

(2013) 02 MAD CK 0095
In the Madras High Court
Case No : Cont. Petition No. 1858 of 2012

A.P. Abbu Gounder

APPELLANT

Vs

D.K. Goel

RESPONDENT

Date of Decision : 20-02-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 2A
Constitution of India, 1950 — Article 129, 215, 32
Contempt of Courts Act, 1971 — Section 12

Citation : (2013) 2 LW 157 : (2013) 3 MLJ 60

Hon'ble Judges : N. Kirubakaran, J

Bench : Single Bench

Advocate : K. Gandhikumar, for the Appellant;

Judgement

N. Kirubakaran, J.—The nation was hurt, outraged and shell shocked. Country wide anguish, grief, sorrow, engulfed over brutal, heinous

and horrific gang rape of 23 year old Physiotherapy student in a moving bus having tinted glass in South Delhi on 16.12.2012, on Sunday at 9.30

p.m. Despite airlifting her to Singapore for treatment and all efforts by the Government to save her life was in vain, as she breathed her last on 30th

December 2012. A precious life was lost. The whole nation cried. Her death in such tragic circumstances has angered the civil society, thereby

inviting to make a deep introspection into the functioning of law enforcement agencies at work.

2. In the aftermath of the aforesaid crime, New Delhi witnessed angry protests, more particularly by the student community. The protests also

spilled over to the rest of the nation which is shocked at the heinousness of the Crime.

- 1) Which is responsible for this heinous, brutal, horrendous and shocking crime?
- 2) Which is responsible for the shock, pain, injuries, bleeding, writhing, moaning, suffering and agony suffered by the poor girl?
- 3) Which is responsible for sad, untimely and tragic death of the young girl?

The only answer to the above questions is non-implementation of a Supreme Court order by the law enforcing agencies.

3. A search for solace in the circumstances, has driven the judicial conscience of this Court to tread through the innumerable guidelines expounded

by the Hon"ble Supreme Court time and again. One among the facts, that had facilitated the perpetrators of the crime was the unchecked usage of

the prohibited black films in the glass windows of the bus in which the victim was raped.

4. On 27.4.2012, the Apex Court in *Avishek Goenka Vs. Union of India (UOI) and Another*, prohibited the use of black films of any VLT

percentage or any other material upon the safety glasses, windscreens (front and rear) and side glasses of all vehicles throughout the country. The

writ petition was filed by a public spirited person, who contended that there is an alarming rise in heinous crimes like kidnapping, rape and

dacoities and such increase is due to various factors, including the use of black films at windows, windshields of motor vehicles. The case of the

petitioner therein has been stated in paragraphs 3, 5 and 7 of the afore said judgment and they are as follows:

3. The use of black films upon the vehicles gives immunity to the violators in committing a crime and is used as a tool of criminality, considerably

increasing criminal activities. At times, heinous crimes like dacoity, rape, murder and even terrorist acts are committed in or with the aid of vehicles

having black films pasted on the side windows and on the screens of the vehicles. It is stated that because of non-observance of the norms,

regulations and guidelines relating to the specifications for the front and rear windscreens and the side windows of the vehicles, the offenders can

move undetected in such vehicles and commit crimes without hesitation.

5. Besides aiding in commission of crimes, black films on the vehicles are also at times positively correlated with motor accidents on the roads. It is

for the reason that the comparative visibility to that through normal/tinted glasses which are manufactured as such is much lesser and the persons

driving at high speed, especially on highways, meet with accidents because of the use of black-filmed glasses. The use of black films also prevents

the traffic police from seeing the activity in the car and communicating with the driver of the vehicle.

6.

7. The Court can take a judicial notice of the fact that even as per the reports, maximum crimes are committed in such vehicles and there has been

a definite rise in the commission of heinous crimes, posing a threat to the security of individuals and the State, both.

(emphasis supplied)

Considering the scope of Rule 100 of Central Motor Vehicles Rule 1989, which provides glass windscreens for every motor vehicle, the Hon''ble

Supreme Court held in paragraphs 38 and 40 as follows:

38. The competent officer of the traffic police or any other authorised person shall challan such vehicles for violating Rules 92 and 100 of the Rules

with effect from the specified date and thereupon shall also remove the black films from the offending vehicles.

