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IN RE: BINEET KUMAR SINGH

MAY 3, 2001

[G.B. PATTANAİK AND B.N. AGRAWAL, JJ.]

B

*Constitution of India, 1950: Article 129.*

*Contempt of Courts Act, 1971*

C

*Section 2(c)—Criminal Contempt—Scope of—Court Order—Forgery and utilisation of—Contempt of Court—Punishment for.*

D

*State of Maharashtra—Course in Physical Education—Educational Institution—Writ for direction that students be permitted to sit in the examination—Order passed by High Court—Special Leave Petition—Order of Supreme Court—Forgery of—Enquiry—Complicity of contemnor established—Contemnor held guilty of criminal contempt—Sentence of simple imprisonment of six months—Imposition of—When a person is found to have utilised an order of a Court which he or she knows to be incorrect for conferring benefit on persons who are not entitled to the same, the very utilisation of the fabricated order by the person concerned would be sufficient to hold him/her guilty of contempt, irrespective of the fact whether he or she himself or herself is the author of fabrication—Contemnor in this case got the order forged and tried to utilise the same, on the basis of forgery made to obtain favourable orders from the Government for holding an examination for the students of the institution, who were not otherwise eligible to appear at the examination—It amounts to polluting the course of justice and a grave act of contempt.*

E

F

CIVIL APPELLATE JURISDICTION : Contempt Petition (Civil)  
No. 403 of 1999 in I.A. No. 3.

G

IN

Petition for Special Leave to Appeal (C) No. 13320/1998.

H

From the Judgment and Order dated 8.7.99 of the Bombay High Court  
in W.P. No. 1621 of 1998.

Altaf Ahmed, Additional Solicitor General, S.S. Shinde for S.V. A  
Deshpande, A.K. Sanghi, A.K. Dutta, B.P. Yadav for Mohan Pandey and B.D.  
Sharma for the appearing parties.

The following Orders of the Court was delivered :

On account of a serious disquieting feature in relation to an order B  
passed by this Court, this Court took *suo motu* cognizance and issued notice  
as to why the persons involved, should not be dealt with under the provisions  
of Contempt of Courts Act. Pursuant to the notice issued, show cause, being  
one of denial, it necessitated an inquiry and the inquiry was conducted by  
the Registrar (Judicial) of this Court, who on the basis of evidence lead before C  
him, has submitted a Report. After getting the said Report, objections were  
filed on behalf of contemnors and they have been heard at length being  
represented by their respective counsel.

The State of Maharashtra, introduced a course in Physical Education D  
called C.P. Ed. course. A person acquiring the said diploma would be eligible  
for being considered for the post of a Physical Instructor in the schools. In  
the recent past, there has been a mushroom growth of private institutions and  
the founders of such institutions make huge sum of money by admitting  
students from different parts of the country and by conferring degree or  
diploma on them. But every such institution requires permission of the E  
concerned State Government as well as the affiliation to any university, failing  
which the so-called diploma/degree from the institution will be of no use. One  
such institution with which we are concerned in the present case in Lokmata  
Indira Gandhi College of Sports, Yavatmal. The institution used to run by Late  
Savitribai Sikshan Prasarak Mandal, Yavatmal (for short referred to as 'the F  
K.S.S.P. Mandal'). The Government of Maharashtra did not grant permission  
to the institution for the academic year 1994-95 but the institution admitted  
several students and then persuaded the Government for grant of permission.  
At later stage, the government did grant the permission for the academic year  
1994-95, so that the students who have already studied in the institution  
could appear in the examination. An examination was conducted in the year G  
1996 but many of the students could not appear in the said examination,  
allegedly because of lack of proper information. K.S.S.P. Mandal, therefore,  
filed a writ petition in the Nagpur High Court for a direction that the remaining  
students who have already studied for the academic session 1994-95, should  
be permitted to appear at the examination to be held by the appropriate  
authority. That application, however was withdrawn by the counsel appearing H

