No.23062 of 2009 and by order dated 22.03.2011 allowed the writ petition. Paragraphs 6 and 7 of the said order reada as follows:-

"6. The sanction of incentive increments for acquiring higher

educational qualification in the relevant subject was ordered by the Government in G.O.Ms.No.42, Education Department dated 10.01.1969. It is true that the petitioner is entitled to get incentive increments while working as Physical Education Director for having acquired higher qualification namely, M.Phil Degree. In G.O.Ms.No.324, Education, Science and Technology Department, dated 24.04.1995, it is ordered that in respect of the teachers in Physical Education they are eligible for the incentive for higher qualification only in Physical Education. The relevant portion of the said G.O.Ms.No.324, Education, Science and Technology Department, dated 24.04.1995 reads as follows:

"5. The Government accordingly direct that

(i)....
(ii)....
(iii) In respect of the teachers in Physical Education they are eligible for the incentive for higher qualification only in Physical Education".

7. In the light of the above uncontraverted facts and law, the petitioner is entitled to get incentive increments for acquiring the higher qualification and hence, the writ petition stands allowed".

7. Following the said judgments, the impugned order is set aside and the Writ Petition is allowed. The respondents are directed to sanction and pay incentive increment to the petitioner for possessing M.Phil. degree, within a period of eight weeks from the date of receipt copy of this order. No costs. Consequently, connected Miscellaneous Mitions are closed."

4. The learned counsel for the Petitioner submits that the Respondents

have not complied with the judgment and order dated 25.07.2013 passed in W.P.(MD)No.13965 of 2011 for more than 9 years.

5. When the Court inquired about the efforts taken by the Petitioner to get the order complied with, there is no record in the present file indicating any action taken by the petitioner or any effort made by him. Consequently, the Petitioner has approached this Court after a lapse of more than 9 years, effectively having slept over his rights during this period and accordingly, the present Contempt Petition is barred by limitation as per Section 20 of the Contempt of Courts Act, 1971.

6. At this juncture, it is relevant quote the provisions of Section 20 of the Contempt of Courts Act, 1971 hereunder:

> *"20. Limitation for actions for contempt _ No Court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed."*

7. According to Section 20 of the Contempt of Courts Act, 1971, the limitation period is only one year from the date, on which, the cause of action arises. In the present case, though the cause of action for

contempt arose in October 2013 and expired in October 2014, yet the present Contempt Petition has been filed in the year 2025 after a delay of around 9 years.

8. In the present case, the Petitioner annexed a contempt notice along with two postal receipts dated 03.04.2025 and 05.04.2025. There is no other proof of service annexed with the contempt petition. Apart from this, there is no document to show that a copy of the judgment and order of this Court was served on the Respondents, nor is there any evidence that the petitioner approached the Respondents for compliance of the judgment and order passed by the Writ Court dated 27.07.2013 in W.P.(MD) No.13965 of 2011 nor there is any averment in the Petition that the delay is bona fide and was beyond the control of the Petitioner.

9. After perusal of the records, this court finds that there is no proper and satisfactory explanation for filing the present contempt petition after an inordinate delay of around 9 years. Hence, the present Contempt Petition is a time barred one and at this belated stage, it cannot be sustained on the ground of laches.

10. The expression "sufficient cause" and satisfactory explanation has been held to receive a liberal construction so as to advance substantial justice and generally a delay in preferring a petition may be condoned in interest of justice where no gross negligence or deliberate inaction or lack of bona fide is imputable to parties, seeking condonation of delay. In the case of **Collector, Land Acquisition Vs. Katiji, reported in 1987(2) SCC 107**, the Honourable Supreme Court said that when substantial justice and technical considerations are taken against each other, cause of substantial justice deserves to be preferred, for, the other side cannot claim to have vested right in injustice being done because of a non deliberate delay. The Court further said that judiciary is respected not on account of its power to legalise injustice on technical grounds, but because it is capable of removing injustice and is expected to do so.