39. ...

40. For the reasons aforesaid, we prohibit the use of black films of any VLT percentage or any other material upon the safety glasses,

windscreens (front and rear) and side glasses of all vehicles throughout the country. The Home Secretary, Director General of

Police/Commissioner of Police of the respective States/Centre shall ensure compliance with this direction. The directions contained in this judgment

shall become operative and enforceable with effect from 4.5.2012.

(emphasis supplied)

From the above it is clear that writ of mandamus has been issued by the Hon''ble Supreme Court under Article 32 of the Constitution of India

prohibiting Use of black films of any VLT percentage or any other material upon the safety glasses, windscreens (front and rear) and side glasses

of all vehicles throughout the country with effect from 4.5.2012.

5. Subsequently Review petitions, modification petitions etc., were filed by the distributors of the tinted films. However, on 3.8.2012 the Hon''ble

Supreme Court in *Avishek Goenka Vs. Union of India (UOI) and Another,*

dismissed those petitions reiterating the directions given earlier by orders dated 16.5.2012, which is *Avishek Goenka v. Union of India and Another* (supra). While dismissing the modification and review petitions, the Apex Court gave the following directions:

(1) All the applications filed for clarification and modification are dismissed, however, without any order as to costs.

(2) All the Directors General of Police/Commissioners of Police are hereby again directed to ensure complete compliance with the judgment of this

Court in its true spirit and substance. They shall not permit pasting of any material, including films of any VLT, on the safety glasses of any vehicle.

(3) We reiterate that the police authorities shall not only challan the offenders but ensure that black or any other films or material pasted on the safety glasses are removed forthwith.

(4) We make it clear at this stage that we would not initiate any proceedings against the Directors General of Police/Commissioners of Police of

the respective States/Union Territories but issue a clear warning that in the event of non-compliance with the judgment of this Court now, and upon

it being brought to the notice of this Court, the Court shall be compelled to take appropriate action under the provisions of the Contempt of Courts

Act, 1971 without any further notice to the said officers. We do express a pious hope that the high responsible officers of the police cadre like

Director General/Commissioner of Police would not permit such a situation to arise and would now ensure compliance with the judgment without default, demur and delay.

(5) Copies of this judgment be sent to all concerned by the Registry including the Chief Secretaries of the respective States forthwith.

(emphasis supplied)

When the Hon"ble Supreme Court of India issues a mandamus under Article 32 prohibiting the use of black films or any other material upon the

safety glasses of all vehicles throughout the country with effect from 4.5.2012 and again reiterated the same directions on 3.8.2012, it is the

obligation on the part of the Union of India to forthwith implement the order. In the subsequent order dated 3.8.2012, the Apex Court warned the

authorities of initiation of contempt proceedings, in the event of non-compliance of order. However the order seems to remain only in paper and

has not been complied with. This Court only complied with Apex Court direction to remove the black films from judges' car by proceedings of the

Car Committee in the first week of June 2012. It is common scene that the vehicles with tinted glasses including government vehicles are moving

freely every where, even now.

6. If the order of the Hon''ble Supreme Court had been implemented in its letter and spirit by removing black films/tinted glass, the proximity of

commission of the aforesaid ghastly, brutal and heinous rape of the student in a moving bus in the arterial roads of the Capital could have been

curtailed/averted. Had the bus been transparent without the tinted glasses, even the perpetrators of the crime would have had fear of being

seen/noted by the public due to street lights or general public could have seen/knew about the crime being committed inside the bus, and could

have saved the victim or prevented the accused from committing the crime on the victim.

7. The above heinous crime led to several public protests and public out cry in several parts of our country and thereafter only the Union Home

Minister made a statement on the floor of the Parliament on 19.12.2012 stating that a drive would be launched to ensure the removal of tinted

glasses and curtains. The statement would only demonstrate the fact that the directions given by the Hon''ble Supreme Court as early as on

27.4.2012 has not been implemented even after 7 months.