A for the Mandal, as indicated in the order of the Court dated 21.3.1997. A fresh writ petition was filed in the Nagpur High Court, which was registered as Writ Petition No. 1005/97, entitled C.P. Ed. Vidhyarthi Sangh through Bineet Kumar Singh. That writ petition was also dismissed on 26.8.1997. An application for review was filed in the High Court, which was registered as Review Petition No. M.C.A. 225/97 and that application stood disposed of by order dated 23rd October, 1997. The said order stipulates that if the examination is held in future by the State of Maharashtra, then all such students who were the ex-students in the C.P. Ed. Course and who had missed their examination for any cause, would be allowed to appear in the examination and the relief would not be restricted only to those, who have approached the Court, but to the entire student community. Notwithstanding the aforesaid order, as no examination was held, a fresh writ petition was filed in the year 1998, which was registered as Writ Petition No. 1621/98. This writ petition was also dismissed by the High Court on 8th July, 1998. Against the said order of the High Court dated 8th July, 1998, a special leave petition was filed in this Court and that special leave petition was dismissed by order dated 28th of August, 1998. In view of the dismissal of the special leave petition, the so-called students of Mandal, would not get any chance of appearing at any future examination. But an order purported to have been passed on 28.8.1998, was sent to the State of Maharashtra, which indicates that while dismissing the special leave petition, this Court directed respondents 1 and 2 to conduct the examination for the year 1994-95, as per the student list submitted by the petitioner in writ petition No. 1621/98 immediately. The exact order which was sent to the State Government for appropriate action, purported to have been passed by this Court on 28.8.98 reads thus:

F “R No. 1 and 2 are directed to conduct the exams for the year 94-95 as per student list Annex. 8 & 9 submitted by petitioners in W.P. No. 1621/98 immediately. C.F. required from institutions.

The Special Leave Petition is dismissed.”

G The State of Maharashtra, thereafter filed an application on 20th of February, 1999, indicating the aforesaid act of forgery committed by somebody and on the basis of the said forged order, the institution had been compelling the State of Maharashtra to hold an examination for those students, list of which had been appended as Annexures 8 and 9 to the writ petition No. 1621/98. When the aforesaid Interlocutory Application was listed before the Court, notice had been issued and after getting the reply from the persons concerned, H the Inquiry had been directed as already stated, pursuant to which the inquiry

was made and the Report in question has been submitted. The Inquiring Officer, after elaborate discussion of materials before him, came to the conclusion that Shri Bineet Kumar Singh cannot be held in any way responsible for the alleged forgery of the order of this Court dated 28.8.98, but so far as the two other persons are concerned, namely Mrs. Megha Rude and Mr. Dilip Wamanrao Gund, the Inquiring Officer unequivocally came to the conclusion that they must be held responsible for this untoward incidence and even though, it has not been established that they committed the forgery in question by inserting and interpolating on the orders of this Court but they were fully aware of the orders of this Court, dismissing the special leave petition and yet they have transmitted the so-called forged orders to the State of Maharashtra, seeking relief for the students of the institution on the basis of the said forged order.

Mr. A.K. Sanghi, appearing for Mr. Dilip Wamanrao Gund, contended that the fabrication and manipulation of an order of the Court, undoubtedly is a very serious charge, but even though said Dilip Wamanrao Gund has been found to have approached the Advocate Mr. Palshikar and then came to Delhi and was present in Court on the date, the special leave petition was dismissed but it has not been established that he played any role in forging the order of the Court and further, he cannot be said to have been benefited in any way by the so-called forged order. Consequently, it would be difficult to say with definiteness that he had played any role in getting the order of the Court forged and, therefore, he cannot be held guilty of Contempt of Court. Mr. Sanghi further submitted that in a case like this, it would be more appropriate to lodge a complaint, so that the matter can be deeply investigated into by a competent investigating agency like C.B.I. and those who are guilty, should be suitably punished, which would have a deterrent effect. Mr. Sanghi also commented that in the course of inquiry that had been conducted by the Registrar, the students who can be said to be beneficiaries, mentioned in Annexures 8 and 9, ought to have been examined, which would have unveiled the truth and such non-examination must be viewed seriously.

