

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

**CONTEMPT CASE Nos. 1470, 1471, 1475, 1476, 1477, 1480
& 1484 OF 2023 & W.P.No.40372 OF 2018**

COMMON JUDGMENT:-

1. Heard Sri J. Ugranarasimha, learned counsel for the petitioner Nos. 6, 7, 10, 20, 73, 95, 116, 146, 178, 237, 277 & 641 in C.C.No.1484 of 2023, Ms. V. Sesha Kumari, learned counsel, representing Sri Radha Krishna Lankiseti, learned counsel appearing for the petitioner Nos. 1, 4, 16, 17, 72, 87, 144 and 186 in C.C.No.1484 of 2023, Sri V. R. Reddy Kovvuri, learned counsel for the rest of the petitioners, in C.C.No.1484 of 2023 as also in rest of the contempt petitions, and Sri Kasa Jagan Mohan Reddy, learned counsel for the respondents.

2. These contempt petitions have been filed with respect to the common judgment and order dated 07.07.2022, passed by this Court in C.C.No.1470 of 2023 in W.P.No.44648 of 2018, C.C.No.1471 of 2023 in W.P.No.41580 of 2018, C.C.No.1475 of 2023 in W.P.No.40372 of 2018, C.C.No.1476 of 2023 in W.P.No.41570 of 2018, C.C.No.1477 of 2023 in W.P.No.44799 of 2018, C.C.No.1480 of 2023 in W.P.No.45057 of 2018 and C.C.No.1484 of 2023 in W.P.No.42188 of 2018 respectively.

3. C. C. No. 1484 of 2023 was filed by 652 petitioners alleging wilful disobedience of the order of this Court dated 07.07.2022 in W.P.No.42188 of 2018.

4. Sri J. Ugranarasimha, learned counsel for the petitioner Nos. 6, 7, 10, 20, 73, 95, 116, 146, 178, 237, 277 & 641 in C.C.No.1484 of 2023, submitted that he has subsequently been engaged and with respect to those petitioners, the order of the writ court has been complied with, and their names have been included in the 1st phase list after separation from the 2nd phase list and the seniority is also accorded at appropriate places.

5. Ms. V. Sesha Kumari, learned counsel, representing Sri Radha Krishna Lankiseti, learned counsel appearing for the petitioner Nos. 1, 4, 16, 17, 72, 87, 144 and 186 in C.C.No.1484 of 2023, subsequent to filing of the contempt petition, also submitted that with respect to those petitioners, to whom she is representing, the order of the writ court has been complied with and their names have been included in the 1st phase list after separation from the 2nd phase list and the seniority is also accorded at appropriate places.

6. Those petitioners as mentioned in paras 4 and 5 (supra) have also filed affidavit to the same effect as above.

7. For the rest of the petitioners, in C.C.No.1484 of 2023 as also in rest of the contempt petitions, Sri V. R. Reddy Kovvuri, learned counsel for those petitioners submitted that the order of the writ court has not been complied with.

8. Sri Kasa Jagan Mohan Reddy, learned counsel for the respondents in all the contempt petitions submitted that the order of the writ court has been complied with. The names of 364 petitioners have been included in the list of eligible persons, copy of which has been annexed along with the affidavit of the respondents 1 to 3 (page Nos.17 to 35 from Sl.Nos.1 to 364). He submitted that those who were found not eligible, their names have been included in the list annexed to the same affidavit (page Nos.36 to 105 from Sl.Nos.1 to 744).

9. Sri Kasa Jagan Mohan Reddy submitted that the writ court's direction was issued to the respondents to include the names of the petitioners after separation from the second phase seniority list, in the first phase seniority list at the appropriate places subject to fulfilment of the eligibility conditions by the petitioners, including the conditions as laid down in G.O.Ms.No.98 dated 15.04.1986. He submitted that the persons, included in the list at pages 36 to 105 of the affidavit, did not fulfil the condition in G.O.Ms.No.98 dated 15.04.1986 as

they submitted their application for appointment after one year from the date of actual displacement of the family under the Somasila Project, whereas such applications were required to be submitted within a period of one year from the date of actual displacement. He submitted that the persons whose applications were within the period of one year from the date of actual displacement, they were included in the first phase list, annexed at page Nos.17 to 35.

