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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 21.04.2023

\+ CONT.CAS(C) 198/2018, CM APPL. 16009/2019 (directions), CM APPL. 37673/2019 (directions), CM APPL. 48428/2019 (directions) & CM APPL. 53627/2019 (directions).

ANTONY RAOD TRANSPORT SOULUTION PVT LTD ..... Petitioner

Through: Mr.Sushil Dutt Salwan, Sr. Adv. with Mr.Aditya Garg, Adv.

versus

VARSHA JOSHI & ORS ..... Respondents

Through: Mr. Avishkar Singhvi, Mr.Naved Ahmed & Mr.Vivek Kumar, Advs. with Ms.Alka, Section Officer, Transport Department & Mr.Ranjit Kumar, DGM, DIMTS.

\+ CONT.CAS(C) 200/2018, CM APPL. 15769/2019 (directions), CM APPL. 37675/2019 (directions), CM APPL. 48431/2019 (directions) & CM APPL. 53638/2019 (directions),

METRO TRANSIT PVT LTD ..... Petitioner

Through: Mr.Sushil Dutt Salwan, Sr. Adv. with Mr.Aditya Garg, Adv.

versus

VARSHA JOSHI & ORS ..... Respondents

Through: Mr. Avishkar Singhvi, Mr.Naved Ahmed & Mr.Vivek Kumar, Advs. with Ms.Alka, Section Officer, Transport Department & Mr.Ranjit Kumar, DGM, DIMTS.

\+ CONT.CAS(C) 982/2019, CM APPL. 48321/2019 (interim directions), CM APPL. 53675/2019 (withdrawal of amount), CM APPL. 48322/2019 (exception) & CM APPL. 9908/2020 (directions)

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A.B GRAIN SPIRITS PVT LTD & ANR ..... Petitioners
Through: Mr.Tanmaya Mehta & Mr.Ankit Virmani, Advs.

versus

RAJEEV VERMA, PRINCIPAL SECRETARY, CUM COMMISSIONER OF TRANSPORT GNCTD & ANR
..... Respondents
Through: Mr. Avishkar Singhvi, Mr.Naved Ahmed & Mr.Vivek Kumar, Advs. with Ms.Alka, Section Officer, Transport Department & Mr.Ranjit Kumar, DGM, DIMTS.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present petitions under Section 12 of the Contempt of Courts Act, seeks initiation of contempt proceedings against the respondents for wilful disobedience of the directions issued by the Division Bench of this Court on 06.12.2017 in W.P.(C) 4297/2017 and other connected petitions.

2. Before dealing with the rival submissions of the parties, the brief factual matrix, as may be necessary for adjudication of the present petitions may be noted.

3. The petitioners are providing private stage carriage services to the Govt. of NCT of Delhi under a cluster scheme. Under this scheme, all the clusters are a part of a network for providing stage carriage services for Delhi so as to ensure safe and comfortable travel to the commuters. For smooth operation of the scheme, the Govt. of NCT of Delhi entered into various similar concessionaire agreements with the petitioners and other

concessionaires, who were required to provide the services of drivers and other staff in relation to operation and maintenance of buses in their respective clusters. The services of the conductors, who were to man these buses were, however, provided by the Govt. of NCT of Delhi. It is an admitted position that consideration under the concession agreements envisaged particular wages payable to the staff of the petitioners whose services were being utilized for these vehicles.

4. Since the concession agreements envisage particular wages payable to the staff, the agreement also contained a stipulation for amendment of the formula for payment of service rate per hour to the concessionaire in case of any "change in law". Upon the minimum wages being enhanced pursuant to notifications dated 15.09.2016 and 03.11.2017, the petitioners sought amendment of the said formula and upon no action being taken by the Govt. of NCT of Delhi, they approached this Court by way of the aforesaid writ petitions. Before the Division Bench, the plea of the petitioners was that the quantification of the amount on which the petitioners had submitted their tenders was premised on a particular minimum wage payable to their employees, who were to serve for the operation of stage carriage service. Once there was an upward revision in these minimum wages, it was incumbent upon the government to make additional payments to the petitioners to make good this increase in the cost of providing stage carriage services on account of the enhancement of the minimum wages.

