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**(2013) 07 MAD CK 0187**

**In the Madras High Court**

**Case No : Contempt Petition No. 782 of 2012**

V. Thirulokachander

APPELLANT

Vs

E. Kannan and S. Veeraraghavan

RESPONDENT

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**Date of Decision : 18-07-2013**

**Acts Referred:**

Constitution of India, 1950 — Article 215

Contempt of Courts Act, 1971 — Section 2(b)

Multi-State Cooperative Societies Act, 2002 — Section 51

**Citation : (2013) 4 CTC 824**

**Hon'ble Judges : T. Raja, J**

**Bench : Single Bench**

**Advocate :** L.N. Pragasham, for the Appellant; V. Prakash, for Mr. Sathish Parasaran for R2 and Mr. P. Seshadri for R1, for the Respondent

**Final Decision : Disposed Off**

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## **Judgement**

T. Raja, J.—This contempt petition has been filed by Mr. V. Thirulokachander, who was functioning as the Secretary of the first respondent-Government Telecommunication Employees' Co-operative Society Limited, complaining about the deliberate disobedience and frequent violation of the orders passed by this Court in Writ Petition No. 3657 of 2005 dated 30.9.2011 by the respondents. The issue raised in Writ Petition No. 3657 of 2005 is straight and simple, hence, the same is briefly stated as follows. When the petitioner was working as Secretary of the respondent-Society, he was placed under suspension by order dated 19.1.2005 passed by the Administrator-I of the respondent-Society, since the petitioner suffered conviction in Sessions Case No. 193 of 2003 on the file the Principal Sessions Court, Chennai for a criminal case registered under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Although the trial Court convicted and sentenced the petitioner to undergo rigorous imprisonment for a term of one year and to pay a fine of Rs. 2,000/-, in default to undergo simple imprisonment for two months, by its judgment dated 25.9.2003, the trial Court suspended the same enabling the

petitioner to file appeal. The petitioner, having filed Criminal Appeal No. 1546 of 2003, obtained suspension of sentence and bail by order dated 20.10.2003 in CrI. M.P. No. 9734 of 2003 in Criminal Appeal No. 1546 of 2003. But the contemnors did not reinstate the petitioner on the ground that the matter was pending. However, this Court, by its judgment dated 27.4.2010 in Criminal Appeal No. 1546 of 2003, ultimately set aside the judgment of conviction and sentence passed by the learned Principal Sessions Judge, Chennai. The said judgment of this Court became final, as no appeal was filed by the co-operative society as against the said order, hence, it was pleaded that the order of suspension passed on the basis of the conviction and sentence passed by the trial Court also stood obliterated. However, when the Administrator, who passed the order of suspension, had not revoked the suspension even on the representation made by the petitioner, the contemnors refused to revoke the suspension to reinstate the petitioner in service, which compelled the petitioner to file the W.P. No. 3657 of 2005 before this Court. This Court, by order dated 30.9.2011, enunciating the legal position that the order of suspension passed on the basis of the conviction and sentence that were subsequently set aside by the appellate Court, quashed the same with a further direction to the contemnors to reinstate the petitioner in service, preferably within a period of two weeks from the date of receipt of copy of the order. Aggrieved by the order passed by this Court in the writ petition dated 30.9.2011, the contemnors preferred Writ Appeal No. 2274 of 2011. The Hon"ble First Bench of this Court, finding no merits in the writ appeal, while dismissing the same, confirmed the order passed by this Court in its order dated 5.1.2012. Again the contemnors went in appeal before the Hon"ble Apex Court by filing SLP (Civil) No. 17929 of 2012 as against the order passed by the Hon"ble Division Bench in W.A. No. 2274 of 2011. In the meanwhile, the writ petitioner, complaining non-implementation of the Court's order dated 30.9.2011, filed the contempt petition to initiate contempt proceedings against the contemnors. However, the contemnors sought for time on the ground that the SLP filed by them was pending before the Hon"ble Apex Court and therefore prayed this Court to adjourn the matter to some other date. Accepting the request, this Court adjourned the matter. Subsequently, the Hon"ble Apex Court dismissed the special leave petition, by its order dated 17.8.2012, giving a quietus to the matter to reinstate the petitioner in the post of Secretary. In the meanwhile, since the contempt petition was filed for non-compliance of the order passed by this Court in W.P. No. 3657 of 2005, this Court did not proceed with the contempt petition, in view of the pendency of the writ appeal and the special leave petition. However, after the dismissal of the SLP on 17.8.2012, when the contempt petition was taken on board on 27.8.2012, Mr. T.R. Rajagopalan, learned senior counsel appearing for the second contemnor-Mr. S. Veeraraghavan, the President of Government Telecommunication Employees' Co-operative Society Limited, made a statement before this Court that the petitioner could join duty. Accepting the submission of the learned senior counsel, the matter was adjourned to 31.8.2012. Again when the matter was taken up on 31.8.2012, Mr. L.N. Pragasham, learned counsel for the petitioner