10. Sri V.R. Reddy Kovvuri, submitted that the condition of one year in G.O.Ms.No.98 was relaxed vide subsequent Government Memo No.480-LAR(2)/87-2 dated 24.08.1987. Further, another Memo No.7321/R&R-A2/2013-1, dated 22.08.2013 was issued on the subject of the period of one year in G.O.Ms.No.98, relaxing that condition. He submitted that on consideration of all the aspects, W.P.No.16635 of 2018 was allowed on 20.01.2021. The present W.P.No.40372 of 2018 and batch was also allowed on 07.07.2022 with the same directions. He submitted that now the plea of the applications filed beyond one year from the date of actual dispossession is being taken, though the matter stands concluded in the writ petition. The respondents act is deliberate and wilful disobedience of the judgment dated 07.07.2022 and they are incorrectly considering

G.O.Ms.No.98, without considering Government Memos dated 24.08.1987 and dated 22.01.2013, just to defy with the judgment of the writ court and not to comply with the same.

11. I have considered the submissions advanced and perused the material on record.

12. The operative portion of the common judgment dated 07.07.2020, passed by the writ court in W.P.Nos.40372 of 2018 and batch, reads as under:

“38. For the aforesaid reasons, all the writ petition Nos.40372, 41570, 41580, 42188, 44296, 44308, 44356, 44648, 44799 & 45057 of 2018 are allowed and direction is issued to the respondents to include the names of the petitioners, after separation from the second phase seniority list, in the first phase seniority list, at the appropriate places, subject to fulfillment of all the eligibility conditions by the petitioners, including the conditions as laid down in the G.O.Ms.No.98, dated 05.04.1986.

39. Let the entire exercise be completed within a period of one (01) month from the date the copy of this judgment is placed before the respondents. No order as to costs.”

13. The condition No.(iii) in G.O.Ms.No.98 Irrigation (Proj. Wing) Department dated 15.04.1986, based upon which it is submitted by the respondents counsel, that in the list at page

Nos.36 to 105 names of such petitioners were included as ineligible, reads as under:

“GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Major and Medium Irrigation Projects -Rehabilitation - Provision of employment to the displaced parents or their dependents - Orders - Issued.

Irrigation (Project Wing) Department

G.O.Ms. No. 98

Dated 15.4.1986

Read the following :

1. G.O.Ms.No. 676, Irrigation & Power Department, dated 17.11.1978.
2. From the Chief Engineer General, Lr.No. Gel.H1/41162/80-1, dated 1.8.1980.
3. From the Chief Engineer, SRSP, Lr.No.K3/4261/81 dated 5.8.1983
4. From the Secretary, A.P.S.C. Lr.No. 2718/ K-4/84, dated 28.8.1984.

ORDER :-

1. The Government have issued orders in the G.O 1st read above the reference in recruitment to post equivalent to LDC (Now Junior Asst./Typist and the Cadres below, in Projects should be given to the eligible displaced persons of their dependents i.e., son, daughter/spouse whose names are furnished by the respective Collectors. The Collectors were requested to draw a list of those eligible displaced persons for the above jobs in the Projects and forwarded to the Projects authorities for making appointment to the categories indicated above the project area. It was ordered that the rule of reservation should be adhered to within the District.

2. It was brought to the notice of the Government by the then Chief Engineer, General, in the reference 2nd read above, that the candidates appointed in projects as per the G.O. 1st read above have to be released by the regular candidates allotted by the Andhra Pradesh Public Service Commission. He has stated that in such benefit to the displaced families/their dependents will be defected and recommended that the order in G.O. Ms. No. 676 appointment of dependents departments.

3. Government have carefully examined the proposal on consultation with APPSC to provide jobs to the displaced person of the Project/their dependent on a regular basis to keep such appointment out side the purview of the APPSC and to reserve certain percentage of posts in the projects for the displaced persons to ensure their appointment.

