

Section 437 the accused would have two courses open. It is always this right to move for bail afresh before the proper forum but his right to challenge the validity of the order of cancellation of bail cannot be taken away simply for the reason that he has a right to pray for bail again. This challenge could not be made in a petition under Section 397, Cr. P.C. as an order recording bail or its cancellation is but an interlocutory order and the validity of the order, therefore, could only be challenged in a proceeding under Section 482, Cr. P.C. invoking the inherent powers of the Court to prevent abuse of process of any Court or to secure the ends of justice. The objection of the complainant in this behalf is thus not tenable and this Court can look to the validity of the cancellation of bail in exercise of its powers under Section 482, Cr. P.C. It must also be indicated that cancellation of bail is normally to be made only on the proof of misuse of privilege of bail either by abscondence or by interference with investigation or by threats to witnesses."

18. The Hon'ble Apex Court in the case of *Puran and Shekhar and another (supra)* was pleased to hold as under:-

"16.When Section 439(2) grants to the High Court the power to cancel bail, it necessarily follows that such powers can be exercised also in respect of Orders passed by the Court of Sessions. Of course cancellation of bail has to be on principles set out hereinabove and only in appropriate cases.

17. Further, even if it is an interlocutory order, the High Court's inherent jurisdiction under Section 482 is not affected by the provisions of Section 397 (3) of the Code of Criminal

Procedure. That the High Court may refuse to exercise its jurisdiction under Section 482 on the basis of self-imposed restriction is a different aspect. It cannot be denied that for securing the ends of justice, the High Court can interfere with the order which causes miscarriage of justice or is palpably illegal or is unjustified. [Re. Madhu Limaye v. State of Maharashtra (1977) 4 SCC 551 and Krishnan and Another v. Krishnaveni and Another (1997) 4 SCC 241]."

19. the validity of the order passed under Section 439 (2) Cr.P.C. The order dated 10.9.2024 passed by the Court of Sessions, Ghaziabad rejecting the Bail Cancellation Application, at the instance of the applicant/First Informant can be questioned before the Court in an application under Section 482 Cr.P.C. The instant Bail Cancellation Application is held to be not maintainable and is **dismissed**, leaving it open for the applicant to assail the order dated 10.9.2024 passed by the Sessions Court, Ghaziabad in appropriate proceedings. There shall be no order as to costs. .

(2024) 12 ILRA 33

ORIGINAL JURISDICTION

CIVIL SIDE

DATED: ALLAHABAD 20.12.2024

BEFORE

THE HON'BLE SALIL KUMAR RAI, J.

Contempt Application (Civil) No. 6731 of 2024

Smt. Suman Devi

...Applicant

Versus

Sri Avinash Kumar Yadav, Social Welfare Officer, Fatehpur

...Opposite Party

Counsel for the Applicant:

Sri Bhawesh Pratap Singh

Counsel for the Opposite Party:

Civil Law – Constitution of India, 1950 - Article 215 - Contempt of Courts Act, 1971 - Sections 2, 2(b) & 12 - Uttar Pradesh Basic Education (Teachers) Service Rules, 1981 - Rule 29:- Contempt Application – willful disobedience of order passed in writ petition - applicant-petitioner who was employed as Assistant Teacher in an Institution which governed by the Department of Social Welfare, UP & managed by an elected Committee of Management – petitioner was to retire on 10.04.2022, therefore, under Rule 29 of Rules, 1981, she claimed benefit of extended employment end of session i.e. till 31.03.2023 – her claim for session benefit was referred before the DSWO, Fatehpur who, in turn, referred to the Director, Department of Social Welfare – who further referred the matter to the Principal Secretary, Department of Social Welfare – when her claim was pending she filed writ petition – during pendency of writ petition – Principal Secretary, Department of Social Welfare, UP allowed session benefit in her favour – consequently, writ petition was disposed of with direction that the petitioner shall be paid her salary for the extended period of her service, if there was no legal impediment – Special Secretary, DoSW rejected her claim of salary, on the ground of no work no pay – contempt proceeding – issue notices – personal appearance - court held guilty of willful disobedience of orders - court finds that, the act of the Special Secretary in trying to pass the buck and his role in preventing payment of salary to the applicant in terms of the order passed by this court shows that the apology tendered by the Special Secretary is not sincere and has been given only to avoid punishment in proceedings – held, any act or order of any executive authority or other person which nullifies or frustrates the orders or directions of a court would amount to contempt of court – thus, Special Secretary, DoSW, UP is hereby sentence to detention in the Court till the rising of court and with a fine of Rs. 2000/- - directions issued – Contempt Application, disposed of, accordingly. (Para – 13, 18, 25, 27, 28, 29, 30)

Contempt Application Disposed of. (E-11)

List of Cases cited:

1. Angad Yadav & ors. Vs State of U.P. & ors., Neutral Citation No. - 2017:AHC:159745,
 2. CELIR LLP Vs Ms. Sumati Prasad Bafna & ors. - Contempt Petition (C) Nos. 158 and 159 of 2024 – order dated 13.12.2024,
 3. Smt. Suman Devi Vs St. of U.P & ors. - Writ A No.19650 of 2022 - order dated 4.3.2024,
 4. Ram Kishan v. Tarun Bajaj & ors. reported in (2014) 16 SCC 204,
 5. Murray & Co. Vs Ashok Kr. Newatia & anr. reported in (2000) 2 SCC 367,
 6. Pushpaben & anr. Vs Narandas Badiani & anr. - reported in (1979) 2 SCC 394,
 7. Bihar State Government Secondary School Teachers Association Vs Ashok Kumar Sinha & ors. (2014) 7 SCC 416,
 8. In Re : - Sanjiv Datta & ors. (1995) 3 SCC 619,
- (Delivered by Hon'ble Salil Kumar Rai, J.)