represented before this Court that the petitioner was not given any work on 28.8.2012. However, Mr. T.R. Rajagopalan, learned senior counsel appearing for the second contemnor again stated that though the petitioner was allowed to join duty as Secretary, the respondents-contemnors would entrust his part of the official work. Unfortunately, when the matter was listed again on 20.2.2013, the learned counsel for the petitioner submitted before this Court that the second respondent had wrongly posted the petitioner as Secretary No. II, instead of Secretary No. I, because the second respondent had deliberately posted a junior of the petitioner viz., the first respondent, who was working from the year 2001, as the Secretary in-charge. On this basis, it was complained before this Court by the learned counsel for the petitioner that the order passed by this Court in the writ petition, confirmed by the Hon"ble Division Bench and the Hon"ble Apex Court in SLP (C) No. 17929 of 2012 dated 17.8.2012, had not only been completely breached, but the undertaking given by the learned senior counsel for the second respondent also had been breached. Adding further, Mr. L.N. Pragasham vehemently argued that by virtue of Section 51 of the Multi-State Co-operative Societies Act, 2002, there shall be only one Chief Executive in every multi-State co-operative society, wrongly by taking the law in their own hands, the respondents, without complying with the order of the High Court, the order of the Supreme Court and even the provisions of Section 51 of the Multi-State Co-operative Societies Act, mischievously increased the number of posts of Secretaries and thus committed deliberate contempt, therefore, they should be punished suitably, as the contemnors had no regard or respect to the orders of this Court or law.

2. At this stage, Mr. V. Prakash, learned senior counsel appearing for the contemnors, placing three submissions, requested this Court not to proceed with the contempt proceedings, since the order of the Court has been duly complied with by posting the petitioner as the Secretary No. II. Since the issue before this Court, he pleaded, is only in respect of revocation of the suspension order by posting him as the Secretary, now after the suspension order was set aside by this Court, the petitioner was posted as one of the Secretaries, therefore, the Board of Directors alone have got power to appoint the Secretaries of the respondent-Co-operative society in the order of merit like Secretary No. I, Secretary No. II, Secretary No. III and Secretary No. IV. Hence, this Court cannot find fault with the appointment of the petitioner as Secretary No. II, as such, the matter has to be left open to the Board of Directors, he pleaded. In any event, when the entire back-wages have been paid and the petitioner also has been appointed in the post of Secretary No. II, no contempt subsists as alleged by the petitioner. He has further contended that, as alleged by the petitioner, there was no violation of Section 51 of the Multi-State Co-operative Societies Act. In support of the above submission, by relying upon the Board's resolution dated 21.10.2011 to increase the number of posts of Executives including Secretaries, the learned senior counsel stated that when the Board of Directors had taken a decision to appoint four Secretaries after considering the volume of

transactions, work load and their corresponding volume of work, it is not open to the petitioner to find fault with the powers exercised by the Board of Directors for increasing the cadre strength of Secretaries and as such, when the bye-law No. 33 empowers the Board of Management to appoint one amongst the Secretaries as the Chief Executive of the society to be a whole-time employee of the society, appointing the petitioner as Secretary No. II cannot be found fault with. Finally, while resting his argument, Mr. V. Prakash, learned senior counsel submitted that when the arrears of salary payable to the petitioner as on 27.8.2012 had been paid and since this Court had set aside the suspension order and the petitioner was also posted as the Secretary No. II on 29.3.2012, the subsequent suspension made on the same date relating to some other charges cannot be viewed seriously against the President, as though the order passed by this Court has been violated, for the reason that when the order of suspension dated 29.3.2012 is based on entirely different set of facts and different charges, the said suspension order cannot be termed as an act of disobedience of the order passed by this Court, much-less an act of contempt as alleged by the petitioner. However, in any event, now that the petitioner has been reinstated in service as Secretary No. II by virtue of an amendment made to the bye-laws of the society increasing the strength of the Secretaries, therefore, not posting the petitioner as Secretary No. I is not a violation of this Court's order, since it is purely a part of privilege of the Board, accordingly, he pleaded for dismissal of this contempt petition.

