

THE HON'BLE SRI JUSTICE BATTU DEVANAND

CONTEMPT CASE No.1248 OF 2020

ORDER:

This Contempt Case has been filed seeking to punish the respondents for violation of the orders, dated 22.10.2019 passed in W.P.No.15797 of 2019.

2) The petitioner filed W.P.No.15797 of 2019 praying to declare the action of the respondent Nos.2 and 3 in not selecting the petitioner as Village Agriculture Assistant (Grade-II) in pursuance of Notification 1/2019 dated 26.07.2019 as illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India and further to declare that the petitioner is entitled for selection and appointment and consequently direct the respondent Nos.2 and 4 to select and appoint the petitioner to the post of Village Agriculture Assistant (Grade-II) as per his merit.

3) This Court, by order, dated 22.10.2019, directed the respondents to consider the candidature of the petitioner to the post of Village Agriculture Assistant and pass appropriate orders, within a period of two (2) weeks from the date of receipt of a copy of this order.

4) Complaining the action of the respondents in not implementing the orders of this Court, the petitioner filed this Contempt Case.

5) The respondent Nos.1 to 3 filed their counter-affidavits.

6) Heard the respective counsel appearing on behalf of the petitioner and respondents. Perused the entire material available on record.

7) It is submitted by the learned counsel for the petitioner that after receipt of the orders of the Court, the petitioner made representation to the respondents in January, 2020 requesting to implement the orders of the Court by passing appropriate orders. But, the respondents did not choose to implement the orders of this Court and having fully, deliberately, wantonly violated the orders of the Court, and as such, they are liable for punishment under the provisions of Contempt of Court Act, 1971.

8) In the counter-affidavit, the 1st respondent submitted that based on the orders passed by this Court, the Special Commissioner of Agriculture has been requested to take immediate further necessary action in the matter, as per rules in vogue vide Government Memo No.AGC01-AGRI/335/2019-AGRI-IV, dated 27.11.2019.

9) The 1st respondent further submitted that upon verification of the certificates, the verification Board has rejected the candidature of the petitioner as "INELIGIBLE" on the ground of the candidate has obtained B.Sc (Ag.) from Sri Bhimarao Ambedkar University, AGRA which is not accredited by "Indian Council of Agricultural Research" (ICAR), which is mandatory as per the Educational Qualifications prescribed in Para No.3 of the Notification No.-01/2019, dated 26.07.2019.

10) The 1st respondent finally submitted that as per corrigendum to Notification dated 26.07.2019 issued by the O/o. the Commissioner of Agriculture, AP, Guntur, serving MPEOs with B.Sc (Ag.) Degree from Non-ICAR Recognized/Accredited Universities is also eligible to apply as a one-time exemption for having worked as MPEO in the Department of Agriculture, Andhra Pradesh. But, there is no provision to serving BTMs. In the present case, the petitioner has been working as Block Technology Manager (BTM), which is not mentioned in corrigendum issued, as the petitioner is not in the category of serving MPEOs, who are exempted for one time and the candidature of the petitioner was rejected as "INELIGIBLE" for selection on the grounds that B.Sc(Ag.) from Non-ICAR Recognized/Accredited University, but not "Serving MPEO" in the Department of Agriculture. The duties

and responsibilities of MPEOs and BTMs are different. Therefore, she prayed to close the present contempt case, as it has no merits.

11) In the counter-affidavit, the 2nd respondent submitted that his office has received copy of the order of this Court on 21.11.2019. Later the petitioner also handed over the orders of this Court in person for implementation of Court orders on 04.02.2020. The Government has communicated affidavit in this contempt case on 10.12.2020. Subsequently, the JDA, Kurnool was instructed through phone call to file the counter affidavit in this contempt case to avoid legal complications in the matter.

12) The 2nd respondent further submitted that the 3rd respondent i.e., DSC Chairman is competent authority to attend the grievances of the petitioner in pursuant to the orders of this Court. Therefore, he submitted that this respondent has no deliberate/willful intention to violate the Court orders. Therefore, he prays to close the contempt case against him.

13) In the counter-affidavit the 3rd respondent submitted that he received orders of the Court on 30.11.2019, but due to lack of knowledge on the part of the Ministerial staff of the Office of Joint Director of Agriculture, Kurnool, follow up

actions, no speaking orders were issued to the petitioner, as this was the first Writ Petition filed in respect of recruitment of Village Agriculture Assistant in Kurnool District for the next 3 months i.e., from December, 2019 to February, 2020. He further submitted that the Department of Agriculture had not dealt any direct recruitment like this through DSC, which is also one of the reasons for lack of knowledge and efficacy in discharging duties like recruitment as the Ministerial staff are also deficient in recruitment, legal provisions and follow up actions required to be taken up on timely, the staff has not taken any steps to obtain information for further communication of action for implementation of Court orders due to lack of legal knowledge.