8. The above facts would only prove shocking, callousness, totally insensitive bureaucratic behavior in implementation of Court orders. The above

case is only a tip of ice berg with regard to lethargic attitude and apathy on the part of the officials in implementation/compliance of

directions/orders passed by various Courts in the country. It is only due to the impression that the system can be taken for granted.

9. If such is the commitment of the bureaucrats, even for implementation of the Supreme Court's order, one could imagine the level of commitment

to the orders/directions of the District Courts/Sub-Courts and Magisterial Court leave alone High Courts?. If the directions/orders of the Courts

are not followed by the appropriate authorities, it will be end of rule of law and it will go against the interest of the public at large as what happened

in the Delhi incident. Enforcement Agencies particularly the respondents in

Avishek Goenka v. Union of India (supra) will have to fine tune their acts to ensure strict compliance of the orders of the Court.

Role of Ruling and Opposition Parties

10. It is not only obligation of those ruling the Centre/States, to implement Court orders, the opposition parties also have responsibility to see that

Court orders are complied with properly. Not only to take advantage of any adverse judgment/order/observation/strictures passed against ruling

parties, the opposition parties, have equal responsibility to point out non-implementation of Court orders in time and give political pressure to

comply with Court orders/directions. Therefore both the treasury side and opposition side have democratic obligations to see that Court orders are

duly complied with. If both ruling and opposition parties had performed their respective duty in implementing of Supreme Court order prohibiting

usage of black films on wind screens of the vehicles, the heinous, horrific, shocking gang rape would have been averted.

Role of Media

11. Thanks to the responsible media for their catalyst role in highlighting the heinous gang rape, public anger got converted into pressure on the

executive to appoint Justice J.S. VERMA PANEL for suggesting amendment of criminal laws regarding offences against women. Based on the

recommendation, an ordinance was also promulgated. Likewise, the media should point out non-implementation of Court orders atleast in the

public interest matters.

12. In pursuit of justice to the victims of man made calamities, the judicial conscience of the Court seeks for solace to the victims by so many

directives like the one above stated. The Courts have come down heavily on the violators and erring law enforcing agencies with equal rigor in

appropriate cases.

13. It is in this context of things, and considering the plight of a litigant who is driven to initiate contempt proceedings to reap the benefits of the

orders of the Courts, a judicial prognosis is attempted in these proceedings. Non-implementation/compliance of the Court orders by the concerned

authorities leads to increase in number of contempt petitions. Irrespective of party coming to power, the officials remain the same. Unless the

officials scrupulously comply with orders, the number of contempt cases are bound to increase. The following details of Contempt Petitions filed

before this Court would tell tales about non-implementation of the Court orders.

Statement of Contempt Petitions Filed Before Principal Bench and Madurai Bench of Madras High Court

What is of considerable concern is that except in 2008 and 2012, the number of contempt petitions have been increasing. Number of contempt

petitions filed was 107 in 1981, 421 in 1990, 807 in 2000 and thereafter it has been sharply increasing. This only proves remarkable unwillingness,

apathy on the part of the authorities/officials/persons for the past 10 years to comply with Court orders, inspite of Articles 129, 215 of the

Constitution of India, Section 12 of Contempt of Courts Act 1971, Order 39 Rule 2-A of the C.P.C. Etc.

14. Some of the reasons for increase of contempt petitions are as follows:

Inaction

In most of the cases, it is seen that the time bound orders are neither implemented in time nor extension of time is sought for. Not even appeals are

filed in time against the adverse orders suffered by the respective governments/authorities.

Resistance

Some of the officials and executive consider the Courts are unnecessarily interfering with their function and therefore there is inherent resistance to

Court directions.

Misunderstanding/Misinterpretation

That apart, the authorities, without understanding the scope of the order, misinterpret and act wrongly without seeking legal advice.

Lack of fear

The inaction of the officials to comply with the Court orders exhibits they are not afraid of the consequences.

Red Tapism/Official delay

The Court orders are not even brought to the knowledge of the concerned officials/higher officials for proper implementation in time.