3. Heard the learned counsel for the parties. The erstwhile President of the Government Telecommunication Employees' Co-operative Society Limited registered a criminal case against the petitioner, when he was holding the post of Secretary in the respondent-Society, under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Finally, he was tried in Sessions Case No. 193 of 2003 on the file of Principal Sessions Court, Chennai, which ultimately ended in convicting and sentencing the petitioner to undergo rigorous imprisonment for a term of one year and to pay a fine of Rs. 2,000/-, in default to undergo simple imprisonment for two months, by its judgment dated 25.9.2003. After pronouncing the judgment, the trial Court also suspended the same enabling the petitioner to file appeal. Thereupon, the petitioner also, by filing Criminal Appeal No. 1546 of 2003, obtained an order of suspension of sentence and bail on 20.10.2003 in CrI. M.P. No. 9734 of 2003. Although the petitioner obtained an order of suspension of sentence and bail, he was not allowed to join duty till 27.8.2004. Subsequently, he was placed under suspension by order dated 19.1.2005 on the ground that the criminal case filed against the petitioner was pending and the grant of bail by the High Court would not alter the situation. Challenging the suspension order dated 19.1.2005, the petitioner filed Writ Petition No. 3657 of 2005 and this Court, by order dated 7.2.2005, granted an order of stay of operation of the suspension order in W.P.M.P. No. 4087 of 2005. Thereafter, when an application to vacate the said order of stay was moved in W.V.M.P. No. 1024 of 2005 by the Administrator of

the respondent society, this Court, while disposing off the miscellaneous petitions by order dated 27.4.2005, directed the Administrator-I of the society to ensure that the petitioner shall continue to function in the same capacity. However, during the pendency of the writ petition, Criminal Appeal No. 1546 of 2003 filed by the petitioner was allowed by this Court on 27.4.2010 after setting aside the conviction and sentence passed by the Principal Sessions Court, Chennai. Further, the said order became final, for the reason that the respondents did not file any appeal against that order. In view of that, as the suspension order passed by the respondents only on the ground that the petitioner was convicted and sentenced by the trial Court would stand obliterated, this Court, while hearing W.P. No. 3657 of 2005 challenging the suspension order, by its order dated 30.9.2011, set aside the order of suspension, as nothing survived therein, when the entire charges alleged against the petitioner were quashed by the judgment dated 27.4.2010 in Criminal Appeal No. 1546 of 2003. Further, after taking note of the fact that two years had gone by after the judgment of this Court in Criminal Appeal No. 1546 of 2003 dated 27.4.2010, the respondents were directed to reinstate the petitioner in service as Secretary within a period of two weeks from the date of receipt of copy of the order. However, the respondents filed W.A. No. 2274 of 2011 challenging the correctness of that order. But the Hon''ble Division Bench of this Court, by order dated 5.1.2012, dismissed the writ appeal, confirming the order passed in the writ petition. In the meanwhile, without reinstating the petitioner, the respondents issued another suspension order dated 29.3.2012 containing different set of charges. Again aggrieved by the order of the Hon''ble Division Bench, the respondents filed SLP (C) No. 17929 of 2012 before the Apex Court and the same was also dismissed on 17.8.2012. Thereafter, when the matter was listed on 27.8.2012, Mr. T.R. Rajagopalan, learned senior counsel for the contemnors brought to the notice of this Court a letter dated 27.8.2012 written by the President of Government Telecommunication Employees' Co-operative Society Limited stating that the Board of Management, in its meeting held on 24.8.2012, unanimously resolved to revoke the order of suspension dated 29.3.2012, hence, the petitioner could join duty even on the same day. Further, it was stated that the cheque bearing No. 721376 dated 27.8.2012 for a sum of Rs. 31,35,262/- covering the amount payable to the petitioner towards his salary during the period of suspension was also handed over to the learned counsel for the petitioner. Accepting the arrears of salary, the learned counsel for the petitioner requested this Court to post the matter for reporting compliance, allowing the petitioner to join duty. Subsequently, when the matter was called on 31.8.2012, again Mr. T.R. Rajagopalan, learned senior counsel for the second contemnor made a statement before this Court that although the petitioner was allowed to join duty as Secretary, the second respondent would entrust his part of the official work. But the contemnors, as promised before this Court through their counsel, did not comply with the order and the undertaking given by them by posting the petitioner as Secretary. In fact, the petitioner was again suspended with different set of charges allegedly on a false charge that had taken place even prior to the