11. In the case of **P.K. Ramachandran Vs. State of Kerala, reported in AIR 1998 SC 2276,** the Honourable Supreme Court was pleased to observe as under:-

"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so

prescribe and the Courts have no power to extend the period of limitation on equitable grounds.“

12. The Rules of limitation are not meant to destroy rights of parties. They virtually take away the remedy. They are meant with the objective that parties should not resort to dilatory tactics and sleep over their rights. They must seek remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The statute relating to limitation determines a life span for such legal remedy for redress of the legal injury, one has suffered. Time is precious and the wasted time would never revisit. During efflux of time, newer causes would come up, necessitating newer persons to seek legal remedy by approaching the Courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The statute providing limitation is founded on public policy. It is enshrined in the maxim ***Interest reipublicae up sit finis litium*** (it is for the general welfare that a period be put to litigation). It is for this reason that when an action becomes barred by time, the Court should be slow to ignore delay for the reason that once limitation

expires, other party matures his rights on the subject with attainment of finality. Though it cannot be doubted that refusal to condone delay would result in foreclosing the suiter from putting forth his cause but simultaneously the party on the other hand is also entitled to sit and feel carefree after a particular length of time, getting relieved from persistent and continued litigation.

13. There is no presumption that delay in approaching the Court is always deliberate. No person gains from deliberate delaying a matter by not resorting to take appropriate legal remedy within time but then the words “sufficient cause“ show that delay, if any, occurred, should not be deliberate, negligent and due to casual approach of concerned litigant, but, it should be bona fide, and, for the reasons beyond his control, and, in any case should not lack bona fide. If the explanation does not smack of lack of bona fide, the Court should show due consideration to the litigant, but, when there is apparent casual approach on the part of litigant, the approach of Court is also bound to change. Lapse on the part of litigant in approaching Court within time is understandable but a total inaction for long period of delay

without any explanation whatsoever and that too in absence of showing any sincere attempt on the part of litigant, would add to his negligence, and would be relevant factor going against him.

14. I need not to burden this judgement with a catena of decisions explaining and laying down as to what should be the approach of Court on construing "sufficient cause" and it would be suffice to refer a very few of them besides those already referred.

15. The Hon'ble Supreme Court of India, in the case of ***Pallav Sheth v.Custodian, (2001) 7 SCC 549,*** was pleased to observe as follows:-

> "*Firstly, a contempt proceedings can be initiated by two modes, either the Court can initiate the contempt proceedings on its own (suo moto), or otherwise. The word otherwise has been interpreted to mean that the initiation would have to be done by a party by filing an application. Therefore, the Supreme Court was of the opinion that the proper construction to be placed on Section 20 of the Act must be that action must be initiated, either by filing of an application, or by a Court issuing notice suo moto within a period of one year from the date on which the contempt is alleged to have been committed.*
>
> *Secondly, the Hon'ble Supreme Court did not find that Section 20 of the Act either stultifies or abrogates the power bestowed upon the Apex Court under Article 129 or Article 215 of the Constitution of India.*
>
> *Thirdly, since Section 20 of the Act is a special law prescribing a period of limitation, different from the limitation prescribed*

by the Limitation Act, which happens to be the general law, the special law would naturally override and take precedent over the Limitation Act- the general law. Thus while exercising the power of contempt under Article 215 of the Constitution of India it has to be exercised in consonance with Section 20 of the Act.

Fourthly, the word to initiate a proceeding would mean the filing of a petition, The said word does not mean the taking of cognizance by a Court, as was held in the case of ***Om Prakash Jaiswal v. D.K.Mittal [(2000) 3 SCC 171]****"held that the limitation period under Section 20 of the Contempt of Court Act, 1971, is mandatory, and the Court cannot entertain a contempt petition after one year, unless proceedings were already initiated within that time."*

16. In the case of **[Hiralal Dixit v. State of U.P., AIR 1954 SC 743]** it is held that power to be sparingly exercised but where public interest demands it, the Court will not shrink from exercising it.

17. The Hon'ble Supreme Court of India, in the case of **Prakash Kakubhai Rangwala Vs. Nyayalaya Karmachari Anne Nayayadish Hitkari Sangh and Another, reported in (2011) 14 Supreme Court Cases 762, was pleased to observe** as follows :-

"7.These facts would, therefore, indicate and establish that the decision of initiation of proceedings under the Contempt of Courts Act, 1971 was taken on 3.12.2009 when notice was issued and, therefore, it is established from the records that the aforesaid suo motu issuance of notice for the offence of contempt on 3.12.2009 is within the period of limitation of one

year.