1. The present contempt application has been filed claiming that the order dated 4.3.2024 passed by this Court in Writ - A No. 19650 of 2022 (Smt. Suman Devi vs. State of U.P. & 4 Ors.) has been willfully disobeyed by the State officers. In the writ petition, the State of Uttar Pradesh through Principal Secretary, Department of Social Welfare, Government of Uttar Pradesh, Lucknow, the Director, Department of Social Welfare, Uttar Pradesh, Lucknow, the District Social Welfare Officer, Fatehpur, the District Basic Education Officer, District Fatehpur and the Committee of Management of Dr. B.R. Ambedkar Shiksha Sadan, Abu Nagar, Fatehpur (hereinafter referred to as, 'Institution') were impleaded as respondents.

2. The relevant facts of the case are that the Institution is governed by the Department of Social Welfare and is managed by an elected Committee of Management. The service conditions of its Teachers are governed by the Uttar Pradesh Basic Education (Teachers) Service Rules, 1981 (hereinafter referred to as, 'Rules, 1981'). The petitioner was employed, on a regular basis, as Assistant Teacher in the Institution. The retirement age of the Assistant Teachers under the Rules, 1981 is 62 years and it is claimed that under Rule 29 of the Rules, 1981, a Teacher who retires during an academic session shall continue to work till the end of the academic session and such period of service is deemed as extended period of employment. By virtue of the Government Order dated 17.8.2015, the benefit of Rule 29 of the Rules, 1981 has been extended to the Institutions governed by the Department of Social Welfare. The Government Order specifies that the academic session starts from 1st of April and ends on 31st of March. The date of birth of the petitioner is 11.4.1960. The petitioner was to retire on 10.4.2022, therefore, under Rule 29, she claimed benefit of extended employment till 31.3.2023. The claim of the applicant for session benefit, i.e., extended employment, was referred by the Manager of the Committee of Management of the Institution as well as by the District Basic Education Officer to the District Social Welfare Officer, Fatehpur who, in turn, vide his recommendation letter dated 16.2.2022 referred the matter to the Director, Department of Social Welfare. A copy of the letter dated 16.2.2022 was also sent to the Principal as well as the Manager of the Committee of Management of the Institution. The letter dated 16.2.2022 prohibited the Manager and the Principal of

the Institution from taking any work from the applicant after 30.4.2022 without the approval of the State Government. The Director, Department of Social Welfare, Government of Uttar Pradesh, Lucknow referred the matter of the applicant to the Principal Secretary, Department of Social Welfare vide his letter dated 27.4.2022. However, the claim of the applicant remained pending and no orders were passed giving her benefit of extended employment / session benefit, therefore, the applicant filed Writ - A No. 19650 of 2022 claiming the aforesaid benefit. While the writ petition was pending, an order dated 18.1.2023 was passed by the Principal Secretary, Department of Social Welfare, Government of Uttar Pradesh, Lucknow allowing session benefit / extended employment to the applicant till 31.3.2023. A consequential letter dated 21.1.2023 was issued by the Manager of the Committee of Management of the Institution asking the petitioner to join in the Institution and in response to the letter dated 21.1.2023, the petitioner joined as Assistant Teacher on the same date. Writ - A No. 19650 of 2022 was heard by this Court on 4.3.2024 by which date, the relief claimed by the applicant to be given session benefit had become infructuous as the said benefit had already been extended to the applicant and she had been allowed to join as Assistant Teacher in the Institution from 21.1.2023. However, the applicant was given salary only from the date she joined in the Institution, i.e., from 21.1.2023 and was not given salary for the period starting from 1.5.2022 to 21.1.2023. It appears from a reading of the order dated 4.3.2024 that during the hearing of Writ - A No. 19650 of 2022 on 4.3.2024, the counsel for the applicant raised the aforesaid issue and sought salary for the applicant for the period between 1.5.2022 and 21.1.2023.

This Court vide its order dated 4.3.2024 allowed the oral prayer of the applicant and disposed of the writ petition with the direction that the petitioner shall be paid her salary for the period 1.4.2022 to 21.1.2023 expeditiously, if there was no legal impediment. The order of this Court is being reproduced below : -

“1. Heard Sri Bhavesh Pratap Singh, learned counsel for petitioner and Ms. Shruti Malviya, learned Brief Holder for State-Respondents.

2. Petitioner has attained age of superannuation after completion of 62 years on 11.04.2022, which falls in mid academic session as there is no dispute that academic session commenced from 01st April of relevant year.

3. Petitioner was not granted benefit of Rule 29 of U.P. Basic Education (Teachers) Service Rules, 1981, i.e., to extend her services till the end of session, i.e., upto 31st March, 2023. Therefore, petitioner approached this Court by way of filing present writ petition on 17.11.2022 seeking aforesaid benefit.

4. During pendency of this writ petition petitioner was granted benefit of extended academic session by order dated 21.01.2023 till 31st March, 2023 and said order has been placed on record by way of filing a supplementary affidavit on 12.04.2023.

*5. Though prayers of this writ petition are not effective amended, however, an argument has been raised by learned counsel for petitioner that petitioner is entitled for her monthly salary from 01.04.2022 to 21.01.2023 and this period cannot be considered as “no work no pay”. In order to substantiate his argument, learned counsel has placed reliance on a Coordinate Bench judgment of this Court in **Angad Yadav and others***

vs. State of U.P. and others, Neutral Citation No. - 2017:AHC:159745 and submits that similar controversy was decided in favour of petitioners therein.

6. Learned counsel also submits that an appeal filed against aforesaid judgment by Basic Shiksha Parishad being Special Appeal No. 505 of 2018, was dismissed in default on 11.12.2018 and as per information status remained same till date.