order of suspension. It must be mentioned at this juncture that when this Court had passed the order dated 30.9.2011 allowing the writ petition, the request made by Mrs. Hema Sampath, erstwhile learned senior counsel for the respondents to grant liberty to proceed against the petitioner departmentally against any clinching evidence, was refused. However, when the said order quashing the suspension order dated 19.1.2005 and refusing the liberty to proceed against the petitioner on any clinching evidence was challenged in the writ appeal, the Hon'ble First Bench of this Court dismissed the appeal and subsequently, the SLP filed by the contemnors was also dismissed by the Hon'ble Apex Court, therefore, the question of placing the petitioner under suspension on the date of reinstatement on 29.3.2012, in the guise of communicating with different set of grave charges, is nothing but an after-thought to circumvent the Court's order, particularly when this Court specifically refused the request of the contemnors to grant liberty to proceed against the petitioner departmentally.

4. Secondly, when the contemnors, through their previous senior counsel Mr. T.R. Rajagopalan, made a statement before this Court on 27.8.2012 that the order of suspension was unanimously revoked by the Board of Management in its meeting held on 24.8.2012, it was not mentioned before this Court that the Board of Management had any other set of charges against the petitioner to take further action against the petitioner. Further, on 31.8.2012, when the matter was again taken up, the contemnors through their counsel again made another statement before this Court that the petitioner would be entrusted with his part of the official work. Having made repeated statements before this Court through different counsel, the contemnors deliberately violated not only the order passed by this Court, which was subsequently affirmed by the Hon'ble Division Bench and the Hon'ble Apex Court, but also their own undertaking repeatedly made before this Court. As a matter of fact, when the matter was subsequently taken up, the statement made before this Court by Mr. V. Prakash, learned senior counsel for the contemnors that the society has got power to increase the cadre strength of Secretary by passing the resolution dated 22.9.2011, as a result, placing the petitioner as Secretary No. II cannot be viewed as a violation of the Court's order, has to be brushed aside for the reason that when the order of suspension dated 19.1.2005 was set aside by this Court, the respondents should have reinstated the petitioner as Secretary, as he was relieved of that post on the date of suspension.

5. Thirdly, when the contempt petition was pending before this Court, the counsel on record for the contemnors placed on record a letter dated 25.3.2013 passed by the President of the Government Telecommunication Employees' Co-operative Society Limited making it clear that the Board had unanimously passed a resolution dated 25.3.2013 to remove the numbers provided for the post of Secretaries in proceedings in Rc. No. 5009/2004 dated 31.8.2012. The said resolution of the Board reads as under:-

Copy of Board Resolution dated 25.03.2013

To remove the numbers provided for the posts of Secretaries

As submitted before the Honourable High Court on 13.03.2013 the Board has unanimously passed a resolution to remove the numbers provided for the post of Secretaries in the Proceedings No. RC. 5009/2004 dated 31.08.2012.

When that letter issued by the President was placed on record, it goes without saying that the second contemnor had undertaken before this Court that the petitioner was going to be posted as Secretary in the same position as he was suspended on 19.1.2005. Even after giving a written undertaking before this Court to post the petitioner as Secretary, wrongly posting the petitioner as Secretary No. II is not only a clear and manifest breach of the order passed by this Court, but also a systematic and continuous violation of even their own undertaking given to the Court on 25.3.2013. Moreover, for that blatant, defiant and contumacious attitude with impunity, this Court is of the view that it undermines the majesty of this Court, because the violation of the order passed by all the Courts, viz., single Judge, the Hon''ble Division Bench and the Hon''ble Apex Court, clearly shows that the respondents have shown scant regard and no respect for the orders passed by the Courts.

6. Moreover, a mere perusal of the Board resolution No. 610 dated 2.1.2012 also clearly shows that since the first respondent Mr. E. Kannan, who was posted as Secretary in-charge with effect from 6.7.2009 vide Board Resolution No. 232 dated 11.7.2009, had completed more than two years of service, the Board of Management unanimously resolved to promote him to the post of Secretary, when the petitioner was working as Secretary much prior to Mr. E. Kannan. Therefore, the said proceeding promoting Mr. E. Kannan as Secretary No. I above the petitioner is totally contrary to the earlier order dated 27.4.2005 passed by this Court in W.P.M.P. No. 4087 of 2005 and W.V.M.P. No. 1024 of 2005 in W.P. No. 3657 of 2005 moved by the society to vacate the earlier order of stay granted against the suspension order dated 19.1.2005. Further, it could be seen that this Court, during the pendency of the writ petition, having passed a clear and unambiguous order stating that the interim stay granted already shall stand modified to the effect that the petitioner shall continue to function in the same capacity, the Board Resolution No. 610 dated 2.1.2012 posting Mr. E. Kannan as the Secretary is a glaring and flagrant violation of the order passed by this Court. In this context, it will be more appropriate to extract paragraph-3 of the order passed by this Court as early as on 27.4.2005, which reads thus:-