Mr. A.K. Dutta, appearing for Mrs. Megha Rude contended that the findings of the Inquiring officer being a mere suspicion, suspicion cannot take the place of proof. Besides in the absence of any positive material or the conclusion that it is Megha Rude who has forged the document in question, question of punishing her for contempt of Court does not arise. It is in this connection, Mr. Dutta tried to impress upon the Court that said Mrs. Megha Rude was not a party to the special leave petition she is alleged to have

- A derived any benefit on account of the forgery committed. She was merely the Secretary of the Institution, who even does not have any decision making authority and it is the President of the institution, who exercises control. The inquiring authority has not even tried to verify the role of the President in this matter. It is under these circumstances, the said Mrs. Megha Rude cannot be punished for having committed contempt. The Inquiry Report, according to the learned counsel, having not established conclusively about the complexity of said Megha Rude, it would not be in the interest of justice to punish her on the allegation that either she played any role in getting the forged order or even knew about the forged order and utilised the same for benefit of others. Mr. Dutta also reiterated the contention raised by Mr. Sanghi that the case in hand requires a full fledged investigation by an investigating agency, so that the guilty persons could be criminally dealt with, but in any view of the matter, Mrs. Megha Rude cannot be punished for having found guilty of contempt.

- D That the order of this Court has been forged and fabricated is proved beyond reasonable doubt and there cannot be any dispute about the same. It is further established that the aforesaid forged order of this Court was received by Mrs. Megha Rude, which she had indicated in her letter, Exhibit 27, to the Director. She was the Secretary of the institution, which institution had not been granted permission to present the students by the State of Maharashtra and in her letter, she had requested that examination be conducted, complying with the orders of the Supreme Court for the remaining students, since according to the Court's order, examination of students mentioned in the list had to be conducted. Along with the said letter, the purported true copy of the order of the Supreme Court had been enclosed. The said Mrs. Megha Rude had been instructing counsel to file petitions even at times by impersonations. This fact is established from the evidence of Advocate Palashikar, as noticed in the report of the Inquiring Officer. The Inquiring Officer even found that a forged vakalatnama of Bineet Kumar Singh was executed by some unknown person who was impersonating as Bineet Kumar Singh on the instigation of Mrs. Megha Rude, which is apparent from the statement of witness No. 8, Shri N.D. Khamborkar, Advocate. The denial of Mrs. Megha Rude has not been accepted by the Inquiring Officer and in our view, rightly. The question that arises for consideration, therefore is whether said Mrs. Megha Rude can be said to have committed contempt.

- H The law of Contempt of Court is essentially meant for keeping the administration of justice pure and undefiled. It is difficult to rigidly define

contempt. While on the one hand, the dignity of the Court has to be maintained at all costs, it must also be borne in mind that the contempt jurisdiction is of a special nature and should be sparingly used. The Supreme Court is the highest Court of records and it is charged with the duties and responsibilities of protecting the dignity of the Court. To discharge its obligations as the custodian of the administration of justice in the country and as the highest court imbued with supervisory and appellate jurisdiction over all lower courts and tribunals, it is inherently deemed to have been entrusted with the power to see that the stream of justice in the country remains pure, that its course is not hindered or obstructed in any manner, that justice is delivered without fear or favour. To discharge this obligation, the Supreme Court has to take cognizance of the deviation from the path of justice. The sole object of the Court wielding its power to punish for contempt is always for the course of administration of justice. Nothing is more incumbent upon the Courts of justice, than to preserve their proceedings from being misrepresented, nor is there anything more pernicious when the order of the Court is forged and produced to gain undue advantage. Criminal Contempt has been defined in Section 2(c) to mean interference with the administration of justice in any manner. A false or misleading or a wrong statement deliberately and wilfully made by a party to the proceedings to obtain a favourable order would undoubtedly tantamount to interfere with the due course of judicial proceedings. When a person is found to have utilised an order of a Court which he or she knows to be incorrect for conferring benefit on persons who are not entitled to the same, the very utilisation of the fabricated order by the person concerned would be sufficient to hold him/her guilty of contempt, irrespective of the fact whether he or she himself or herself is the author of fabrication. On the aforesaid parameters, it would be necessary to examine whether it can be said that Mrs. Megha Rude can be held to be guilty of contempt. In view of our conclusion on the basis of materials available in the Inquiry Proceedings with regard to the role played by Mrs. Megha Rude, we have no hesitation to come to the conclusion that Mrs. Megha Rude is guilty of gross criminal contempt and must be suitably punished for the same.