Delayed response

Only when contempt notice is issued, the Court orders are being brought to the

notice of the concerned officials and it leads to a situation wherein

the officials have got no option except to implement the order, even if it is a fit case for appeal or to face contempt proceedings.

Deliberate design

There is every possibility of creation of above situation by design by vested interests/unscrupulous elements in the administration. It causes more

inconvenience/loss to the litigant and administration and consequently the Court's time is wasted in avoidable proceedings like contempt

proceedings.

Delayed Appeal to avoid contempt

Only when contempt notice lands in their hand, hurriedly appeals are filed along with petition to condone the long delay. Some times, the higher

forums are not considering the non-compliance of Court order and filing of appeal with delay petition after contempt notice appropriately. This

leads to a situation where the Courts cannot deal with the contempt petitions. As a result an impression has been created in the minds of the

authorities that they can very well avoid the contempt proceedings by mere filing of delayed appeal and the Courts which passed the orders cannot

proceed with contempt proceedings.

Casual approach of the Courts

g. To some extent, the casual approach of Courts in dealing with Contempt Cases is also responsible for the present state of affairs.

The Rule of Law is the basic feature of our constitution. The law of contempt secures public respect and confidence in the judicial process.

15. The Hon''ble Supreme Court as well as this Court have declared that disobedience of orders of the Courts strikes at the very root of rule of

law on which the judicial system rests. The Hon''ble Apex Court in *Maninderjit Singh Bitta Vs. Union of India (UOI) and Others*, considered the

non-implementation of orders passed by the Apex Court in *Association of Registration Plates Vs. Union of India (UOI) and Others*, which was

reiterated in *Maninderjit Singh Bitta Vs. Union of India (UOI) and Others*, The issue in the above matter was regarding introduction of a scheme

regulating issuance and fixation of high security number plates. The Supreme Court fixed time limit for implementation. However, the judgment of the

Hon"ble Supreme Court was not implemented by many of the states. In the contempt petition, the Hon"ble Supreme Court of India in *Maninderjit*

Singh Bitta v. Union of India and Another (supra), at paragraphs 26, 27 and 29 of *Maninderjit Singh Bitta v. Union of India and Others* (supra)

held as follows:

26. It is also of some relevance to note that disobedience of Court orders by positive or active contribution or non-obedience by a passive and

dormant conduct leads to the same result. Disobedience of orders of the Court strikes at the very root of the rule of law on which the judicial

system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. If the judiciary is to perform its

duties and functions effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the Courts have to

be respected and protected at all costs (refer *T.N. Godavarman Thirumulpad* case 9, SCC p. 6, para 5). The proceedings before the highest

Court of the land in a public interest litigation, attain even more significance. These are the cases which come up for hearing before the Court on a

grievance raised by the public at large or public-spirited persons. The State itself places matters before the Court for determination which would

fall, statutorily or otherwise, in the domain of the executive authority.

27. It is where the State and its instrumentalities have failed to discharge its statutory functions or have acted adversely to the larger public interest

that the Courts are called upon to interfere in exercise of their extraordinary jurisdiction to ensure maintenance of the rule of law. These are the

cases which have impact in rem or on larger Section of the society and not in personam simpliciter. Courts are called upon to exercise jurisdiction

with twin objects in mind. Firstly, to punish the persons who have disobeyed or not carried out orders of the Court i.e. for their past conduct.

Secondly, to pass such orders, including imprisonment and use the contempt jurisdiction as a tool for compliance with its orders in future. This

principle has been applied in the United States and Australia as well.

28. ...

29. Lethargy, ignorance, official delays and absence of motivation can hardly be offered as any defence in an action for contempt. Inordinate delay

in complying with the orders of the Courts has also received judicial criticism. It

is inappropriate for the parties concerned to keep the execution of the Court's orders in abeyance for an inordinate period. Inaction or even dormant behaviour by the officers in the highest echelons in the hierarchy of the Government in complying with the directions/orders of this Court certainly amounts to disobedience. Inordinate delay of years in complying with the orders of the Court or in complying with the directed stipulations within the prescribed time, has been viewed by this Court seriously and held to be the contempt of Court, as it undermines the dignity of the Court. Reference in this regard can be made to *Maniyeri Madhavan v. Inspector of Police and Anil Ratan Sarkar v. Hirak Ghosh*. Even a lackadaisical attitude, which itself may not be deliberate or willful, have not been held to be a sufficient ground of defence in a contempt proceeding. Obviously, the purpose is to ensure compliance with the orders of the Court at the earliest and within stipulated period.