3. This Court while admitting the above writ petition on 7.2.2005 has granted an order of interim stay. Since the petitioner is suspended consequent upon the order of the criminal Court which is of the year 2003 and the petitioner has raised several contentions about the validity of the said order which has to be gone into only at the time of final disposal of the writ petition, the interim stay granted already shall stand modified to the effect that the petitioner shall continue to function in the same capacity. However, the petitioner shall act as per the directions of the second respondent herein, who is admittedly the higher

authority.

The above order vividly says that the petitioner shall continue to function in the same capacity, but regrettably, contrary to the said order dated 27.4.2005, till date, not posting him in the same capacity as Secretary, but posting him as Secretary No. II, is not in true compliance of this Court's order. In a similar circumstance, the Hon'ble Apex Court in Prithawi Nath Ram Vs. State of Jharkhand and Others, while dealing with an application against non-compliance of its order, has held that even if any party is aggrieved by the order which in its opinion is wrong or against rules or its implementation is neither practicable nor feasible, it should always either approach the court that passed the order for clarification. Right or wrong, the order has to be obeyed till then. Paragraph-8 of the judgment can be usefully quoted and the same reads as follows:-

8. If any party concerned is aggrieved by the order which in its opinion is wrong or against rules or its implementation is neither practicable nor feasible, it should always either approach the court that passed the order or invoke jurisdiction of the appellate court. Rightness or wrongness of the order cannot be urged in contempt proceedings. Right or wrong, the order has to be obeyed. Flouting an order of the court would render the party liable for contempt. While dealing with an application for contempt the court cannot traverse beyond the order, non-compliance with which is alleged. In other words, it cannot say what should not have been done or what should have been done. It cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional direction or delete any direction. That would be exercising review jurisdiction while dealing with an application for initiation of contempt proceedings. The same would be impermissible and indefensible. In that view of the matter, the order of the High Court is set aside and the matter is remitted for fresh consideration. It shall deal with the application in its proper perspective in accordance with law afresh. We make it clear that we have not expressed any opinion regarding acceptability or otherwise of the application for initiation of contempt proceedings.

7. In the light of the above ratio, when this Court had already passed an order on 27.4.2005, during the pendency of the writ petition, that the petitioner shall continue to function in the same capacity, till the writ petition was disposed off by this Court on 30.9.2011, the second contemnor had not issued any letter or notice calling upon the petitioner to join the post of Secretary. Therefore, what was required to be done as per the order dated 27.4.2005, having been not done, it shows the clear and manifest intention of the second contemnor not to comply with the Court's order. Be that as it may, finally, when the writ petition was taken up for final disposal, this Court, after hearing both the learned senior counsel Mrs. Hema Sampath for the contemnors and Mr. M. Venkatachalapathy for the petitioner, after considering the impugned order dated 19.1.2005 that was passed only on the basis of the conviction and sentence passed by the Principal Sessions Court, Chennai in Sessions Case No. 193 of 2003 dated



25.9.2003, which was set aside by this Court in Criminal Appeal No. 1546 of 2003 dated 27.4.2010, held that nothing survived in the order of suspension, when the entire charges alleged against the petitioner were set aside by this Court in the above said judgment, resultantly quashed the order of suspension. Consequently, the second respondent was directed to reinstate the petitioner in service preferably within a period of two weeks from the date of receipt of copy of the order. Pausing for a while here, it must be mentioned that when the impugned order of suspension dated 19.1.2005 was passed only on the simple ground that the petitioner suffered conviction and sentence imposed by the Principal Sessions Court, Chennai, after the said conviction and sentence were set aside by the appellate Court, the order of suspension automatically disappears. Therefore, the officer, who had passed the order of suspension, is legally duty bound to pass an order revoking the suspension order and reinstate the petitioner in service in the same position as Secretary. Failing to do so will amount to dereliction of duty. When that minimum dutiful obligation was not discharged, the petitioner, challenging the suspension order, filed the W.P. No. 3657 of 2005. During the pendency of the writ petition, on 27.4.2005, there was a specific and unambiguous direction to the Administrator to ensure that the petitioner shall continue to function in the same capacity. Sadly, that order, as mentioned above, has not been obeyed. Finally, when this Court passed the order allowing the writ petition, setting aside the order of suspension dated 19.1.2005, on 30.9.2011, unfortunately, the Administrator again went in appeal unsuccessfully by filing W.A. No. 2274 of 2011, which was dismissed by the Hon'ble Division Bench on 5.1.2012. In the meanwhile, for not implementing the Court's order, the present contempt petition was filed. The second contemnor, during the pendency of this contempt petition, made an undertaking before this Court in the form of a letter dated 25.3.2013. Even that undertaking was breached and violated.