14) The 3rd respondent further submitted that after filing the present contempt case, the respondent after examining the case of the petitioner in pursuant to the orders of this Court, considered the case of the petitioner and issued speaking order vide Proceedings No.A5/295365/2019, dated 02.12.2020 and the same was communicated to the petitioner. Except the above reasons, there is no willful or deliberate intention to cause delay in implementation of the Court orders. Finally, he tendered his sincere unconditional apology to the Court.

15) Heard learned counsel for the petitioner and the learned counsel appearing for the Respondents.

16) On careful perusal of the submissions made by the respective counsels and upon careful perusal of the material available on record, it is an admitted fact that this Court by order, dated 22.10.2019, directed the Respondents to consider the candidature of the petitioner to the post of Village Agricultural Assistant and pass appropriate orders within a period of two weeks from the date of receipt of a copy of the order. It appears the 1st Respondent vide Memo, dated 27.11.2019 instructed the 2nd Respondent to take immediate further necessary action. Thereafter, the 2nd Respondent did not take action as per the instructions of the 1st Respondent, dated 27.11.2019.

17) In the counter-affidavit, the 2nd Respondent is contending that he instructed the Joint Director of Agriculture, Kurnool through phone call to file counter-affidavit in contempt case to avoid legal complications. Though the 2nd Respondent contending that the 3rd Respondent is the competent authority to attend the grievance of the petitioner in pursuance of the orders of the Court, it is not stated anywhere in his counter that subsequent to receipt of the instructions from the 1st

Respondent, dated 27.11.2019, he instructed the 3rd Respondent to pass orders in compliance of the order of this Court.

18) The order of this Court received by the 3rd Respondent on 30.11.2019. This contempt case has been filed complaining non-compliance of the order of the Court on 17.11.2020 and this Court ordered notice to the Respondents in contempt case on 20.11.2020. As per the 3rd Respondent, he has considered the case of the petitioner as directed by the Court and passed speaking order on 02.12.2020 rejecting the claim of the petitioner, since he fails to fulfill the qualifications prescribed for the post of Village Agricultural Assistant Grade-II. Therefore, it appears that only after filing of the contempt case on 17.11.2020, the 3rd Respondent issued speaking orders on 02.12.2020 to implement the order, dated 30.11.2019 of this Court.

19) After considering the facts mentioned above, it appears that after issuing instructions on 27.09.2019 to the 2nd respondent, no further steps are taken by the 1st respondent to implement the order. The 2nd respondent also did not take any steps or issue any instructions to the 3rd respondent to take steps to implement the order of the Court. The 3rd respondent also issued speaking order only

on 02.12.2020 after filing the contempt case (i.e.) beyond the time stipulated by the Court in its order, dated 22.10.2019. As such, in our considered opinion, the Respondents disobeyed the order passed by this Court on 22.10.2019 to implement in true spirit.

20) The affidavits of the respondents is silent as to why they could not file a petition before this Court seeking extension of time to comply with the Order of this Court. Having chosen not to seek extension, the respondents cannot be heard to contend that despite a direction to comply with the Order within two weeks from the date of receipt of a copy of the order, they are justified in complying with the order at their convenience, without adhering to the time limit imposed by this Court. The Order of this Court has been violated to the extent this Court directed compliance of its order within two weeks.

21) On being asked as to what was the appropriate punishment, the learned counsel for the respondents would submit that, since the delay was unintentional, this Court should refrain from imposing any punishment on a senior Officers of the Government.

22) I must express my inability to agree. It is incumbent upon the respondents, more particularly, those who are

holding senior position in Government, to ensure that the Orders of this Court are complied with promptitude, and within the time stipulated for its compliance. Any difficulty which they may have in complying with the order of this Court would require them to invoke this Court jurisdiction seeking extension of time to comply with the orders. Admittedly, in the present case, no such efforts were made by the respondents.

23) While holding the respondents are guilty of Contempt, and for having violated the orders of the Court to the extent they failed to comply with the order of this Court within the time specified, they are liable for punishment under the Contempt of Court Act.

24) Accordingly, the contempt case is allowed and the contemnors are sentenced to undergo simple imprisonment for a period of one (1) month each and to pay fine of Rs.2,000/- (Rupees two thousand only) each in default of payment of fine, they shall undergo simple imprisonment for a period of one (1) week each.

25) The contemnor Nos.2 and 3, who are present before this Court, requested the Court to suspend the sentence. Considering their request, the sentence is suspended for a period of six (06) weeks.

26) The 1st Contemnor is directed to surrender before the Registrar (Judicial) of this Court on or before 13.05.2022.

27) There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE BATTU DEVANAND

Dt.06.05.2022
PGR

HON'BLE SRI JUSTICE BATTU DEVANAND

C.C.No.1248 OF 2020

Dt:06.05.2022

PGR