7. Learned Brief Holder appearing for State-Respondents submits that matter is still under consideration before Director, Directorate Social Welfare, U.P. However, she fairly submits that above referred judgment has substantiate the claim of petitioner.

*8. In aforesaid circumstances, since similar controversy has already been decided by Coordinate Bench of this Court in **Angad Yadav (supra)** in favour of petitioner, which has been affirmed by Division Bench since appeal thereof is dismissed in default and has not been restored till date, therefore, there is no reason not to allow the oral prayer made by petitioner since she was not allowed to continue the job of teaching for above referred relevant period and benefit of extended session was provided belatedly in the month of March, 2023.*

*9. **The writ petition is accordingly disposed of with direction that salary for the period from 01.04.2022 to 21.01.2023 shall also be paid to petitioner expeditiously, if there is no legal impediment.”***

3. Despite the aforesaid order dated 4.3.20024, the applicant was not paid her salary for the period 1.5.2022 to 21.1.2023, therefore, the present contempt application was filed by the petitioner in October, 2024 impeaching the then District Social Welfare

Officer, District Fatehpur as opposite party in the case. Notices were issued to the opposite party by this Court vide its order dated 24.10.2024 fixing 25.11.2024. On 25.11.2024, Sri Avinash Kumar Yadav, the then District Social Welfare Officer filed his affidavit dated 21.11.2024 disclosing that Sri Rajnish Chandra, the Special Secretary, Department of Social Welfare, Government of Uttar Pradesh, Lucknow had passed an order dated 4.11.2024 directing that because the petitioner had not worked as Assistant Teacher in the Institution from 1.5.2022 to 20.1.2023, therefore, on the principle of 'no work no pay', she was not entitled to salary for the aforesaid period. It was also disclosed that as a result of the aforesaid order dated 4.11.2024, Sri Prasoon Rai, the then District Backward Class Welfare Officer, Fatehpur who was also temporarily holding the charge of District Social Welfare Officer (Development), Fatehpur had passed an order dated 9.11.2024 denying salary to the applicant for the period 1.5.2022 to 21.1.2023. The orders dated 4.11.2024 passed by the Special Secretary and 9.11.2024 passed by the District Social Welfare Officer (Development) were also annexed with the aforesaid affidavit. A reading of the order dated 4.11.2024 shows that the order has been passed by the Special Secretary on the recommendations of the Director, Department of Social Welfare who had recommended that the petitioner was not entitled to salary for the period between 1.5.2022 to 21.1.2023. A reading of the order dated 4.11.2024 also shows that in his recommendations, the Director had also referred to the order passed by this Court in Writ - A No. 19650 of 2022 and the said order had been taken note of by the Special Secretary in his order dated 4.11.2024. Interestingly, in the affidavit dated 21.11.2024, it was stated

that the order dated 4.3.2024 passed by this Court had been complied by the State Government in letter and spirit. The aforesaid claim was made in reference to the passing of the orders dated 4.11.2024 and 9.11.2024. It is relevant to note that the orders dated 4.11.2024 and 9.11.2024 were passed after this Court issued notices in the present contempt case.

4. This Court while hearing the case on 25.11.2024 observed that the orders dated 4.11.2024 and 9.11.2024 override the order dated 4.3.2024 passed by this Court. The Court further observed as follows : -

"A reading of the order dated 04.03.2024 shows that the issue regarding the entitlement of the applicant for salary for the period between April, 2022 and 20.01.2023, i.e., the period she was not allowed to work as Assistant Teacher because session benefit was wrongly denied to her was considered by this Court and the claim of the State respondents based on the principle of no work no pay was rejected by this Court. Evidently, the orders dated 04.11.2024 and 09.11.2024 passed by the Special Secretary as well as the District Social Welfare Officer overriding the orders passed by this Court are contumacious. The Special Secretary, Uttar Pradesh Social Welfare Department and the District Social Welfare Officer (Development), Fatehpur have committed contempt of this Court for which they are liable to be tried.

The Special Secretary, Social Welfare Section - II, Government of Uttar Pradesh, Lucknow and the District Social Welfare Officer (Development), Fatehpur shall be personally present in the Court on the next date fixed for framing of charges."

5. The case was listed on 3.12.2024 and on the said date, the Special Secretary, the present District Social Welfare Officer (Development) and Sri Prasoon Rai who had passed the order dated 9.11.2024 filed their affidavits. At this stage, it would also be relevant to record that in his affidavit, Sri Prasoon Rai stated that he was posted as District Backward Class Welfare Officer, Fatehpur and it was Ms. Shalini who was posted as District Social Welfare Officer (Development), Fatehpur on 9.11.2024. It has been stated in the affidavit that Ms. Shalini was on medical leave between 12.9.2024 to 12.11.2024, therefore, during the aforesaid period, Sri Prasoon Rai held the additional charge of District Social Welfare Officer (Development), Fatehpur. In their affidavits filed on 3.12.2024, Ms. Shalini, i.e., the District Social Welfare Officer (Development), Fatehpur, Sri Prasoon Rai, i.e., the District Backward Class Welfare Officer, Fatehpur and Sri Rajnish Chandra, the Special Secretary, Department of Social Welfare, Government of Uttar Pradesh, Lucknow pleaded that the delay in payment of salary to the applicant for the period 1.5.2022 to 21.1.2023 was because the management of the Institution had not sent the pay roll / attendance sheet of the applicant / petitioner which was necessary to pay the salary of the applicant for the aforesaid period. Paragraph Nos. 6 to 11 of the affidavits of the Special Secretary and the District Social Welfare Officer (Development), Fatehpur containing their stand are reproduced below :-

“6. That is further submitted that the payment of salary is made to the teachers on the basis of the Pay Role/Attendance duly provided by the Manager of the Institution. It is again submitted that the Manager of the

Institution has approved and provided the Pay-Roll/Attendance of the petitioner from 21.01.2023 to 31.03.2023 for which period the payment has already been made.