8. The said act clearly shows the willingness and vindictiveness of the second contemnor for not obeying this Court's order. In fact, when the matter was all along pending before this Court from the year 2005, no whisper or mention was ever made by the second respondent in any of the proceedings against the petitioner. Under the Indian law, the conduct of the parties, the act of disobedience and the attendant circumstances are more relevant to consider whether a case would fall under civil contempt or criminal contempt. For example, disobedience of an order of a court simpliciter would be civil contempt, but when it is coupled with conduct of the parties, which is contemptuous, prejudicial and is in flagrant violation of the law of the land, it may be treated as a criminal contempt. In such an event, the Courts have the power to enforce their judgments and orders against the recalcitrant parties. This is for the reason that the Courts are primarily concerned with the enquiry whether the contemnor is guilty of intentional or willful violation of the orders of the Court, even to constitute a civil contempt. Every party to lis before the Court and even otherwise is expected to know the orders of the Court in its true spirit and

substance. Equally every person who is a party to the proceeding is required to respect and obey the orders of the Court with due dignity for the institution. Even the Government departments are no exception to it. Whenever there are obstructions or difficulties in compliance with the orders of the Court, least that is expected of the Government department or its functionaries is to approach the Court for extension of time or clarification, if called for. But, where the party neither obeys the orders of the Court nor approaches the Court making appropriate prayers for extension of time or variation of order, the only possible inference in law is that such party disobeys the orders of the Court. Such flagrant violation of the Court's order would reflect the attitude of the party concerned to undermine the authority of the Court, its dignity and the administration of justice.

9. In the above background, if I see the statement made before this Court by Mr. T.R. Rajagopalan, learned senior counsel for the second contemnor that the respondents would entrust his part of the official work, even on 31.8.2012, the second contemnor did not even bring to the notice of this Court any resolution passed for increasing the cadre strength of Secretaries. Besides, when there was no bye-law amended till 31.8.2012 increasing the cadre strength of Secretaries from one to more, having stated before the Court during the hearing of the contempt petition that the petitioner would be entrusted with his part of the official work, not posting him as Secretary and posting him as Secretary No. II below his junior officer, the first respondent, who is Secretary No. I, is again showing the conduct of the second respondent that he is known for playing hide and seek before this Court for not implementing the Court's order. Moreover, when this Court again gave time to report compliance of the order, the second contemnor gave an undertaking before this Court in the form of a letter dated 25.3.2013 to the effect that the Board had unanimously passed a resolution to remove the numbers provided for the posts of Secretaries in the Proceedings No. RC. 5009/2004 dated 31.8.2012. When such a written undertaking was given before this Court by the second contemnor that the petitioner would be posted as Secretary by removing his number provided for the post of Secretary No. II, till date, no such proceeding has been passed by posting the petitioner as Secretary. This shows that the second contemnor had not only violated the Court's order repeatedly, but also gone to the extent of violating his own undertaking given to the Court. The repeated refusal of the second contemnor to post the petitioner as Secretary is based on the subsequent resolution passed by the Board increasing the cadre strength of Secretary. In fact, the Board's resolution to increase the cadre strength was first time deliberated on 22.9.2011 and got the certificate of registration of amendment by the Central Registrar only on 15.5.2013. Therefore, when the bye-law came to be amended officially only on 15.5.2013, the defence of amendment can hardly be invoked to escape the consequences of disobedience of the Court's order, because the timing and the speed with which the amendment was worked out without posting two other Secretaries is nothing but an after-thought with a clear plan to defeat the order of this Court. Further, the respondents, with a determined mind not to implement the Court's order,

have been engaging the senior counsel one after the other only to achieve their oblique motive.

10. In this connection, it will be more pertinent to refer to a judgment of the Apex Court in the case of Rama Narang Vs. Ramesh Narang and Another, relating to the effect of breach of undertaking given by any party before the Court, wherein the Apex Court held as follows:-

45. This Court again had occasion to deal with a case in Bank of Baroda Vs. Sadruddin Hasan Daya and Another, In that case, the Court clearly observed as under: (SCC p. 361g)

The willful breach of an undertaking given to a court amounts to "civil contempt" within the meaning of Section 2(b) of the Contempt of Courts Act. The respondents having committed breach of the undertaking given to the Supreme Court in the consent terms they are clearly liable for having committed contempt of Court.