8. Even otherwise, we may appropriately refer to the decision of this Court in Pallav Sheth v. Custodian wherein this Court, after referring to a decision in Om Prakash Jaiswal case held that : (SCC p. 570, para 42)

" 42. .... If the interpretation of Section 20 put in Om Prakash Jaiswal case is correct, it would mean that notwithstanding both the subordinate court and the High Court being prima facie satisfied that contempt has been committed the High Court would become powerless to take any action. On the other hand, if the filing of an application before the subordinate court or the High Court, making of a reference by a subordinate court on its own motion or the filing of an application before an Advocate General for permission to initiate contempt proceedings is regarded as initiation by the court for the purpose of Section 20, then such an interpretation would not impinge on or stultify the power of the High Court to punish for contempt which power, dehors the Contempt of Courts Act, 1971 is enshrined in Article 215 of the Constitution."

It was also held that such an interpretation of Section 20 would harmonise that section with the powers of the courts to punish for contempt which is recognised by the Constitution."

18. The Honourable Supreme Court in the case of **MAHESHWAR PERI v. HIGH COURT OF JUDICATURE AT ALLAHABAD thro. Registrar General, reported in 2016 (6) scale 425,** dealt with the Contempt of Courts Act 1971 and it was pleased to observe as under:-

"8.The main contention advanced by the learned counsel for the appellants is that the High Court, having initiated action only after four years of the alleged contempt, the whole proceedings are barred by Section 20 of the contempt of Courts Act, 1971 (herein after referred to as 'the Act') which has prescribed the period of limitation of one year for initiating any proceedings of contempt, be it suo motu or otherwise. Section 20 of the Act reads as follows:

*"**20. Limitation for actions for contempt.-** No court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed."*

9. Learned counsel appearing for the High Court , however contends that being an action initiated by the High Court under Article 215 of the Constitution of India and since the genesis of the initiation of the contempt is the application dated 18.11.2008 field by Mr.Manoj Kumar Srivastava and Mr.Veer Singh, Advocates, and since the High Court had considered the application within one year and had taken action by issuing notice, though after six years, it is within time.

10. Our attention is invited to a three Judge Bench decision of this Court in Pallav Sheth v. Custodian and Others and particular to paragraph -39 and 40. Paragraphs 39 and 40 reads as follows:

"39. In the case of criminal contempt of a subordinate court , the High Court may take action on a reference made to it by the subordinate court or on a motion made by the Advocate -General or the Law Officer of the Central Government in the case of a Union Territory. This reference or motion can conceivably commence on an application being field by a person whereupon the subordinate court or the Advocate-General if it is so satisfied may refer the matter to the High

Court. Proceedings for civil contempt normally commence with a person aggrieved bringing to the notice of the Court the wilful disobedience of any Judgement, decree, order etc. which could amount to the commission of the offence. The attention of the Court is drawn to such a contempt being committed only by a person filing an application in that behalf. In other words, unless a Court was to take a suo motu action, the proceeding under the Contempt of Courts Act, 1971 would normally commence with the filing of an application drawing the attention of the Court to the contempt having been committed,. When the judicial procedure requires an application being filed either before the court or consent being sought by a person from the Advocate -General or a law Officer, it must logically follow that proceeding for contempt are initiated when the applications are made.

40. In other words the beginning of the action prescribed for taking cognizance of criminal contempt under Section 15 would be initiating the proceedings for contempt and the subsequent action taken thereon of refusal or issuance of a notice or punishment thereafter are only steps following or succeeding such initiation. Similarly, in the case of a civil contempt, filing of an application drawing the attention of the court is necessary for further steps to be taken under the Contempt of Courts Act, 1971."

11.We are afraid, the contentions advanced by the learned Counsel for the appellants cannot be appreciated. Be it an action initiated for contempt under Article 129 of the Constitution of India by the Supreme Court or under Article 215 of the Constitution of India by the High Court , it is now settled law that the prosecution procedure should be in consonance with the Act, as held by this Court is Pallav Sheth case (supra)

12.And thus, the dispute boils down to the question of limitation

only.

13. Under the Act, the action for contempt is taken by only two courts, either the Supreme Court or the High Court. The procedure is prescribed under Section 15 of the Act, which reads as follows:

"15. Cognizance of criminal contempt in other cases.- *(1) In the case of a criminal contempt, other than a contempt referred to in section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by-*
(a) the Advocate-General , or

(b) any other person, with the consent in writing to (sic of) the Advocate -General, or

(c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer.

(2). In the case of any criminal contempt of a subordinate Court, the High Court may take action on a reference made to it by subordinate Court or on a mote made by the Advocate-General or, in relation to a Union territory, by such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3). Every motion or reference made under this section shall specify the contempt of which the person charged is alleged to be guilty.