(emphasis supplied)

The Apex Court finally punished the officials of the State of Haryana by imposing fine as well as exemplary costs in *Maninderjit Singh Bitta v. Union of India* (supra), Para 34 of the said judgment is usefully extracted as follows:

34. Having found them guilty under the provisions of the 1971 Act and under Article 129 of the Constitution of India, we punish the Secretary,

Transport and the Commissioner, State Road Transport Authority of the State of Haryana as under:

(i) They are punished to pay a fine of Rs. 2000 each and in default, they shall be liable to undergo simple imprisonment for a period of fifteen days.

(ii) We impose exemplary costs of Rs. 50,000 on the State of Haryana, which amount, at the first instance, shall be paid by the State but would be

recovered from the salaries of the erring officers/officials of the State in accordance with law and such recovery proceedings be concluded within

six months. The costs would be payable to the Supreme Court Legal Services Committee.

(iii) In view of the principle that the Courts also invoke contempt jurisdiction as a tool for compliance with its orders in future, we hereby direct the

State Government and the respondent/contemnor herein now to positively comply with the orders and implement the Scheme within eight weeks

from today.

The Hon''ble Supreme Court in E.T. Sunup Vs. C.A.N.S.S. Employees Association and Another, observed that it has become a tendency of the

government officers to somehow or other, circumvent orders of the Court by taking the recourse to one justification or other, even if ex-facie they

are unsustainable.

The Apex Court in H.G. Rangangoud Vs. State Trading Corporation of India Limited and Others, , at paragraphs 12 and 13 held as follows:

12. From a plain reading of the aforesaid provision it is evident that an act which prejudices or interferes or tends to interfere with the due course

of judicial proceeding comes within the mischief of criminal contempt. The power to punish for contempt is inherent in the Courts of record and

described as a necessary incident to every Court of justice.

The power is an inalienable attribute of the Court and inheres in every Court of record. This power though inherent to the High Court is given a

constitutional status by Article 215 of the Constitution. It is to secure public respect and confidence in the judicial process.

13. Rule of law is the basic rule of governance of any civilised democratic polity. It is only through the Courts that the rule of law unfolds its

contours and establishes its concept. For the judiciary to carry out its obligations effectively and true to the spirit with which it is sacredly entrusted

the task, constitutional Courts have been given the power to punish for contempt, but greater the power higher the responsibility.

From the above judgments, it is very much clear that it has been the attitude of the authorities who exhibit lackadaisical attitude to comply with the

Court orders and there has been continuous violation of Court orders deliberately. This attitude of the officials continues irrespective of change of

political governments.

16. This only exhibits/proves that the authorities are not bothered about non-implementation of Court orders or there is no fear on the part of the

officials about the Courts and Contempt proceedings before the Courts or they are not made aware of the negative consequences of non

implementation of the orders. The contempt of Courts Act was enacted in 1971. The present state of affair would demonstrate that much water

has flown under the bridge. Therefore, it is evident that provisions especially

Section 12 of the Contempt of Courts Act, 1971 is not effective

enough to deal with the non-compliance/violations of Court orders by the present day officials/authorities/Persons.

Section 12 reads as follows:

12. Punishment for contempt of Court. -- (1) Save as otherwise expressly provided in this Act or in any other law, a contempt of Court may be

punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with

both:

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court.

Explanation-An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide

(2) Notwithstanding anything contained in any law for the time being in force, no Court shall impose a sentence in excess of that specified in sub-

section (1) for any contempt either in respect of itself or of a Court subordinate to it.