50....This was absolutely contrary to the letter and spirit of the undertaking given by the parties to this Court. The orders dated 12.12.2001 and 8.1.2002 are based on the undertaking given by the parties. The respondents blatantly and deliberately violated the orders of this Court based on the undertaking given to the Court. Consequently, the respondents are guilty of deliberately flouting and disregarding the undertaking given to this Court.

51. In order to maintain sanctity of the orders of the highest court of the country, it has become imperative that those who are guilty of deliberately disregarding the orders of the court in a clandestine manner should be appropriately punished. The majesty of the court and the rule of law can never be maintained unless this Court ensures meticulous compliance with its orders.

53. Consequently, we convict the respondents u/s 2(b) of the Contempt of Courts Act and sentence them to a simple imprisonment for a period of two months. We further impose a fine of Rs. 2000 to be deposited by each of them within one week failing which they shall further undergo imprisonment for one month.

11. The above ratio and observation of the Apex Court clearly shows that law is well settled that if any party giving an undertaking to the Court failed to comply with the said undertaking, the said party is liable to be punished for breach thereof. In the present case also, having given an undertaking before this Court by the President through a letter dated 25.3.2013 that the Board unanimously passed a resolution to remove the numbers provided for the post of Secretaries, again, not posting the petitioner as Secretary, is a clear act of deliberate disobedience of the Court's order. Finally, a recent judgment of the Apex Court in the case of Maninderjit Singh Bitta Vs. Union of India (UOI) and Others, dealing with the scope of powers of the Court under the Contempt of Courts Act to protect the dignity and authority of the Court, can be usefully referred to, wherein it was 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 through the Amicus Curiae Vs. Ashok Khot and Another,

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 Vs. Inspector of Police, Cannanore, and Anil Ratan Sarkar and Others Vs. Hirak Ghosh and Others, . 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.

In the above said case, the Hon"ble Apex Court, having issued a direction to the State of Haryana to implement a scheme and finding that the State of Haryana failed to comply with the directions of the Court for years together and the repeated opportunities and extension of time to take effective steps did not help in expeditious progress in the matter, by exercising the contempt power to hold the officers guilty under the provisions of the Contempt of Courts Act, 1971, punished the Secretary, Transport and the Commissioner, State Road Transport Authority of the State of Haryana, namely, (i) 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 and (ii) to pay costs of Rs. 50,000/-, which amount, at the first instance, shall be paid by the State, but would be recovered from the salaries of the erring officers in accordance with law and such recovery proceedings be concluded within six months.

12. Moreover, punishing a person for contempt of Court is indeed a drastic step and normally such action should be taken with circumspection. At the same time, however, it is not only the power, but the duty of the Court to uphold and

maintain the dignity of Court and majesty of law, which may call for such extreme step. If for proper administration of justice and to ensure due compliance with the order passed by the Court, a compulsion is thrust upon the Court to take a strict view under the Act, the Court should not hesitate to enforce its own order by exercising the power of contempt, inasmuch as it is also the duty of the Court to enforce its own order. Otherwise, the person in whose favour the order, judgment or decree is passed will be not only losing his confidence in the Court for having approached for justice, but the entire proceedings will be rendered meaningless, consequently the sanctity of the Court's proceedings would also become a mockery and an empty formality.

13. In view of the aforesaid settled principles, it may be concluded thus:

(i) When the Administrator-I of the society passed the order of suspension against the petitioner on 19.1.2005 based on the judgment of conviction and sentence passed by the learned Principal Sessions Judge, Chennai in Sessions Case No. 193 of 2003 dated 25.9.2003, the said judgment was set aside by this Court in Criminal Appeal No. 1546 of 2003 dated 27.4.2010. In the meanwhile, the order dated 27.4.2005 passed by this Court, pending writ petition, with a specific direction to the Administrator that the petitioner shall continue to function in the same capacity, has not been obeyed, complied or implemented till now.