5. The writ petitions were allowed by the Division Bench on 06.12.2017 with the following directions:

> *"14. In view of the above, without prejudice to the rights and contentions of the parties in any pending litigation, the*

> *respondents shall effectuate necessary amendments in the formula envisaged in the Concessionaire Agreement regarding the amount payable taking adjustments and enhanced minimum wage, in terms of the notifications dated 15th September, 2016 and 3rd March, 2017 into consideration and consequently increase the wages with effect from the date when the said notifications took effect, or giving due benefit to the petitioners in their monthly billing.*
> *15. The petitioners shall calculate the amount payable in terms of the above directions. The copy of the calculation sheet be served upon the respondents within two weeks from today. The respondents shall effect payment of the amount in terms thereof within a period of four weeks thereafter"*

6. In order to appreciate the effect of these directions, it would also be necessary to examine the context in which the directions were issued. For this purpose, it would be useful to refer to para nos. 10-13 of the decision dated 06.12.2017, which gives the background in which the directions were issued. The same read as under:

> *"10. In support of the contention of the petitioners that the respondents are liable to make good the increase in the cost of the concessionaire on account of enhancement of the minimum wage, reliance is placed on the following clause besides others contained in the Concessionaire Agreement:*
> *"4.8. CYF Variation for Change in Law*
> *(a) Where, a Change in Law condition leads to proven increase in cost to the Concessionaire that:*
> *(i) could not have been foreseen at the time when this Agreement was being negotiated;*
> *(ii) could not reasonably have been avoided by good management practice; and*
> *(iii) is not expressly or by implication accommodated by the way in which the CYF is constructed, the Concessionaire is entitled to have the CYF amended to recoup its reasonable compliance costs. The adjustment in CYF shall not exceed r the increase in cost that was proved by the Concessionaire to*

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the satisfaction of DoT.
(b) Where, a Change in Law condition leading to proven decrease in cost to the Concessionaire that;
(i) could not have been foreseen at the time when this Agreement was being negotiated; and
(ii) is not expressly or by implication accommodated by the way in which the YF is constructed, DoT is entitled to have the CYF amended so as to reduce it by an amount by which the Concessionaire's costs of providing the services ought reasonably to be reduced.
(c) CYF variation due to Change in Law set out in 4.8(a) and 4.8 (b) shall be considered only where the impact is at least 2% of the CYF."
(Emphasis by us)
11. The respondents cannot treat the agencies, who provide the services of the conductors, differentially from the treatment which is being given to the petitioners, who are providing the services of staff drivers and other ancillary staff.
12. The petitioners complain that minimum wages had remained static since the year 1994 and have been suddenly enhanced by the respondents using a different formula. The submission is that this is a change in law which has resulted in a substantial and unforeseeable increase in costs to the concessionaire. It is further complained by the petitioner that consequent to the enhancement, the formula for calculation of consolidated yearly fare has not been changed by the respondents.
13. We may note that efforts to resolve the matter with the Chief Secretary of the GNCTD by the petitioners were unsuccessful."

