

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17<sup>TH</sup> DAY OF DECEMBER 2015

PRESENT

THE HON'BLE MR. JUSTICE N.KUMAR

AND

THE HON'BLE MRS. JUSTICE B.V.NAGARATHNA

**C.C.C.No.659/2014 (Civil)**

**BETWEEN :**

Sri Ravindra Vidya Samsthe ®,  
Rep. by its President,  
Now, Smt.Yashodha,  
D/o Jarappa,  
R/at 2<sup>nd</sup> Cross, H.B.Colony,  
Thygaraja Nagara, Challakere Town,  
Chitradurga District – 577 522.                      ...COMPLAINANT

(By Sri B.G.Vasanth Kumar, Adv.)

**AND :**

1. Sri Ikkeri,  
The Deputy Commissioner,  
Chitradurga District,  
Chitradurga – 577 522.
2. Sri Rame Gowda,  
The Commissioner: The Director  
of Pre-University Education,  
18<sup>th</sup> Cross, Malleshwaram,  
Sampige Road, Bangalore – 560 012.

3. Sri Shivanna,  
Deputy Director of Pre-University &  
Vocational Education,  
Chitradurga District,  
Chitradurga – 577 522. ...ACCUSED

(By Sri A.S.Ponnanna, Addl. AG with  
Smt.S.Susheela, AGA for A1 to A3,  
Sri A.Hanumanthayya Adv. for A3)

This CCC is filed under Sections 11 and 12 of the Contempt of Courts Act, praying to issue summons to the accused for disobeying the order dated 08.02.2013 passed in W.P. No.48008/2012 which passed in terms of the orders dated 20.02.2009 passed in W.P. No.8649/2005 c/w. 7284/2005 and 20.09.2010 passed in W.P. No.26847/2009.

This CCC coming on for orders, this day, N.Kumar J., made the following:

### **ORDER**

This contempt petition is filed complaining of disobedience of the order dated 08.02.2013 passed in W.P.No.48008/2012 and the order dated 20.02.2009 passed in W.P.Nos.8649/2005 c/w 7284/2005 and the order dated 20.09.2010 passed in W.P.No.26847/2009 alleging that the 1<sup>st</sup> accused – Deputy Commissioner has no regard to the orders passed by this Court as well

as the orders passed by the Government. He has no faith in the rule of law and also they have no regard for the majesty of law. He intends to circumvent the law and the respondents have acted in a very high-handed manner. If the 1<sup>st</sup> accused is allowed to get away with the present acts, there would be total lawlessness.

2. In fact the contempt petition came to be dismissed for non-compliance of office objections on 28.04.2014. However, on the applications I.A.1/2015 and I.A.2/2015 filed, an order came to be passed on 24.08.2015 condoning the delay of 303 days in filing the application for recalling and the order of dismissal was recalled. On 05.10.2015, notice was ordered to the accused. On 01.12.2015 when the order had not been complied with by the accused, on a submission made by the Additional Advocate General, that the order would be complied with, within ten days, time was granted. On 11.12.2015 when the case was listed for orders, the

complainants filed a Memo stating that he intends to withdraw the contempt petition and he wants it to be dismissed as not pressed. The Memo did not disclose the reason as to why he intended to withdraw the complaint when he was so vociferous in prosecuting the matter on the earlier hearing dates. He was called upon to state in writing the reasons for withdrawal of the contempt petition.

3. Today, he has filed the affidavit of one Smt.Yashodha, President of the complainant – Vidya Samsthe. In the affidavit she has made allegations contrary to the aforesaid facts. It is stated that at the time of filing of this contempt petition, she could not array the State Government, represented by its Principal Secretary, Revenue Department, Bangalore, as an accused, due to oversight. Therefore, she decided to withdraw the contempt petition and to file the same afresh. However, it is stated that the Principal

Secretary to the Government, Revenue Department, Bangalore has appeared before this Court and filed compliance affidavit on the same day when he had filed the Memo of Withdrawal. Thereafter, she has decided not to press for the Memo of Withdrawal as the Principal Secretary to the Government has appeared in the petition. Again she reiterates that it is in the above background, she has filed the Memo of Withdrawal on 10.12.2015. She sincerely regrets for the inconvenience caused to the temple of justice and she has tendered an unconditional apology for the same.

4. On 11.12.2015, a compliance affidavit is filed, sworn to by the Principal Secretary to Government, Revenue Department, Bengaluru. In the said compliance affidavit reference is made to the orders passed by this Court and also the action taken in this regard. Insofar as the delay in compliance is concerned, the 1<sup>st</sup> accused Deputy Commissioner has filed a

counter affidavit setting out the facts showing the cause for the delay. On consideration of the said material, this Court, by its order dated 11.12.2015 observed that though the order is passed in compliance of the direction issued, it discloses the inaction for nearly six years and there appears to be two sets of orders passed by the Administrator. According to the respondents one of them is forged and the other one is a real order on the basis of which, they have passed the order. Therefore, we directed the State Government to order an investigation and find out as to who are the persons, who are responsible for this inaction and also who are the persons, who have tampered with the records, so that appropriate action could be initiated against them.