7. That it is stated that the Appointing Authority/ Manager of the Institution in question has not provided the Pay-Roll/Attendance Certificate of the petitioner for the period of 01.05.2022 to 20.01.2023, it is therefore, the payment of salary has not been made to the petitioner for that period.

8. That it is respectfully submitted that since the Manager of the institution is the appointing authority of the applicant, therefore, the pay-roll / attendance certificate for the period of 01.05.2022 to 20.01.2023 can only be verified and provided by the Manager, hence in this regard, the District Social Welfare Officer (Development) Fatehpur vide letter dated 25.11.2024 directed to the Manager of the institution to provide the pay-roll / attendance certificate for the period of 01.05.2022 to 20.01.2023 of the applicant, so that further proceeding regarding the payment of arrears of salary for the said period be initiated in the light of the direction issued by this Hon'ble Court, otherwise legal action shall be taken against the Manager of the institution. Copy of the letter dated 25.11.2024 is being filed herewith and marked as ANNEXURE NO. 1 to this affidavit.

9. That it is respectfully submitted that the deponent trying his/her level best to comply with the writ court order regarding the payment of salary for the period of 01.05.2022 to 20.01.2023 to the applicant but due to the reason aforesaid, the arrears of salary for the period 01.05.2022 to 20.01.2023 could not be made in favour of the applicant. The inconvenience caused to this Hon'ble Court

is highly regretted on the part of the deponent.

*10. That it is respectfully submitted that since the matter is still active consideration of the Manager of the institution in question regarding to provide the pay-roll / attendance certificate for the period of 01.05.2022 to 20.01.2023 of the applicant and the District Social Welfare Officer (Development) Fatehpur also wrote a letter to the Manager of the institution on 25.11.2024 and after obtaining the said required document, **the further proceeding shall be initiated in the matter in accordance with law.***

11. That in the aforesaid manner, there is no willful or deliberate delay in the matter on the part of the deponent. The delay caused in the matter due to aforesaid reason. The inconvenience caused to this Hon'ble Court is highly regretted on the part of the deponent."

The Court through its order dated 3.12.2024 rejected the explanation of the Special Secretary and the District Social Welfare Officer noting that the pay roll / attendance of the petitioner was not required for compliance of the order passed by this Court as by order dated 16.10.2022, the District Social Welfare Officer, Fatehpur had prohibited the Principal and Manager of the Institution from taking any teaching work from the petitioner without the approval of the State Government, therefore, the petitioner could not have worked in the Institution between 1.5.2022 to 20.1.2023 as she had not been granted the session benefit till 18.1.2023. The subsequent discussion would show that the explanation of the Special Secretary and the District Social Welfare Officer for having failed to comply with the orders of this Court was false and an attempt to mislead the Court. This Court vide its order

dated 3.12.2024 directed the District Social Welfare Officer (Development) to ensure full compliance of the order passed by this Court by the next date fixed and further, proceeded to frame charges against Sri Rajnish Chandra, the Special Secretary, Department of Social Welfare, Government of Uttar Pradesh and Sri Prasoon Rai, the District Backward Class Welfare Officer who had passed the order dated 9.11.2024. The relevant portion of the order dated 3.12.2024 is reproduced below : -

*"The averments in the affidavits filed by the Special Secretary and the present District Social Welfare Officer (Development) do not explain their failure to comply with the order passed by this Court. **Through their orders dated 9.11.2024 and 4.11.2024, the previous District Social Welfare Officer (Development) and the Special Secretary, Department of Welfare, Government of U.P., Lucknow substituted and nullified the order passed by the Writ Court i.e., the order dated 4.3.2024 passed by this Court in Writ A No.19650 of 2022.** At this stage, it would be relevant to note that in his order dated 16.10.2022, the then District Social Welfare Officer, Fatehpur had directed the Principal and the Manager of the Institution not to take any teaching work from the applicant without the approval of the State Government. Apparently, the applicant could not have been present and could not have worked in the institution between 1.5.2022 to 20.1.2023 because she had not been granted the session benefit and further the Principal and the Management of the Institution had been prohibited from taking any work from the applicant.*

The Rights of the applicant for back wages was also in issue before this Court in Writ Petition No. 19650 of 2022

and this Court vide its order dated 4.3.2024 held that the principle of 'no work no pay' was not applicable in the present case as the applicant was not allowed to continue the job of teaching for the period between April 2022 to 20.01.2023 and a categorical direction was issued by this Court that the petitioner shall be paid the salary for the aforesaid period. It be noted that on 4.3.2024, no mandamus or any order was required to allow the petitioner to join because session benefit had already been granted to the applicant by that date by the government itself and the applicant was permitted to work on the post of Assistant Teacher from 21.1.2023. The applicant was granted session benefit by the State Government itself during the pendency of the writ petition, therefore, the only issue involved in the petition on 4.3.2024 was regarding the rights of the applicant for payment of salary for the period she was not allowed to continue to work as Assistant Teacher.

The aforesaid facts clearly lead to the conclusion that the opposite party nos. 2 & 3 i.e., the present Special Secretary, Department of Social Welfare, Government of U.P., Lucknow and the previous District Social Welfare Officer (Development), District Fatehpur have willfully disobeyed the orders passed by the Writ Court through their orders dated 4.11.2024 and 9.11.2024.

So far as the present District Social Welfare Officer (Development), Fatehpur is concerned, at present there is nothing on record showing any willful disobedience by her of the orders passed by this Court especially in the circumstance that assurance has been given by Shri P.K.Giri, the Additional Advocate General that back wages payable to the applicant under the orders of the Writ Court shall be

paid within two days from today i.e., by 5.12.2024.

