

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/MISC. CIVIL APPLICATION (FOR CONTEMPT) NO. 1115 of 2024
In R/SPECIAL CIVIL APPLICATION NO. 4785 of 2010**

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REKHAKUMARI AVADHNARAYAN DUBE

Versus

PRAMODKUMAR @ RAMESH SIDDHNATH DUBEY & ORS.

=====

Appearance:

CHINTAN K GANDHI(8600) for the Applicant(s) No. 1

MR NV GANDHI(1693) for the Opponent(s) No. 1,2,3

MS NRIMALI SARDA, AGP for the Opponent(s) No. 4

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CORAM: **HONOURABLE MR. JUSTICE A.S. SUPEHIA**

and

HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 05/05/2025

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. The present application has been filed under the Contempt of Courts Act, 1971, for initiating of the contempt proceedings against the respondents for defiance of the judgment and order dated 12.01.2023 passed by the learned Single Judge in the captioned writ petition.

2. The learned Single Judge has passed the order dated 12.01.2023 in the captioned writ petition in view of the memorandum of understanding cum settlement terms dated 09.01.2023. The said order reads as under : -

"Heard learned advocates for the respective parties.

Learned advocates for the parties jointly submit the memorandum of understanding cum settlement terms dated 09.01.2023, wherein the parties are agreed to settle the dispute between them. The same is taken on record.

Pursuant to the said settlement, Mr. Hemang Shah, learned advocate for respondent No.2 submits that the dismissal order against the petitioner shall be revoked by the respondent

Nos.1 and 2 and that she shall be reinstated in service. The parties thereafter, will act on the terms of settlement as arrived between the parties. The writ petition is accordingly, disposed of."

3. Pursuant to the order dated 28.04.2025, learned Assistant Government Pleader has tendered the affidavit-in - reply dated 05.05.2025. The same is ordered to be taken on record. She has pointed out the contents of the paragraph No.3, which are as under : -

"3. At this stage, certain terms of Memorandum of Understanding cum Settlement Terms dated 09.01.2023 are relevant to be perused, more particularly, Clause Nos. 3 and 4 of the terms and conditions, which is reproduced hereunder.

"3. The first party shall submit an application to reinstate her into employment on the same post on which she was employed and which shall be forwarded by the second party to the office of District Primary Education Officer, Ahmedabad for approval and issuance of necessary order to that effect. The first party shall specifically state in the said application that she is not claiming back-wages upon reinstatement being granted to her. The decision of the Office of District Primary Education Officer, Ahmedabad would prevail.

4. Upon reinstatement being granted, the first party shall submit a representation to the Office of District Education Officer, Ahmedabad through the second party requesting for continuity of service and counting her service notionally for the purpose of pension and other retiral benefits and for taking appropriate decision thereupon.

The decision of the Office of District Primary Education Officer, Ahmedabad would prevail as the second party is a grant in aid institution."

4. Thus, as per Clause Nos. 3 and 4 of the Memorandum of Understanding cum Settlement Terms, which have been

agreed upon between the parties, it is evident that the first party, the "applicant," must explicitly state in the said application that she is not claiming back wages upon reinstatement. Furthermore, it is stipulated that "the decision of the Office of the District Primary Education Officer shall prevail."

5. By the communication dated 04.03.2025, the District Education Officer communicated the Trustee of Saraswati Vidya Mandir High School - respondent Nos.1 to 3 that the applicant cannot be reinstated, as there is no provision under any Rules or Circulars to reinstate her after a period of 20 years in view of the settlement, which has been observed by the High Court in the order dated 12.01.2023.

6. Learned advocate Mr.N. V. Gandhi, has submitted that the respondents are bound to reinstate her, as per the settlement, since it would be clear defiance of the directions issued by this Court and as directed by the learned Single Judge to abide by the Memorandum of Understanding cum Settlement Terms. However, in the affidavit, more particularly the averments made in paragraph No.3, the decision taken by the Office of the District Primary Education Officer, Ahmedabad would prevail. Since there is a dispute with regard to the settlement and it is contended by the State authority such settlement is not binding in view of the averments made in the paragraph No.3 and the District Primary Education Officer, Ahmedabad can decide independently on the issue of reinstatement, we intend to close the contempt proceedings. In the case of **V. Senthur and another Vs. M. Vijaykumar,**

IAS, Secretary, Tamil Nadu Public Service Commission and another, [2021-SCALE-11-566], the Supreme Court has held thus:-

"14. There can be no quarrel with the proposition that in a contempt jurisdiction, the court will not travel beyond the original judgment and direction; neither would it be permissible for the court to issue any supplementary or incidental directions, which are not to be found in the original judgment and order. The court is only concerned with the willful or deliberate noncompliance of the directions issued in the original judgment and order.

7. Thus, it is held by the Supreme Court that there can be no quarrel with the proposition that in a contempt jurisdiction, the Court will not travel beyond the original judgment and direction, neither would it be permissible for the Court to issue any supplementary or incidental directions, which are not to be found in the original judgment and order and it is also cautioned that the court is only concerned with the willful or deliberate non-compliance of the directions issued in the original judgment and order. The contempt proceedings stand closed.

8. The present application is accordingly rejected. However, it shall be open to the applicant to initiate appropriate proceedings before the competent forum for claiming any reliefs.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(R. T. VACHHANI, J)

MAHESH/01

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: MAHESH OMPRAKASH BHATI(HC01086), PRIVATE SECRETARY, at High Court of Gujarat on 05/05/2025 17:54:43