5. Today, on behalf of the accused, the status report is filed. The status report discloses that a meeting was convened by the Principal Secretary, Revenue Department, to discuss with regard to the

delay in complying with the orders passed by this Court and all the Heads of other Departments participated in the said meeting. Thereafter, in the meeting a list of officials, who were working in the concerned departments at the relevant point of time was presented in the meeting. In the said meeting it was resolved to take action to identify the persons responsible for the delay in compliance of the Court orders by conducting an enquiry and to take suitable action against them in accordance with law. Copies of the letters are also enclosed.

6. The Principal Secretary to the Government, who is present before the Court assures the Court that the aforesaid action initiated would be taken to its logical conclusion and if found guilty, appropriate actions against the officials would be taken, so that it would send a message to the entire officialdom so that they would be careful in future while dealing with orders

passed by this Court. The said assurance is placed on record. The said report also shows that since the Administrator's report dated 30.08.2014 is believed to be forged, the Government has directed the Deputy Commissioner, Chitradurga District to file a police complaint. Pursuant to the directions issued by the Government, the District Registrar has filed a complaint dated 15.12.2015 for the offences punishable under Sections 420, 468, 471 of IPC and a case has been registered by the Challakere Police Station in Crime No.402/2015. Copy of the FIR is also enclosed.

7. The report further discloses that there was a stay granted in Criminal Petition No.2201/2012 in respect of the investigation conducted by the CAT and now the said stay order is vacated and Criminal Petition is dismissed. That was with reference to the bogus order dated 13.03.2008. Now they would club both these cases together and investigation would be

conducted in right earnest and persons who are found guilty would be brought to answer the allegations without complaints.

8. Under the aforesaid circumstances we are satisfied with the action taken by the respondents is in compliance with the order passed by this Court. However, in the original order dated 20.02.2009, which is not complied with, the operative portion of the direction given is found in para 9 of the said order reads as follows:

*“In the result, I quash the impugned order but by directing the State Government to consider only the report of the administrator and thereafter pass the necessary orders within an outer limit of one month from the date of issuance of the certified copy of this order. For whatever reason, if the State Government wants to proceed under any other statute or code or rule, it is open to the State Government to do so but by confirming to the requirements of the said statute or code or*

*rules. To safeguard the interest of both the parties, I direct the maintenance of status-quo until the decision is taken by the State Government afresh.”*

9. When this order was not obeyed, the complainant filed W.P.No.26847/2009 for implementation of the order dated 20.02.2009 after a period of 1½ years. The said writ petition came to be disposed of with an observation that the authorities are bound to implement the said order. The said order was passed on 20.09.2010. Thereafter, one more writ petition was filed in W.P.No.48008/2012, without making the State Government, a party. Though the prayers sought were with regard to payment of rent of the buildings of the educational institution having 46 rooms with interest from 08.07.1997, having regard to the earlier proceedings the W.P. was dismissed. Therefore, the said writ petition came to be dismissed on 8.02.2013 on the ground that the matter is still to be

adjudicated by the concerned authorities as per the order dated 20.02.2009 passed in W.P.No.8649/2009 and connected matters. A direction was issued to the respondents to abide by order dated 20.02.2009 passed in W.P. No.8649/2005 and connected matters and pass appropriate orders within two months from the date of receipt of the order and the writ petition came to be dismissed. It is thereafter, the present contempt petition is filed without impleading the State Government, which is the authority against which the orders were passed.

10. We issued notice to the respondents by noticing that the orders of this Court were not complied with, we were constrained to direct the Principal Secretary to be present in Court. The Court refused to grant time and in the meanwhile, they have received those reports. But if allegations, its contents made in the report are true, the same is shocking. Probably

when the complainant came to know the truth the institution wants to withdraw this contempt petition. As stated above, when we have insisted on the reasons, the aforesaid affidavit is filed. This makes it clear that the petitioner-complainant has not come to the Court with clean hands. The complainant is abusing the process of the Court. Once after an enquiry, the truth has emerged, the institution wants to withdraw the contempt petition. If it is allowed, it will only encourage parties such as the complainant to abuse the process of this Court under the Contempt of Courts Act. Therefore, in order to restrain persons such as the complainant from abusing the process of Contempt of Courts Act, it is necessary that exemplary cost be imposed against the petitioner so that the complainant would not repeat the same mistake over again. In that view of the matter, we pass the following order:

- (a) Contempt petition is ***dismissed*** with cost of Rs.25,000/- (Rupees Twenty Five Thousand)

which is payable within 15 days from today failing which the accused are at liberty to enforce this order in a manner known to law and recover the same.

(b) The dismissal of this petition would not absolve the accused from proceeding with the matter, as undertaken by them in the affidavit filed and take appropriate action against all persons, who are the cause for delay in obeying the orders of this court. That would meet the ends of justice.

(c) Ordered accordingly.

**Sd-  
JUDGE**

**Sd/-  
JUDGE**

SPS