However, the Special Secretary and the previous District Social Welfare Officer (Development) are liable to be tried for Contempt of Court. The said Officers are accordingly charged as follows:

1. "You, Shri Rajneesh Chandra presently posted as Special Secretary, Department of Social Welfare, Government of Uttar Pradesh, Lucknow are hereby charged for having violated and willfully disobeyed the order dated 4.3.2024 passed by this Court in Writ A No.19650 of 2022 (Smt.Suman Devi versus State of U.P and 4 others) by overriding it and consequently nullifying it through your order dated 4.11.2024 by directing that the applicant shall not be paid the salary for the period between 1st May, 2022 to 20.1.2023. You, therefore, show cause within one week from today as to why you should not be tried and punished under Section 12 of Contempt of Courts Act, 1971 for deliberate and willful disobedience of the order dated 4.3.2024 passed by this Court in Writ A No.19650 of 2022."

2. "You, Shri Prasoon Rai who was posted as District Social Welfare Officer (Development), Fatehpur till 12.11.2024 are hereby charged for having violated and willfully disobeyed the order dated 4.3.2024 passed by this Court in Writ A No.19650 of 2022 (Smt.Suman Devi versus State of U.P and 4 others) by overriding it and consequently nullifying it through your order dated 9.11.2024 by directing that the applicant shall not be paid the salary for the period between 1st May, 2022 to 20.1.2023. You, therefore, show cause within one week from today as to why you should not be tried and punished under Section 12 of Contempt of Courts Act, 1971 for deliberate and willful disobedience of the order dated 4.3.2024

passed by this Court in Writ A No.19650 of 2022."

Both of the aforesaid Officers shall file their objection/reply/defense to the aforesaid charge by 10.12.2024.

Put up again on 11.12.2024 on which date, the contemnors Shri Rajneesh Chandra, presently posted as Special Secretary, Department of Social Welfare, Government of Uttar Pradesh, Lucknow and Shri Prasoon Rai, previously District Social Welfare Officer (Development), Fatehpur and at present District Backward Class Welfare Officer, Fatehpur shall be personally present in the Court.

Even though charges have been framed in presence of the aforesaid contemnors, the Registrar (Compliance) shall send a copy of this order to Shri Rajneesh Chandra, presently Special Secretary, Department of Social Welfare, Government of Uttar Pradesh, Lucknow and Shri Prasoon Rai, presently District Backward Class Welfare Officer, Fatehpur and previously District Social Welfare Officer (Development), Fatehpur within 48 hours for necessary compliance.

It is clarified that by the next date fixed, the present District Social Welfare Officer (Development), Fatehpur shall also be personally present in the Court and file her compliance affidavit disclosing full compliance of the order of the Writ Court."

7. When the case was taken up on 11.12.2024, Sri Rajnish Chandra, the Special Secretary, Sri Prasoon Rai, the present District Backward Class Welfare Officer who had passed the order dated 9.11.2024 and also the present District Social Welfare Officer were again present in the Court and filed their affidavits disclosing full compliance of the order passed by this Court and that the amount due to the applicant as arrears of salary for

the period between 1.5.2022 and 20.1.2023 had been credited in the account of the petitioner / applicant. The officers referred above also tendered their apologies for having not complied with the order passed by this Court. Sri Rajnish Chandra, the Special Secretary, in his affidavit / reply to the charges framed against him, apart from tendering his apology, has also narrated certain administrative steps allegedly taken by him to ensure that such acts do not happen in future and has stated that the matter of the petitioner / applicant was unnecessarily referred to the State Government and further, the order dated 4.11.2024 had been passed on the recommendations of the Director, Department of Social Welfare, Government of Uttar Pradesh. It has been stated in the affidavit of the Special Secretary that adverse entries had been awarded to the present District Social Welfare Officer (Development) because of the delay in payment of arrears of salary to the applicant and for having unnecessarily referred the matter to the Director, Department of Social Welfare, Government of Uttar Pradesh. It has been pleaded that there is no willful disobedience by the Special Secretary of the order passed by this Court, therefore, the said officer be discharged from contempt. In his affidavit / reply, Sri Prasoon Rai has taken the additional defense that the order dated 9.11.2024 was passed by him as a consequence of the order dated 4.11.2024 passed by the Special Secretary, Department of Social Welfare, Government of Uttar Pradesh, Lucknow.

8. It was pleaded by the Standing Counsel that the order dated 4.11.2024 was passed by the Special Secretary considering the fact that the recommendation for not paying the salary to the applicant /

petitioner for the period she had not worked was made by the Director, Department of Social Welfare, Government of Uttar Pradesh. It was also pleaded that the direction of this Court in its order dated 4.3.2024 was to pay salary to the petitioner / applicant from 1.5.2022 to 21.1.2023 only if there was no legal impediment in doing so and the orders dated 4.11.2024 and 9.11.2024 were passed on a misreading of the order dated 4.3.2024. It was pleaded that there was no intention on the part of the charged officers to disobey the orders passed by this Court, therefore, the apologies tendered by the concerned officers be accepted and the charged officers be discharged from contempt.

9. I have considered the plea of the contemnors and the submission of the Additional Advocate General on their behalf.

10. Civil contempt is defined in Section 2(b) of the Contempt of Courts Act, 1971 to mean wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court.