7. Upon a bare perusal of the aforesaid, it becomes evident that the directions noted hereinabove were issued to redress the grievance of the petitioners that the change in minimum wages of manpower had resulted in a substantial and unforeseeable increase in costs to the concessionaire and therefore, the formula for calculations for consolidated yearly fare was

required to be changed by the respondents. Being aggrieved by these directions issued by the Division Bench on 06.12.2017 mandating the respondents to amend the formula envisaged in the concessionaire agreement regarding the amount payable to the petitioners and other concessionaires and consequently make payments on the basis of calculations to be provided by the petitioners, the respondents approached the Supreme Court by way of an SLP(C) Dairy No(s). 15731/2018. The said SLP came to be dismissed as withdrawn on 05.07.2018 with a liberty to the Govt. of NCT of Delhi to prefer a review petition before the Division Bench. At this stage, it may also be useful to note the order passed by the Apex Court on 05.07.2018. The same reads as under:

> *"After arguing the matter for some time, the learned Additional Solicitor General appearing for the petitioner seeks leave to withdraw these Special Leave Petitions so as to approach the Hon'ble Court by way of a Review Petition, since it is submitted that certain points urged before the High Court have not been reflected in the impugned Judgment.*
> *Permission is granted.*
> *The Special Leave Petitions are, accordingly, dismissed as withdrawn."*

8. The subsequent review petitions preferred by the government came to be rejected by the Division Bench on 26.07.2019 whereafter the Govt. of NCT of Delhi once again unsuccessfully approached the Apex Court. Their SLP against the order dated 26.07.2019 came to be dismissed by the Apex Court vide order dated 07.02.2020, which order reads as under:

> *"In terms of the order dated 5.7.2018, of this Court, while entertaining the Special Leave Petition(s) against the substantive order, the matter was heard for some time whereafter the Additional Solicitor General sought leave to*

> *withdraw the Special Leave Petitions so as to approach the High Court by way of a review petition since he submitted that certain points urged had not been reflected in the impugned judgment.*
>
> *Permission was granted for the same but no leave was granted to approach this Court again.*
>
> *The tenor of the order also makes it clear that the Bench (of which one of us, Sanjay Kishan Kaul, J. was a Member) was not impressed with the submissions urged on that date, but granted an opportunity to the petitioner to urge some plea which, according to them, had been urged and had not been reflected in the order. The review petition has been subsequently dismissed. In the absence of any leave granted, the present Special Leave Petitions are not maintainable in view of the judgments of this Court in Vinod Kapoor v. State of Goa & Ors. (2012) 12 SCC 378; Sudhakar Baburao Nangnure v. Noreshwar Raghunathrao Shende & Ors. - 2019 (4) SCALE 417. Needless to say, review by itself cannot be impugned in view of the judgment of this Court in Municipal Corporation of Delhi v. Yashwant Singh Negi- 2013 (2) SCR 550.*
>
> *The Special Leave Petitions are dismissed. Pending applications including the application for codonation of delay are disposed of."*

9. Having noted the factual background, I may now refer to the submissions of the parties. It is the claim of the petitioners, as articulated by Mr.Sushil Dutt Salwan learned Senior Advocate that the respondents, instead of effectuating necessary amendments to the concessionaire agreements by taking into account the incremental increase in service hour rate as applicable to each of the clusters, proceeded to apply the incremental increase worked out in respect of the concessionaire operating cluster 6 i.e. Govardhan Transport Co. Pvt. Ltd.. It is their case that the incremental increase which was required to be applied for carrying out the amendment in the formula envisaged under the concessionaire agreement was necessarily

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to be different for each cluster as the same was required to be computed on the specific facts of each cluster including the number of buses, number of manpower etc. The respondents, despite having worked out this incremental increase for each cluster separately, are deliberately and in blatant defiance of the directions issued by the Division Bench of this Court, persisting with their erroneous stand of uniformly applying the incremental increase qua cluster 6 to all the clusters. He submits that despite repeated opportunities being granted by this Court, the respondents are refusing to apply the correct incremental increase for each of the clusters and that too when it is an admitted position that the initial service hour rate of the different clusters in itself was different.