(ii) Again when the judgment of conviction and sentence passed by the learned Sessions Judge, Chennai in Sessions Case No. 193 of 2003 was set aside by this Court in Criminal Appeal No. 1546 of 2003 dated 27.4.2010, the order of suspension dated 19.1.2005 automatically stood obliterated. Therefore, it was the bounden duty of the officer who passed the order of suspension to revoke the same in law and reinstate the petitioner as Secretary. Having not done so, the said act shows the vindictiveness of the second contemnor, however, when this Court, by order dated 30.9.2011, allowing the W.P. No. 3657 of 2005, finally set aside the order of suspension dated 19.1.2005 with a specific direction to reinstate the petitioner in service preferably within a period of two weeks from the date of receipt of copy of the order, that order having been confirmed by the Hon"ble Division Bench in W.A. No. 2274 of 2011 dated 5.1.2012 and again confirmed by the dismissal of the SLP (civil) No. 17929 of 2012 on 17.8.2012 filed by the respondents, the petitioner was not yet reinstated in the post from which he was suspended.

(iii) Once again, when a written undertaking was given before this Court on 25.3.2013 that the Board had unanimously passed a resolution to remove the numbers provided for the post of Secretaries in Proceedings No. RC. 5009/2004 dated 31.8.2012, till now, again the petitioner has not been posted as Secretary, but, with all impunity, posted as Secretary No. II.

(iv) The above act of the second respondent in violating the Court's orders repeatedly including his own undertaking dated 25.3.2013 clearly shows that the

second respondent, willingly, deliberately and with impunity, violated the orders of all the Courts. Therefore, he is guilty of deliberately flouting and disrespecting the orders of the Courts and the undertaking given to this Court amounting to contempt of court u/s 2(b) of the Act, hence, it is imperative that the guilty should be punished to maintain the majesty of the Court and the rule of law. Otherwise, the Court's order directing the second contemnor to post the petitioner as Secretary would be rendered meaningless.

14. Realising the importance of safeguarding the rule of law, a Division Bench of this Court in G. Rajaram Vs. T.K. Rajendran, I.P.S., Director General of Police/ Chairman Thamizh Naadu Uniformed Services Recruitment Board and Others, while holding the contemnors therein guilty of contempt under the provisions of the Contempt of Courts Act, 1971, further exercising the power of the Court under Article 215 of the Constitution of India, as every High Court is a superior Court of record, for willful disobedience of the Court's order, clearly reaching a conclusion that Article 215 does not restrict the power of the Court to impose punishment, came down heavily against the contemnors therein and imposed costs of Rs. 1,00,000/- payable to the petitioner therein, on the ground that the person, who has secured an order in his favour in the year 2005, was unnecessarily made to wait for justice for a long time, as a result, the petitioner in whose favour the order was passed was made to face the ordeal physically, mentally and financially. Similarly, in the present case also, when the petitioner secured an order dated 27.4.2005 passed in W.P.M.P. No. 4087 of 2005 and W.V.M.P. No. 1024 of 2005 in W.P. No. 3657 of 2005, till date, the said order has not been implemented.

15. When this Court passed an order on 27.4.2005 in W.P.M.P. No. 4087 of 2005 and W.V.M.P. No. 1024 of 2005 in W.P. No. 3657 of 2005 that the petitioner shall continue to function in the same capacity i.e., Secretary, pending the writ petition, the second respondent could have brought down the curtains to an end in 2005 itself, but willingly he refused to comply with the order for no reason. Again, after the writ petition was allowed on 30.09.2011, he could have resolved this issue on 30.09.2011, ironically, he did not realise to implement the order in letter and spirit. But, unfortunately and unsuccessfully, he filed writ appeal and the SLP by dragging on the petitioner to all the Courts at the cost of the poor society. Again, even after the dismissal of the SLP No. 17929 of 2012 on 17.8.2012 by the Hon"ble Apex Court, the second respondent, with all impunity, refused to implement it, hence, this Court is left with no other option except to take this unfortunate choice to enforce its order. For all the foregoing discussions and conclusions, this Court, holding the second respondent-President of the Government Telecommunication Employees" Co-operative Society Limited guilty of contempt of this Court u/s 2(b) of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India, hereby sentences him to undergo simple imprisonment for a period of two weeks. Further, this Court imposes a fine of Rs. 2000/- (Rupees two thousand only) to be paid within three weeks, failing which he shall further undergo imprisonment for two more weeks. Taking into account

the ordeal faced by the petitioner in this case, this Court is also inclined to impose costs of Rs. 25,000/- (Rupees twenty five thousand only) payable to the petitioner within a period of three weeks, in default to undergo further imprisonment for two more weeks. Since no case of contempt is made out against the first respondent, he is discharged from the contempt proceedings. Consequently, the petitioner should be reinstated as Secretary, as he was relieved at the time of suspension. Accordingly, the contempt petition stands disposed of.