4. After careful examination and consideration, the following orders are issued in supersession of orders in G.O. Ms. No. 676, Irrigation & Power Department, dated 17.11.1978.

(i) Not more than 50% of the vacancies of the categories equivalent to Junior Assistant/Typists and the cadres below arising in Major and Medium Irrigation and Power Projects should be filled up by the displaced Families or their dependents of a respective project duly following the reservation for various categories viz., S.C., S.T., B.C., Ex-Servicemen, Physically handicapped, meritorious sportsman etc.

(ii) The candidates eligible for appointment under this scheme shall be the displaced persons or his/her son, daughter or spouse/there being no other earning member in the family.

(iii) Applications for appointment from the eligible candidate shall be made to the District Collector, concerned within a period of one year from the date of actual displacement of the family. Preference shall be given with reference to the date of displacement and to these applicants whose houses and lands are acquired against those whose land or house only is acquired. The District Collector shall draw up a list of such application and forward the same to the District Authorities for appointment.

(iv) All appointments made in this scheme shall be temporary to start with. However, the service of these employees will be regularized in the categories of posts should pay is equal or less than that of Junior Assistant.

(v) The temporary appointment or the persons employed under this scheme can be considered for regular appointment without subjecting them to normal process or recruitment rules, provided they satisfy other candidates of recruitment prescribed, in the rules such as age, and educational may be made to the employment exchange and after filling up the vacancy the appointing authority will furnish relevant particulars of the candidate to the employment exchange covering the area.

(vi) The regular appointment made under the scheme shall be kept outside the purview of the APPSC regulations shall be issued separately.

T.R. PRASAD
SECRETARY TO GOVERNMENT"

14. Later on, Government Memo No.480-LAR(2)/87-2 dated 24.08.1987 was issued, as it was found that the condition of one year in G.O.Ms.No.98, dated 15.04.1986, if applied in the case of those displaced persons whose land was acquired prior to G.O.Ms.No.98, the period of one year had already expired. With respect to those persons it was provided that the limitation of one year as in G.O.Ms.No.98 would not apply and this condition in G.O.Ms.No.98 would be applicable prospective only.

15. The Government Memo No.480-LAR(2)/87-2 dated 24.08.1987 reads as under:

**“GOVERNMENT OF ANDHRA PRADESH
IRRIGATION & CAD (PW:R&R) DEPARTMENT**

Memo No.480-LAR(2)/87-2,

Dated: 24.08.1987

Sub:- Major Medium Irrigation and Power Projects – Rehabilitation – Provision of employment to the displaced persons or their dependants – Orders – Issued – Amendment – Issued.

Orders were issued in G.O.Ms.No.108, Irrigation (PW) Department, dt. 15.04.06, that not more than 50% of the vacancies of the categories equivalent to Junior Assistants/Typists and the cadres below arising in Major and Medium Irrigation and Power Projects shall be filled up by the candidates of displaced families/or their dependents of a respective project duly following the reservations for various categories viz, SC, ST, BC, Ex-Servicemen, Physically Handicapped and Meritorious, Sportsman etc., One of the conditions mentioned in the said G.O. is that, application for appointment from the eligible candidates shall be made to the District Collector concerned, within a period of one year from the date of actual displacement.

2. It has been brought to the notice of the Government that due to the above condition, many displaced persons were deprived of the opportunity of employment, as they were displaced prior to the issue of the G.O.

3. Government after careful consideration of the matter have decided to relax this condition, and order that, the condition of applying for appointment within one year from the date of displacement does not apply to such of the persons/families who are displaced prior to the issue of the said G.O.

4. The District Collectors are therefore, requested to forward the applications of the displaced persons referred to above, to the concerned Project Authorities for appointment, even though they have applied for appointment after one year of their displacement.

T.R. Prasad,
Secretary to Government.”