10. Mr. Salwan further submits that there was no ambiguity in the order of the Division Bench requiring the respondents to amend the formula for calculating the amount payable to the concessionaire agreement by taking into account the incremental increase of each cluster separately. In support of his plea, he seeks to place reliance on the orders passed by this Court on 25.07.2022 as also on 29.03.2023, wherein after this position was noted, time was granted to the learned counsel for the respondents to obtain instructions. On both these occasions, the Court after considering the rival submissions of the parties, held that the application of the rate of INR 27.76, as claimed by cluster 6 to all the other clusters was erroneous, as the order passed by the Division Bench on 06.12.2017 specifically directed that the amount payable to each concessionaire was to be worked out independently.

11. Mr.Salwan finally submits that in the present case, there was no scope of any misunderstanding by the respondents of the directions issued by the Division Bench which clearly mandated that the incremental increase for

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each of the cluster had to be worked out separately. The respondents having uniformly applied the incremental increase applicable to cluster 6 instead of applying the incremental increase of each cluster, have deliberately and blatantly violated the directions issued by the Division Bench. He, therefore, prays that contempt proceedings be initiated against the respondents for willful disobedience of the directions issued by the Division Bench. In support of his plea, he seeks to place reliance on the decisions of the Apex Court in ***Anil Ratan Sarkar v. Hirak Ghosh*, *(2002) 4 SCC 21* and *All Bengal Excise Licensees' Assn. v. Raghabendra Singh*, *(2007) 11 SCC 374.***

12. On the other hand, it is the stand of the respondents that the only direction of the Division Bench was to carry out amendments to the applicable formula envisaged in the concessionaire agreement by taking into account the notifications dated 15.09.2016 and 03.03.2017, which amendment even as per the petitioners, has been carried out by the respondents. Merely because the said amendment is based on the incremental increase claimed by the operator of cluster 6, it could not be said that the respondents have not complied with the directions issued by the Division Bench. Mr. Avishkar Singhvi, learned counsel for the respondents vehemently submits that the directions issued by the Division Bench did not envisage the amendment of the formula in any particular manner. It is, therefore, contended by him that the respondents having amended the formula, it cannot be said that there has been any wilful disobedience on the part of the respondents.

13. From the submissions made at the bar, it is clear that the entire gamut of the present petitions hinges on whether the purported amendment of the

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formula envisaged in the concessionaire agreement regarding the amount payable to the petitioners and to other operators of the clusters by the respondents is in accordance with the directions issued by the Division Bench. While it is the case of the petitioners that the action of the respondents is not in consonance with the specific directions of this Court, the respondents contend that they have carried out the necessary amendments strictly in accordance with the directions issued by the Division Bench and therefore no contempt is made out. Thus, what emerges is that the primary question which needs to be determined is as to whether this amendment can be said to be in consonance with the directions issued by the Division Bench. It is only if this Court finds that the amendment in the formula carried out by the respondents is contrary to the directions issued by the Division Bench, can it be said that they are guilty of contempt of Court. In order to answer this question, it would be necessary to determine as to whether the directions issued by the Division Bench mandated the respondents to work out the formula for each of the cluster by taking the incremental increase of each cluster separately and if yes, whether their failure to do so would fall within the ambit of contempt.

14. At this juncture, before delving any further into the factual matrix, it would be apposite to note the decisions relied upon by the parties dealing with exercise of contempt jurisdiction as also the pre-conditions which need to be fulfilled for initiation of contempt proceedings against a person. Reference may first be made to the decision in ***Anil Ratan Sarkar (supra)*** wherein the Apex Court emphasized that in a case where two interpretations of an order are possible and there is doubt in the matter as regards to the

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wilful nature of the conduct, no contempt would lie. The relevant extracts of the said decision, as contained in para nos. 20-22, read as under:

> ***"20.*** *Similar is the situation in the counter-affidavit filed presently in this matter as well: is this fair? The answer having regard to the factual backdrop cannot but be in the negative. It is neither fair nor reasonable on the part of a senior civil service personnel to feign ignorance or plead understanding when the direction of this Court stands crystal clear in the judgment. Government employees ought to be treated on a par with another set of employees and this Court on an earlier occasion lent concurrence to the view of the learned Single Judge that the circulars issued by the State Government cannot but be ascribed to be arbitrary: the Government is not a machinery for oppression and ours being a welfare State, as a matter of fact, be opposed thereto. It is the people's welfare that the State is primarily concerned with and avoidance of compliance with a specific order of the court cannot be termed to be a proper working of a State body in terms of the wishes and aspirations of the founding fathers of our Constitution. Classless, non-discriminate and egalitarian society — are not meaningless jargons so that they only remain as the basic factors of our socialistic state on principles only and not to have any application in the realities of everyday life: one section of the employees would stand benefited but a similarly placed employee would not be so favoured — why this attitude? Obviously there is no answer. Surprisingly, this attitude persists even after six rounds of litigation travelling from Calcutta to Delhi more than once — the answer as appears in the counter-affidavit is an expression of sorrow by reason of the understanding cannot be countenanced in the facts presently under consideration. A plain reading of the order negates the understanding of the respondent State and the conduct in no uncertain terms can be ascribed to be the manifestation of an intent to deprive one section of the employees being equally circumstanced — come what may and this state of mind is clearly expressed in the counter-affidavit though, however in temperate language. The question of bona*

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fide understanding thus does not and cannot arise in the facts presently. Is it a believable state of affairs that the order of the learned Single Judge as early as the first writ petition, has not been properly understood by the seniormost bureaucrat of the State Government: the same misunderstanding continues in terms of the appellate court's order and the third in the line of order is that of the Apex Court. The understanding again continues even after the second writ petition was filed before the learned Single Judge in the High Court and similar understanding continues even after the, so to say, clarificatory order by this Court, as appears from the order dated 20-4-2001 [Anil Ratan Sarkar v. State of W.B., (2001) 5 SCC 327 : 2001 SCC (L&S) 866] . Even in the counter-affidavit, filed in the contempt petition, the understanding still continues — we are at a loss as to what is this understanding about: the defence of "understanding" undoubtedly is an ingenious effort to avoid the rigours of an order of the court but cannot obliterate the action — the attempted avoidance through the introduction of the so-called concept of lack of understanding cannot, however, be a permanent avoidance, though there may be temporary and short-lived gains. The order of this Court cannot possibly be interpreted as per the understanding of the respondents, but as appears from the plain language used therein. Neither is the order capable of two several interpretations nor is there any ambiguity and the same does not require further clarity. The order is categorical and clear in its context and meaning. The court's orders are to be observed in its observance, rather than in its breach.

21. *This matter is pending in the courts since more than last 15 years, but unfortunately the litigious spirit of the respondent State has not minimised even to the slightest extent — the spirit continues and so is the deprivation. The defence of understanding is not only moonshine but a deliberate attempt to overreach this Court's order and as such wilfulness in the matter of disregard of this Court's order is apparent on the face of it and we are not prepared to accept the same as a defence of an action for deliberate and wilful disregard of an*

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order of the court. We find that the actions on the part of the respondent authorities are not only unreasonable but deliberate and spiteful and that too in spite of a specific direction in all the five judgments so far obtained by the petitioners in their favour. Avoidance is written large and it would be difficult for us to consume the same without any particular rhyme or reason.

***22.** In the contextual facts there cannot be any laxity, as otherwise the law courts would render themselves useless and their order to utter mockery. Feeling of confidence and proper administration of justice cannot but be the hallmark of Indian jurisprudence and contra-action by courts will lose its efficacy. Tolerance of law courts there is, but not without limits and only up to a certain point and not beyond the same."*

15. Reference may also be made to the decision in ***Dinesh Kumar Gupta vs. United India Insurance Company Limited, (2010) 12 SCC 770,*** wherein the Apex Court summarized the pre-conditions before a person can be held guilty of having committed civil contempt**.** Para 15 and 17 of the said decisions, which are germane to this aspect, read as under:

***"15.** Nevertheless, it would not be correct on behalf of the appellant to contend that the learned Single Judge was not authorised to initiate contempt proceeding against the appellant merely because he was sitting in a Single Bench although he might have been in a position to notice whether the alleged action at the instance of any party or anyone else who obstructed the cause of justice, amounted to contempt of court of a civil or criminal nature and yet would be precluded from initiating suo motu contempt proceedings. The Contempt of Courts Act, 1971 clearly postulates the existence of only the following preconditions before a person can be held to have committed civil contempt:*

(i) There must be a judgment or order or decree or direction or writ or other process of a court; or

An undertaking given to a court;

(ii) The judgment, etc. must be of the court and undertaking must have been given to a court;

(iii) There must be a disobedience to such judgment, etc. or breach of such undertaking;

(iv) The disobedience or breach, as the case may be, must be wilful.

***17.** This now leads us to the next question and a more relevant one, as to whether a proceeding for contempt initiated against the appellant can be held to be sustainable merely on speculation, assumption and inference drawn from facts and circumstances of the instant case. In our considered opinion, the answer clearly has to be in the negative in view of the well-settled legal position reflected in a catena of decisions of this Court that contempt of a civil nature can be held to have been made out only if there has been a wilful disobedience of the order and even though there may be disobedience, yet if the same does not reflect that it has been a conscious and wilful disobedience, a case for contempt cannot be held to have been made out. In fact, if an order is capable of more than one interpretation giving rise to variety of consequences, non-compliance with the same cannot be held to be wilful disobedience of the order so as to make out a case of contempt entailing the serious consequence including imposition of punishment. However, when the courts are confronted with a question as to whether a given situation could be treated to be a case of wilful disobedience, or a case of a lame excuse, in order to subvert its compliance, howsoever articulate it may be, will obviously depend on the facts and circumstances of a particular case; but while deciding so, it would not be legally correct to be too speculative based on assumption as the Contempt of Courts Act, 1971 clearly postulates and emphasises that the ingredient of wilful disobedience must be there before anyone can be hauled up for the charge of contempt of a civil nature."*

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16. At this stage, it may also be useful to refer to the decision of the Apex Court in ***All Bengal Excise Licensees Association (supra),*** wherein the Apex Court rejected the defence taken by the contemnors of there being a mistake in understanding the orders of the Court. The relevant observations of the Apex Court as contained in para nos. 26-28, read as under:

> ***"26.*** *This Court can only say it is rather unfortunate that such officers who are not capable of or not able to understand the implication of the prohibitory orders passed by the High Court should be allowed to hold such high offices. During the course of the hearing of the contempt application, the matter was adjourned by the High Court to enable the respondent to consider whether the contemnors were prepared to cancel the lottery held on 20-3-2005, 21-3-2005 and 22-3-2005 in violation of the Court's orders and on such adjourned date, the contemnors did not agree to cancel the lottery. Under such circumstances, the plea of mistake of understanding the order cannot at all be accepted. Likewise, the High Court was also not justified in not directing the contemnors to cancel the lottery held on 20-3-2005, 21-3-2005 and 22-3-2005 in violation of the solemn orders passed by the very same Judge and in view of the clear finding of the Court that they had acted in clear violation of the said interim order made by the High Court.*
>
> ***27.*** *Even assuming that there was any scope for bona fide misunderstanding on the part of the respondents, once it was found that the respondent had disobeyed the specific order passed earlier by the Court, the High Court should have directed the contemnors to undo the wrong committed by them which was done in clear breach of the order of the Court by restoring the status quo ante by cancelling the lottery wrongfully held by them. The learned Judge found that the respondent contemnors had held the lottery in violation of the Court's order and the results of the said lottery should not be permitted to take effect and should be treated as unlawful and*

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invalid for the purpose of grant of licence. The learned Single Judge for the purpose of upholding the majesty of law and the sanctity of the solemn order of the court of law which cannot be violated by the executive authority either deliberately or unwittingly should have set aside the lottery held and should not have allowed the respondents to gain a wrongful advantage thereby.