(3) Notwithstanding anything contained in this Section, where a person is found guilty of a civil contempt, the Court, if it considers that a fine will

not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that be

he detained in a civil prison for such period not exceeding six months as it may think fit.

(4) Where the person found guilty of contempt of Court in respect of any undertaking given to a Court, is a company every person, who, at the

time the contempt was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well

as the company shall be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the Court, by the detention in

civil prison of each such person;

Provided that nothing contained in this sub-section shall render any such person liable to such punishment if he proves that the contempt was

committed without his knowledge or that he exercised all due diligence to prevent its commission.

(5) Notwithstanding anything contained in sub-section (4), where the contempt

of Court referred to therein has been committed by a company and it is proved that the contempt has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the Court, by the detention in civil prison of such director, manager, secretary or other officer.

The above provision gives only minimum punishment and very nominal amount as fine, which is one of the reasons for non-compliance of the orders promptly. Therefore this Court is prima facie of the opinion that time has come to amend Section 12 of the Contempt of Courts Act 1971 to enhance punishment and time Contempt of Courts.

17. First of all, the citizens should not have been driven to a situation of approaching the Court for relief. When they approach, the Courts are duty bound to pass orders. There also, they face a lot of problems viz. arrears of cases, inadequate infrastructure, less number of judges resulting in delay in delivering justice.

Having obtained order, standing in the queue, the order cannot be allowed to be kept in cold storage by not implementing the said order. Only to

avoid such incongruous situation, our constitution makers clothed the constitutional Courts with power to punish the violations of the Court order

by incorporating Articles 129 & 215 of the Constitution. It is evident that our forefathers had fore vision that future bureaucrats would not act

swiftly to comply with Court orders. That apart, Parliament enacted Contempt of Courts Act 1971, repealing the earlier 1956 Act to punish those

violators of the Court orders. Whether the bureaucrats/authorities are justified in denying the benefits of the order to the citizen who obtain after

undergoing many ordeals? As long as the benefits of the order are not enjoyed by the citizen, obtaining paper orders is nothing for the citizen. If the

order is not implemented, will it not frustrate the citizen losing faith in the justice delivery system which is the basic structure of the Constitution of

India? Already citizens are frustrated with the justice delivery system and only 1.6% of the citizens are approaching the Court. The said

development is a rude shock to our democratic policy shaking the foundation of

the justice delivery system. Therefore the administration should be cautious enough to comply with the Court orders/directions forthwith or to do deal with according to law.

18. Moreover, there have been instances wherein attempts are being made to counter the Court judgments only to prevent adverse publicity arising out of adverse judgments by way of news reports, instead of filing appeal to superior Court. One such occasion was the statement issued by the

then State Government on 8.10.2010 regarding the judgment rendered by the Division Bench in R. Nataraj Vs. State of Tamil Nadu and Others,

In that case, a division bench of this Court set aside the appointment of Mrs. Letika Saran's as DGP of Tamilnadu on 8.10.2010 by declining to

accept the contention of the State Government that Supreme Court directions in Prakash Singh and Others Vs. Union of India (UOI) and Ors,

were followed in the appointment of Ms. Letika Saran as DGP of Tamilnadu. The reasons were given in paras 49 to 56, 59, 64, 67, 68 and 101

of its judgment (as MANU). However, the next day media viz. 9.10.10 prominently reported about the Government's statement countering the

Division Bench judgment stating the very same contention of the Government which was rejected by the Court. In fact the main news viz. Judgment

in that case, was made secondary news and the Government's denial statement became primary news. It was done only to prevent the adverse

implications arising out of the judgment rendered by the Court. There can only be an appeal (if available) against the judgment to the Superior

Court and not a counter to the judgment by way of press statement. The attempt of the then Government is nothing but interference in the due

administration of justice. This type of attempt by responsible Government should be deprecated.