So far as Mr. Dilip Wamanrao Gund is concerned, he was an employee in the High Court of Bombay, Nagpur Bench. According to the evidence of Shri Palshikar, it is Dilip Wamanrao Gund, who engaged him in the writ petition, that had been filed in Nagpur High Court. From the affidavit of Shri S. V. Deshpande, it is further established that the interlocutory application filed in this Court, while filing the special leave petition was brought to him by Mr. Dilip Wamanrao Gund. Even Mr. Palshikar states that the draft affidavit was

- A taken from him by Mr. Dilip Wamanrao Gund and Mrs. Megha Rude. The material documents were in the hand-writing of Mr. Dilip Wamanrao, which he admitted in course of his statement before the Inquiring Officer. The explanation of the contemnor Wamanrao Gund that he wrote it on the request of Shri Palshikar, has not been found to be believable by the Inquiring Officer and in our view, rightly. Shri Deshpande, the learned Advocate states that the
- B special leave petition was filed in this Court on instructions of Mrs. Megha Rude and Mr. Dilip Wamanrao Gund. Contemnor Dilip Wamanrao in his statement, clearly admitted that he came all the way from Nagpur to Delhi and was present in this Court, at the time of hearing of the special leave petition on 28.8.98. He further stated that he obtained the Gate Pass to enter into the
- C Court room, in which hearing was fixed. The evidence of Shri Deshpande corroborates the same. It is unimaginable that an employee of the High Court would not only take keen interest in filing of special leave petition but also would come all the way to Delhi and would remain present in the Court when the special leave petition was being heard. It is further established from the statement of Shri Deshpande as well the register maintained by Shri Deshpande,
- D Advocate that the documents were received from his office by said Dilip Wamanrao Gund and Shri Dilip Wamanrao Gund in his statement, admitted the same. According to Shri Deshpande, the copy of the order dated 28.8.1998 was transmitted to Shri Palshikar, the advocate at Nagpur and Shri Palshikar also corroborates the said statement of Shri Deshpande. Shri Palshikar further
- E states that he handed over the order of the Court which he had received from Mr. Deshpande to Dilip Wamanrao Gund, since it is Dilip Wamanrao who had been instructing him and who had engaged him in the matter. According to the statement of Shri Deshpande, Shri Dilip Wamanrao subsequently requested for three more certified copies of the order and pursuant to such request,
- F copies of the orders had been obtained and dispatched to said Shri Dilip Wamanrao Gund on 15.9.1998. The Inquiring Officer has believed this statement of Shri Deshpande and we see no reason, why the statement should not be believed. While Shri Dilip Wamanrao Gund, initially has stated that he does not know Mrs. Megha Rude, but later on admitted that he came with Mrs. Megha Rude. The aforesaid facts unequivocally establish the fact that Shri
- G Wamanrao Gund was present in the Court when special leave petition was dismissed and he being so much interested in the litigation, having come all the way from Nagpur and being present in the Court when the Court dismissed the special leave petition and it is he, who obtained the certified copy of the order from the Advocate Shri Palshikar, which order was later on found to have been forged, the conclusion is irresistible that said Shri Dilip Wamanrao
- H Gund with connivance of Mrs. Megha Rude, got the order forged and tried

to utilise the same, on the basis of forgery made to obtain favourable order from the Government for holding an examination for the students of the institution, who were not otherwise eligible to appear at the examination. By user of a document, which he knew to be forged, said Shri Dilip Wamanrao Gund committed gross contempt of Court and as such is liable to be punished for the same. A

Mrs. Megha Rude and Shri Dilip Wamanrao Gund were fully aware of the original order, that had been passed by this Court in dismissing the Special Leave Petition and they used the forged order by which they tried to have another examination conducted by the State Government to enable the remaining students to appear at the examination. User of a fabricated order for the purpose of conferring some benefits on a group of students by way of compelling the State Government to hold an examination is by itself amounts to pollute the course of justice and must be held to be a grave act of contempt. B

We, therefore, hold both Mrs. Megha Rude and Mr. Dilip Wamanrao Gund to be guilty of contempt, having committed criminal contempt as well as under Article 129 of the Constitution of India and for such gross act on their part, they are sentenced to simple imprisonment for six months. C

SUO-MOTU CONTEMPT PETITION (C) No. 403 of 1999 in I.A. No. 3. D

In Special Leave Petition (C) No. 13320 of 1998. E

### O R D E R

The Contempt Proceeding against Bineet Kumar Singh is dropped. F

T.N.A.

Contempt petition and Suo Motu  
contempt disposed of.