11. It was held by the Supreme Court in its judgment dated 13.12.2024 passed in Contempt Petition (C) Nos. 158 and 159 of 2024 (*CELIR LLP vs. Ms. Sumati Prasad Bafna & Ors.*) that acts that attempt to mislead the Court, obstruct its functioning or frustrate its decisions distort the process of justice and would amount to contempt. It was observed by the Court that even in the absence of specific mandates, the deliberate conduct of parties aimed at frustrating court proceedings or circumventing its eventual decision may amount to contempt because such actions strike at the heart of the

judicial process, undermining its authority and obstructing its ability to deliver justice effectively. It was further observed that any contumacious conduct of the parties to bypass or nullify the decision of the court or render it ineffective or to frustrate the proceedings of the court, or to enure any undue advantage therefrom would amount to contempt. It was further observed by the Supreme Court that challenges to the authority of Court through wilful disobedience or otherwise undermine the rule of law and create the risk of anarchy. It was observed that the courts should not hesitate in wielding the weapon of contempt for the proper administration of justice and to ensure due compliance with the order passed by it in order to maintain and uphold the dignity of courts and majesty of law. The observations of the Supreme Court elucidating the law of contempt are reproduced below : -

“182. In order to decide whether the appellants are guilty of civil contempt, it would be apposite to refer to Section 2(b) of the Act, 1971, which reads as under: -

*“2. **Definitions.**— In this Act, unless the context otherwise requires,—*

xxx xxx xxx

(b) "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;”

183. ...

184. ...

185. Hence, the expression or word “wilful” means act or omission which is done voluntarily or intentionally and with the specific intent to do something which the law forbids or with the specific intent to fail to do something the law requires to be done, that is to say with bad purpose either to disobey or to

disregard the law. It signifies a deliberate action done with evil intent or with a bad motive or purpose.

186. ...

187. ...

188. *In Ram Kishan v. Tarun Bajaj & Ors. reported in (2014) 16 SCC 204 it was held that the contempt jurisdiction conferred on to the law courts power to punish an offender not only for his wilful disobedience but also for contumacious conduct or obstruction to the majesty of law. It further observed that such power has been conferred for the simple reason that the respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen that his rights shall be protected and the entire democratic fabric of the society will crumble down if the respect of the judiciary is undermined. The relevant observations read as under: -*

“11. The contempt jurisdiction conferred on to the law courts power to punish an offender for his wilful disobedience/contumacious conduct or obstruction to the majesty of law, for the reason that respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen that his rights shall be protected and the entire democratic fabric of the society will crumble down if the respect of the judiciary is undermined. Undoubtedly, the contempt jurisdiction is a powerful weapon in the hands of the courts of law but that by itself operates as a string of caution and unless, thus, otherwise satisfied beyond reasonable doubt, it would neither be fair nor reasonable for the law courts to exercise jurisdiction under the Act. The proceedings are quasi-criminal in nature, and therefore, standard of proof required in these proceedings is beyond all reasonable doubt. It would rather be hazardous to

impose sentence for contempt on the authorities in exercise of the contempt jurisdiction on mere probabilities. [...]”

(Emphasis supplied)

189. *In Murray & Co. v. Ashok Kr. Newatia & Anr. reported in (2000) 2 SCC 367 this Court held that the purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law since the image of such a majesty in the minds of the people cannot be led to be distorted, as any indulgence which can even remotely be termed to affect the majesty of law would result in the society losing its confidence and faith in the judiciary and the law courts forfeiting the trust and confidence of the people in general. The relevant observations read as under: -*

“9 [...] The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law since the image of such a majesty in the minds of the people cannot be led to be distorted. The respect and authority commanded by courts of law are the greatest guarantee to an ordinary citizen and the entire democratic fabric of the society will crumble down if the respect for the judiciary is undermined. It is true that the judiciary will be judged by the people for what the judiciary does, but in the event of any indulgence which can even remotely be termed to affect the majesty of law, the society is bound to lose confidence and faith in the judiciary and the law courts thus, would forfeit the trust and confidence of the people in general.”

(Emphasis supplied)

190. *In Pushpaben & Anr. v. Narandas Badiani & Anr. reported in (1979) 2 SCC 394, it was held that contempt of court is a special jurisdiction to be exercised sparingly and with caution whenever an act adversely affects the administration of justice or which tends to*

impede its course or tends to shake public confidence in the judicial institutions. It further held that this jurisdiction is to be exercised not for the protection of the dignity of an individual judge but to protect the administration of justice from being maligned and ensure that the authority of the courts is neither imperilled nor is the administration of justice by it interfered with in any manner. The relevant observations read as under: -

“42. The contempt of court is a special jurisdiction to be exercised sparingly and with caution whenever an act adversely affects the administration of justice or which tends to impede its course or tends to shake public confidence in the judicial institutions. This jurisdiction may also be exercised when the act complained of adversely affects the majesty of law or dignity of the courts. The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. It is an unusual type of jurisdiction combining “the jury, the judge and the hangman” and it is so because the court is not adjudicating upon any claim between litigating parties. This jurisdiction is not exercised to protect the dignity of an individual judge but to protect the administration of justice from being maligned. In the general interest of the community it is imperative that the authority of courts should not be imperilled and there should be no unjustifiable interference in the administration of justice. It is a matter between the court and the contemner and third parties cannot intervene. It is exercised in a summary manner in aid of the administration of justice, the majesty of law and the dignity of the courts. No such act can be permitted which may have the tendency to shake the public confidence in the fairness and

impartiality of the administration of justice.”

(Emphasis supplied)

191. ...

192. ...

193. ...