19. This Court can take judicial note that in a number of cases, the orders passed by this Court are not complied with by the Central and State

Governments. It only shows that there is no mechanism available with the Central and State Governments to implement Court orders properly and

in time. Even if mechanism is available, it is not effective. Hence this Court feels that such practice should be prevented/stopped. Otherwise there

can not be effective functioning of judiciary as it would denote end of rule of law. To avoid the aforesaid situation and to see that Court matters are

dealt with properly by the Government authorities, a proper fast track mechanism is required to be devised by the respective governments. The respective government has to envisage a mechanism by which Court notices/orders/directions are to be received and step by step procedure after reception of Court notices/order is required to be formulated so that the Court notices/orders reach the concerned official well in advance before the date of hearing or well before time for compliance of the orders. It not only enables the administration to fix up the responsibility on the official every stage, it would also enable the concerned authority to give proper instructions either to oppose the case or to file an appeal or to comply with the orders in time.

20. In view of the above position, the Secretary, Department of Law and Justice, Union of India, New Delhi and Secretary, Law Department, St.

George Fort, State of Tamil Nadu, Chennai is suo motu impleaded as second and third respondents as formal parties.

21. The endeavour of this Court is to see that the justice delivery system is effective viz. the Court cases are properly dealt with and also to see

that orders passed by the Courts are complied with/implemented properly by the authorities in time. Law calls for unqualified compliance of the

Court orders.

The newly added respondents are required to response to answer the following questions:

(a) Whether there is any mechanism/system available with Central and State Governments to deal with Court matters and Court orders?

(b) Even if a mechanism/system is available, in view of non-compliance of Court orders by the authorities invariably, it is not effective. Therefore,

when the Central/State Governments would devise a comprehensive mechanism/system by which step by step procedure for dealing with the

Court matters and compliance of Court orders in time would be envisaged?

(c) Why not the respective Government to form a separate Cell/Wing including appointment of Special Government Pleader/Special Standing

counsel exclusively for contempt cases to comply with Court orders and contempt cases?

(d) Whether the officials are sensitized/trained to appropriately deal with the Court matters?

(e) Whether punishment contemplated u/s 12 of the Contempt of Courts Act is inadequate requiring amendment for enhancement of punishment in

view of increase in no of contempt petitions?

(f) Whether any other punishment by the Government is being imposed on the erring official who does not comply with Court orders?

22. The following case only gives the basis for the above exercise made in the interest of the system.

The petitioner, in this case who is aged about 92 years, is not only a freedom fighter and continues to fight for freedom fighters' pension. His case

is that he participated in Country freedom fight by participating in Quite India Movement in the month of February 1943 and he suffered

imprisonment for six months in 1943 along with Mr. S.N. Somyajalu Exhibit M.L.A. Subsequently in 1945 he suffered imprisonment along with

PSK Lakshmipathi Raju Ex-MLA. He applied for Central Government Pension along with co-prisoner's certificate issued by Mr. S.N. Somyajalu

Exhibit M.L.A.S.N. PSK Lakshmipathi Raju Ex-MLA as per the scheme. The petitioner is also getting Tamil Nadu Pension for freedom fighter as

per government order No. 11863 dated 5.4.1983. Since the petitioner could not get Central Government freedom fighter pension, the petitioner

approached this Court by filing W.P. No. 3274 of 2007. This Court allowed the writ petition on 30.11.2011 by directing the respondent to grant

pension to the petitioner within 16 weeks. By representation dated 19.12.2011, the petitioner brought to the notice of the respondent, which was

received by the respondent on 22.12.2011 and subsequently by advocate notice dated 20.6.2012 which was also received by the respondent on

27.6.2012. Even though the order was passed as early as 30.9.2011 and the same was brought to the knowledge of the respondent on

22.11.2011 and 21.6.2012, the respondent had not complied with the order of this Court. Therefore, the petitioner is before this Court by filing

this contempt petition.

The facts stated above would, prima facie, indicate that the order of this Court dated 30.11.2011 is not complied with. Hence issue statutory

notice to the first respondent/contemnor for his appearance. Notice returnable by 20.3.2013. Private notice is also permitted. Notice to the formal

parties viz. Secretary, Department of Law and Justice, Union of India, New Delhi

and Secretary, Law Department, Government of Tamilnadu,
Chennai-600 005, by then. Petitioner's counsel is also permitted to serve notice
on the office of Additional Solicitor General and advocate
General.