***28.** In our opinion, 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. By pleading misunderstanding and thereafter retaining the said advantage gained in breach of the order of the Court and the wrong perpetrated by the respondent contemnors in contumacious disregard of the order of the High Court should not be permitted to hold good. In our opinion, the impugned order passed by the High Court is not sustainable in law and should not be allowed to operate as a precedent and the wrong perpetrated by the respondent contemnors in utter disregard of the order of the High Court should not be permitted to hold good.*

***29.** The High Court has committed a grievous error of law in holding that failure to understand the implication and consequences of the order passed by the High Court by highly placed government officers cannot be construed as an act of contempt. The High Court has failed to understand that the highly educated and highly placed government officials have competent legal advisors and it was not open to them to allege and contend that the respondent contemnors did not understand the implication of the order dated 4-1-2005. In our opinion, such officers are required to be dealt with effectively to uphold the dignity of the High Court and the efficiency of the system itself."*

17. Having noted the decisions highlighting the ambit of the contempt jurisdiction, the question which now needs to be examined is as to whether the stand of the respondents can be said to be fair and *bonafide* or whether their defense that the directions issued by the Division Bench did not clearly

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state that the incremental increase in service rate per hour had to be taken separately for each cluster is a mere attempt to overreach the orders passed by this Court.

18. When the directions issued by the Division bench, as contained in para nos. 14 and 15 are seen in conjunction with para nos. 10-13 of the decision, I have no hesitation in coming to the conclusion that the Division Bench had, in no uncertain terms, directed the respondents to amend the formula for calculating the amount payable to the concessionaires by taking into account the incremental increase of each cluster separately. I am of the considered view that the directions to the respondents were to calculate the amount payable to the concessionaires of the different clusters by taking into account the factual matrix of each cluster separately and it is only for this purpose that the Division Bench had directed the petitioners to furnish their calculations to them. The directions to say the least were crystal clear, and the respondents were therefore expected to effectuate necessary amendments to the formula by working out the amount payable to each cluster individually. Infact, even during arguments, it has not been denied by the respondents that the claim of the petitioners before the Division Bench was for directions to the respondents to make additional payments to them to the extent of increase in the minimum wages thereby making good the increase in the costs of providing stage carriage services on account of the enhancement in minimum wages. The insistence of the respondents in applying the incremental increase of cluster 6 to all other clusters despite being well aware that the factual matrix of each cluster is different and in fact, even the initial service hour rate of each cluster was always different,

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leaves no manner of doubt that the disobedience on the part of the respondents is willful.

19. In the light of the aforesaid, I am of the opinion that in the present case, all the four pre-conditions for holding the respondents guilty of contempt are made out. This moonshine defense taken by the respondents that there was no requirement to work out the incremental increase separately for each cluster, is wholly misconceived and needs to be rejected. While exercising contempt jurisdiction this Court has to keep in mind that the very purpose of the law of contempt is meant to serve public interest and build confidence in the judicial process. In the present case, the respondents, despite having repeatedly failed in their challenge to the order passed by the Division Bench are deliberately attempting to circumvent and undermine the unambiguous directions issued by the Division Bench. It is therefore necessary to deal with the respondents with a heavy hand.

20. For the aforesaid reasons, this Court finds the respondents guilty of Contempt of Court for wilfully disobeying the orders passed by the Division Bench in WP(C) No. 4297/2017 on 06.12.2017.

21. List for arguments on sentence on 14.07.2023, on which the date the contemnors, i.e., Special Commissioner Transport, the Chief Secretary and the Secretary Labour of the Govt. of NCT of Delhi will remain present in Court.

(REKHA PALLI)
JUDGE

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