16. The condition of one year as in G.O.Ms.No.98 para 4(iii) was relaxed vide Government Memo No.7321/R-R-A2/2013 dated 22.08.2013, which reads as under:-

**“GOVERNMENT OF ANDHRA PRADESH
IRRIGATION & CAD (PW:R&R) DEPARTMENT**

Memo No.7321/R&R-A2/2013-1,

Dated: 22.08.2013

Sub:- Displaced persons – Somasila Project – Seeking employment under Displaced Persons quota in terms of G.O.Ms.No.98 Irrigation (Project Wing) Department, dated 15.04.1986 Relaxation orders to the condition of submitting application.

Ref:- From the Chief Engineer, NTR Telugu Ganga Project Srikalahasthi, Lr.No.CE/NTR TGP/SKHT/C2/9572/201 dt.08.03.2013.

In the circumstances reported by the Chief Engineer, NTR, T.G.P., Srikalahasthi, vide reference cited and after careful examination of the matter, **Government hereby relax the condition of applying for appointment within one year from the date of award/displacement for employment to the displaced families of “Somasila Project” who displaced/whose awards were passed prior to issue of G.O.Ms.No.98, Irrigation (PW) Dept., dated 15.04.1986, with a condition that these orders are applicable only to those applicants who have already submitted their applications and are pending/under rejection, because of Non-fulfilment of the time limitation, if they are otherwise eligible.**

2. The Chief Engineer, NTR, T.G.P., Srikalahasthi, is also requested to furnish the list of all eligible candidates covering the above orders to the Government for approval. He is also informed that this list shall be final and no new names shall be allowed in future. He is also requested to send the list of all candidates whose names have already been approved and waiting for employment.

3. The Chief Engineer, NTR, T.G.P., Srikalahasthi/the District Collector, Kadapa, shall take further necessary action in the matter.

B. ARAVINDA REDDY
PRINCIPAL SECRETARY TO GOVERNMENT."

17. A bare perusal of all the aforesaid G.O.Ms.Nos.98, and the Government Memos dated 24.08.1987 and 22.08.2013 makes it evident that

- (a) G.O.Ms.No.98 provided for one year from the date of actual dispossession for filing applications for appointment,
- (b) Government Memo dated 24.08.1987 made G.O.Ms.No.98, prospective, and relaxed the condition of one year as aforesaid in para 4(iii), for those displaced persons who had already been displaced i.e, prior to G.O.Ms.No.98,
- (c) the condition No.4(iii) in G.O.Ms.No.98, one year for filing applications for appointment was relaxed vide Memo No.7321 dated 22.08.2013, with the condition that such relaxation was applicable to those applicants who had already submitted their applications which were pending under rejection because of non fulfilment of the time limitation,
- (d) thus, the G.O.Ms.No.98, required consideration along with Memo No.7321 dated 22.08.2013, i.e., not one year from

the date of actual dispossession, but taking into consideration the relaxation granted by Memo dated 22.08.2013, to the effect that one year condition stood relaxed to those applicants who had already submitted their applications and their applications were pending/under rejection, because of non fulfilment of the time limitation.

(e) Para 2 of the Government Memo dated 22.08.2013 directed the concerned to furnish the list of all eligible candidates covering the above Order to Government for approval informing that, that list shall be final.

18. So even if the application was not filed within one year from the date of actual dispossession as provided under G.O.Ms.No.98, dated 15.04.1986, but, if on the date of the Memo No.7321 dated 22.08.2013, those applications were pending/under rejection, the list should have been finalised for placing the names of those petitioners from the second list into first seniority list in terms of the directions issued in the writ petitions.

19. The reason assigned in response affidavit of the respondents, for non inclusion in the first list is only on the ground of the limitation of one year from the date of actual dispossession.

20. The direction in the writ petitions, was 'subject to fulfilment of, inter alia the conditions as laid down in G.O.Ms.No.98 dated 15.04.1986. The same could not be seen in isolation, ignoring the Government Memos referred to above granting relaxation of the one year period in condition No.4(iii) of G.O.Ms.No.98.