194. In **Patel Rajnikant (supra)** this Court upon examining Section 2(b) of the Act, 1971 held that to hold a person guilty of having committed contempt, there must be a judgment, order, direction etc. by a court, there must be disobedience of such judgment, order, direction etc and that such disobedience must be wilful. The relevant provisions read as under: -

“58. The provisions of the Contempt of Courts Act, 1971 have also been invoked. Section 2 of the Act is a definition clause. Clause (a) enacts that contempt of court means “civil contempt or criminal contempt”. Clause (b) defines “civil contempt” thus:

“2. (b) ‘civil contempt’ means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;”

Reading of the above clause makes it clear that the following conditions must be satisfied before a person can be held to have committed a civil contempt:

(i) there must be a judgment, decree, direction, order, writ or other process of a court (or an undertaking given to a court);

(ii) there must be disobedience to such judgment, decree, direction, order, writ or other process of a court (or breach of undertaking given to a court); and

(iii) such disobedience of judgment, decree, direction, order, writ or other process of a court (or breach of undertaking) must be wilful.”

195. However, the subsequent observations made by this Court in **Patel**

Rajnikant (supra) are significant. It observed that the court should not hesitate in wielding the potent weapon of contempt, it is for the proper administration of justice and to ensure due compliance with the orders passed by it in order to uphold and maintain the dignity of courts and majesty of law. The relevant observations read as under: -

“70. From the above decisions, it is clear that punishing a person for contempt of court is indeed a drastic step and normally such action should not be taken. At the same time, however, it is not only the power but the duty of the court to uphold and maintain the dignity of courts and majesty of law which may call for such extreme step. If for proper administration of justice and to ensure due compliance with the orders passed by a court, it is required to take strict view under the Act, it should not hesitate in wielding the potent weapon of contempt.”

(Emphasis supplied)

196. What can be discerned from the above exposition of law is that any act of disobedience, defiance, or any attempt to malign the authority of the court would amount to contempt because they undermine the respect and trust that the public reposes in judicial institutions. The judicial process relies on the confidence of society, and any act that disrupts or disrespects this process threatens to erode the foundation of justice and order.

197. Contempt jurisdiction exists to preserve the majesty and sanctity of the law. Courts are the guardians of justice, and their decisions must command respect and compliance to ensure the proper functioning of society. ***When individuals or entities challenge the authority of courts through wilful disobedience or obstructive behaviour, they undermine the rule of law and create the risk of anarchy. Contempt***

serves as a mechanism to protect the integrity of the courts, ensuring that they remain a symbol of fairness, impartiality, and accountability.

198. ***When judicial orders are openly flouted or court proceedings are disrespected, it sends a signal that the rule of law is ineffective, leading to a loss of trust in the system. Judicial decisions must remain unimpaired, free from external pressures, manipulation, or circumvention. Acts that attempt to mislead the court, obstruct its functioning or frustrate its decisions distort the process of justice and would amount to contempt.***

199.

200. Any contumacious conduct of the parties to bypass or nullify the decision of the court or render it ineffective, or to frustrate the proceedings of the court, or to enure any undue advantage therefrom would amount to contempt. Attempts to sidestep the court's jurisdiction or manipulate the course of litigation through dishonest or obstructive conduct or malign ***or distort the decision of the courts would inevitably tantamount to contempt sans any prohibitory order or direction to such effect.***

201. Thus, the mere conduct of parties aimed at frustrating the court proceedings or circumventing its decisions, even without an explicit prohibitory order, constitutes contempt. Such actions interfere with the administration of justice, undermine the respect and authority of the judiciary, and threaten the rule of law.”

(emphasis supplied)

12. Earlier, in ***Bihar State Government Secondary School Teachers Association vs. Ashok Kumar Sinha & Ors. (2014) 7 SCC 416***, the Supreme Court, after acknowledging the power of the Government to frame service rules for

its employees held that if such Rules were framed with the sole intention to frustrate the effect of a judgment then such act would amount to contempt of court.

13. From the aforesaid judgments of the Supreme Court, it is evident that ***any act or order of any executive authority or other person which nullifies or frustrates the orders or directions of a court would amount to contempt of court.***

14. The orders dated 4.11.2024 and 9.11.2024 passed by the Special Secretary and the In-charge District Social Welfare Officer (Development) nullify the rights of the applicant / petitioner as recognized by this Court in its order dated 4.3.2024. The orders dated 4.11.2024 and 9.11.2024 of the charged government officers are in direct conflict with the directions issued in the order dated 4.3.2024 and frustrate the order of this Court. By passing the orders dated 4.11.2024 and 9.11.2024, the charged officers have clearly disobeyed the order dated 4.3.2024 passed by this Court.

15. The order dated 4.3.2024 passed by this Court was clear and there is no ambiguity in the aforesaid order. The order does not require any clarification. There are no two possible interpretations of the order dated 4.3.2024. The plea of the charged officers and the Additional Advocate General is that the orders dated 4.11.2024 and 9.11.2024 were passed under the impression that the direction issued by this Court vide its order dated 4.3.2024 was operative only if there was no legal impediment in paying the arrears of salary and the principle of 'no work no pay' is a legal impediment in paying arrears of salary to the applicant and the said rider by this Court in its order dated 4.3.2024 gave an impression to the officers that they had

the discretion to consider whether arrears of salary should be paid to the applicant.

16. The plea is farcical and cannot be accepted. The direction in the order dated 4.3.2024 to pay salary to the applicant for the period between 1.4.2022 to 21.1.2023 if there was no legal impediment only meant that the State respondents shall pay the salary unless the order was reversed or stayed in any appeal or review / recall filed by the State respondents for the said purpose. The rider in the order regarding absence of legal impediment did not confer a power on the Executive to review or reconsider the rights of the applicant which had been decided by this Court. The Executive has no power to either judge the correctness of an order passed by a Court or to review it. Under the Constitutional framework of which separation of powers and Rule of law are essential features, the only reason for complying with an order of a Court is that it is an order of the Court.