Explanation – In this section, the expression "Advocate -General" means-

(a) in relation to the Supreme Court, the Attorney-General or

the Solicitor General;

(b) in relation to the High Court, the Advocate -General of the State or any of the States for which the High Court has been established;

(c) in relation to the Court of a Judicial Commissioner, such law officer as the Central Government may, by notification in the Official Gazette, specify in this behalf."

14.Criminal Contempt of Court subordinate to High Court can be initiated either suo motu or on a motion made by the Advocate-General. The suo motu action is set in motion on a Reference made to it by the subordinate court, in Pallav Sheth case (supra) , it has been held that the reference is the starting point of the process of initiation of the action for contempt. That is why in paragraph-39, which we have extracted above, it has been clearly held that... "unless a Court was to take suo motu action, the proceeding under The Contempt of Courts Act,19671 would normally commence with the filing of an application drawing the attention of the court to the contempt having been committed. "The application is the motion provided under Section 15 of The Contempt of Courts Act, 1971. Such a motion, by any person other than Advocate-General, can be made only with the consent in writing of the Advocate-General. In other words, any other application made by a person without the consent of the Advocate-General, is not an application in the eyes of law'

15. This aspect has been succinctly discussed and subtly distinguished in paragraph-44 of the Pallav Sheth case (supra).To quote paragraph -44:

"44. Action for contempt is divisible into two categories, namely, that initiated suo motu by the Court and that instituted otherwise than on the Court's own motion. The mode of initiation in each case would necessarily be different. While in

the case of suo motu proceedings, it is the court itself which must initiate by issuing a notice, in the other cases initiation can only be by a partly filing an application, In our opinion, therefore, the proper construction to be placed on Section 20 must be that action must be initiated, either by filing of an application or by the court issuing notice suo motu, within a period of one year form the date on which the contempt is alleged to have been committed."

19. Thus, obviously the power bestowed upon this Court under Article 215 of the Constitution of India would have to be exercised, while keeping in mind the limitation prescribed by Section 20 of the Contempt of Courts Act. The High Courts cannot invoke the powers under Article 215 of the Constitution of India, in all the cases by entertaining the contempt application beyond the period of one year, so as to dilute or eradicate the law prescribed under Section 20 of the Contempt of Courts Act, 1971. All contempt applications ought to be filed within the period of limitation prescribed under Section 20 of the Contempt of Courts Act, 1971. The High Court on exceptional circumstances, on arriving a conclusion that a gross injustice to the society or the case is of public importance, then the inherent powers provided under Article 215 of the Constitution of India, can be exercised without reference to Section 20 of the Contempt of Courts

Act.

20. A litigant may come out with an interpretation that an injustice is caused to all the orders or judgements passed by the High Courts. No doubt, the litigants approach the Court to get justice, that does not mean that all the contempt applications have to be entertained after a period of one year prescribed under Section 20 of the Contempt of Courts Act, 1971. Generalisation in this regard can never be encouraged. What exactly the circumstances warranting interference under Article 215 of the Constitution of India has to be decided judiciously and applying the peculiar facts and circumstances prevailing in each and every case. General application in this regard is certainly impermissible and Courts have to interpret these provisions in a pragmatic way than in a general manner. In other words, the principles of constructive interpretation is to be adopted while interpreting the period of limitation under Section 20 of the Contempt of Courts Act as well as Article 215 of the Constitution of India.

21. The contempt jurisdiction is to be exercised sparingly and not as a matter of course. A long and unexplained delay in approaching the

Court can render the petition liable to dismissal on the ground of laches. Therefore, this Court is not inclined to entertain the present Contempt Petition.

22. In view of the above discussions and in the light of the aforesaid decisions, this Court is of the view that the present contempt petition is hit by the provision of the limitation contemplated under Section 20 of the Contempt of Courts Act, 1971. Accordingly, the present Contempt Petition stands dismissed. The file shall be consigned to record. There shall be no order as to costs.

19.06.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr/Srcm

SHAMIM AHMED, J.

Nsr/Srcm

To:

1. Mrs.Sasikala, The Joint Director of School of Education,
   E.V.K.Sampath Building, DPI Campus, College Road,
   Nungambakkam, Chennai.

2.J.Prabhaharan, The District Educational Officer,
   VOC School Campus, Kovilpatti, Thoothukudi District.

Contempt Petition (MD)No.1206 of 2025

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