21. Further, a perusal of the list, annexed at page Nos.17 to 35 of the affidavit shows inclusion of the names of many petitioners, whose date of dispossession as mentioned therein is 14.09.1989 and the date of their applications for appointment in many cases is after more than one year. To cite few examples, Sl.Nos.6,7,8,11,13,15 and many more, but they have been placed in list of eligible candidates.

22. Consequently, this court is of the view prima facie that there is non-compliance/disobedience with the judgment of the writ court, and that is, prima facie, nothing but wilful and deliberate. The respondents under the pretext of compliance, have adopted the policy of pick and choose, though the direction was with respect to all the petitioners which were found similarly situated.

23. Sri Kasa Jagan Mohan Reddy submitted vehemently that, even if the exercise done by the respondents is not correct but

as the same has been done after considering the condition in G.O.Ms.No.98, it is not open for this court to enter into that aspect as to who was eligible and who not and consequently to see correctness or otherwise of the lists placed. In his submission it is for the persons who have been held in eligible, to challenge the list in writ proceedings. He submitted that in the exercise of contempt jurisdiction the court cannot proceed beyond the order of the writ court.

24. The aforesaid submission of Sri Kasa Jagan Mohan Reddy deserves rejection as it proceeds on misconception of the legal position. True, that in contempt jurisdiction the court will not go beyond the writ court's orders. But if the court finds that the alleged compliance is no compliance and is only an eye wash, or that the respondents are adopting the policy of pick and choose, contrary to the directions issued, the court even in contempt jurisdiction is competent to look into that aspect, to find out if the order has been complied in letter and spirit and equally to all or not. If it finds that there is non-compliance/disobedience and the same is wilful and deliberate it can proceed further to punish for contempt.

25. In **State of Bihar and others vs. Meera Tiwary and another**¹, the Hon'ble Apex court held that in proceedings for contempt, the High Court is entitled to pass orders for effective enforcement of an order of which violation is alleged. The Hon'ble Apex Court held that it was not open to the appellants therein to circumvent the order passed by the High Court. The Hon'ble Apex Court held that the Words and/or phrases in a judgment cannot be read as "Euclid's Theorems" and in any case not out of context to hold that the High Court modified its earlier order by directing the alleged contemnor to take into account the notional salary payable to the respondent no.1's husband on the date of his retirement. The High Court did not modify any earlier order, nor did the High Court expand the scope of any earlier order. **The High Court only effectively enforced its earlier order, which it was entitled in law to do.** In view of the law laid down in **Meera Tiwary** (supra), the contention of Sri Kasa Jagan Mohan Reddy is unsustainable and is rejected.

26. This court puts on record, the submissions of Sri J. Ugranarasimha, and Ms. V. Sesha Kumari, learned counsels representing the petitioners, as mentioned in paras 4 and 5

¹ (2020) 17 SCC 305

(supra) that the writ court's order has been complied with and the contempt petitions be rejected, with respect to other petitioners also. In the view of this Court, those petitioners should confine to their respective cases. How they could oppose the compliance with respect to the other petitioners? All the petitioners in the W.P(s) were with same grievance and common judgment was passed but when it comes to compliance, the benefit is given to some and it is denied to the others. Its most unfortunate that those to whom benefit has been extended are now trying to deny the same benefit to be extended to others.

27. On consideration as aforesaid, the contempt petitions deserve to be proceeded further.

28. All the respondents in all the contempt petitions, shall appear before this court personally on the date fixed for framing of charges and proceeding further with the contempt matters.

29. Post on 25.09.2023.

30. For the reasons, as aforesaid, in paras 20 to 22 and the law as in para 25, in particular, the respondents shall not give effect to the list, as annexed at page Nos.17 to 35, Sl.Nos.1 to 364 till the next date of listing.

RAVI NATH TILHARI, J

Date:15.09.2023(Gk)

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

**CONTEMPT CASE Nos. 1470, 1471, 1475, 1476, 1477, 1480
& 1484 OF 2023 & W.P.No.40372 OF 2018**

Date:15.09.2023

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