17. It has also been pleaded by and on behalf of the Special Secretary that there was no willful disobedience of the order passed by this Court in as much as the Special Secretary had passed the order dated 4.11.2024 on the recommendations of the Director, Department of Social Welfare, Government of Uttar Pradesh and the matter was not required to be referred to the State Government. The aforesaid plea of the Special Secretary is also not acceptable. The Special Secretary was not bound by the recommendations of the Director. In case, the Special Secretary was not required to take any decision or the records of the case were not required to be sent to the Special Secretary, the Special Secretary could have returned the file of the petitioner / applicant to the Director or whosoever was empowered to make

payment to the applicant in compliance of the order passed by this Court. The Special Secretary being the Head of the Department had every authority to reject the recommendations of the Director. The Director has not been summoned in contempt as mere recommendations to a superior officer would not constitute a cause of action for registering contempt proceedings either under Article 215 of the Constitution of India or under the Contempt of Courts Act, 1971. The order dated 4.11.2024 passed by the Special Secretary binds his subordinates and compels them to act accordingly. Nothing compelled the Special Secretary to accept the recommendations of the Director. The Special Secretary by accepting the recommendations of the Director and by passing an order prohibiting payment of salary to the applicant for the period between 1.5.2022 to 20.1.2023, had frustrated and nullified the order of this Court and had thereby willfully disobeyed it.

18. Similarly, Sri Prasoon Rai, the officer who at the relevant time was the In-charge District Social Welfare Officer (Development), Fatehpur had passed the order dated 9.11.2024 also willfully disobeyed the order of this Court and committed contempt by complying with the orders of the Special Secretary. Contempt proceedings are quasi-criminal in nature and the plea that an act was done on the command of the master is not an acceptable defense in contempt proceedings. All officers of the State who by their orders or any other act or conduct, disobey the orders of this Court or obstruct its implementation are liable to be prosecuted and punished in contempt. The orders dated 4.11.2024 and 9.11.2024 have been passed with the knowledge of the order dated 4.3.2024. The

orders dated 4.11.2024 and 9.11.2024 deny a right to the applicant which was recognized and awarded by this Court vide its order dated 4.3.2024. It requires no further elaboration to conclude that by passing the orders dated 4.11.2024 and 9.11.2024, the aforesaid State officers have willfully and intentionally disobeyed the order dated 4.3.2024 passed by this Court.

19. Lastly, the officers have tendered their apologies which they plead is unconditional and the Additional Advocate General pleads that the apologies purge the charged officers of the offense of contempt, therefore, the officers be discharged from the proceedings.

20. It has been held in various decisions of the Courts that apology cannot be taken as a weapon of defense and there should be evidence of real contriteness on the part of the contemnor. The apology should be offered at the earliest opportunity and in good grace. It be noted that a conduct which amounts to contempt of court if done by a layman who does not know the implications of his act may be excused if an apology is tendered but senior officers in the government are supposed to know the implications of their act. Officers of the State who do not know or understand the grave implications of their orders especially orders which affect the rights of the citizens as decided by the Courts, do not deserve to hold a responsible office in the Government. Senior officers in the government are expected to be more responsible and have a special obligation to respect the authority of the Court and ensure compliance of its orders.

21. In *In Re : - Sanjiv Datta & Ors.* (1995) 3 SCC 619, the Supreme Court while dealing with certain contumacious

statements made by the contemnors observed in Paragraph Nos. 9, 10 and 11 as follows : -

“9. We have considered the above apology tendered by the contemner. We find that the statements made in the affidavit when they were so made were to the knowledge of the contemner, a malicious attempt to cast aspersions on and attribute motives to the Court. They were not made in ignorance of their consequences nor were they innocent. A responsible officer of the Government like the contemner ought to have known, and we have no doubt that he did know the serious implications of the said statements. If he did not know of their grave implications he does not deserve to hold the office he does. If such statements were made by a layman we might have probably ignored them and also accepted the apology. Coming as they do from a public functionary, the Court will fail in its duty if it does not bring home to him his special obligations to respect the authority of the Court. If such trends as are displayed in these proceedings by the contemner are allowed to go scot-free, there is a danger of the erosion of the deference to and confidence in the judicial system. Coming as it does from the executive branch of the State, it has all the potentiality of mischief and if not curbed firmly, may in course of time assume proportion grave enough to sabotage the rule of law from within. As it transpires, the draft of the affidavit which was settled by Smt. Kumaramangalam was not the one which was filed and the affidavit was filed without even Shri Vasdev, Advocate-on-Record having a sufficient opportunity to peruse the same. That makes the action of the contemner doubly suspect with regard to his intentions in filing the affidavit with

the offending statements. He did not even take care to have the opinion of his advocates on the said statements. Probably, he did not want their opinion. This conduct of his speaks for itself and aggravates his offence. It is for this reason that we are not inclined to accept his apology.

*10. The responsibility to maintain the rule of law lies on all individuals and institutions. Much more so on the three organs of the State. Our Constitution has separated and demarcated the functions of the Legislature, the Executive and the judiciary. Each has to perform the functions entrusted to it and respect the functioning of the others. None is free from errors, and the judiciary does not claim infallibility. It is truly said that a judge who has not committed a mistake is yet to be born. Our legal system in fact acknowledges the fallibility of the courts and provides for both internal and external checks to correct the errors. The law, the jurisprudence and the precedents, the open public hearings, reasoned judgments, appeals, revisions, references and reviews constitute the internal checks while objective critiques, debates and discussions of judgments outside the courts, and legislative correctives provide the external checks. Together, they go a long way to ensure judicial accountability. The law thus provides procedure to correct judicial errors. **Abuses, attribution of motives, vituperative terrorism and defiance are no methods to correct the errors of the courts.** In the discharge of their functions the courts have to be allowed to operate freely and fearlessly but for which impartial adjudication will be an impossibility. Ours is a constitutional government based on the rule of law. **The Constitution entrusts the task of interpreting and administering the law to the judiciary whose view on the subject is made legally final and binding***

on all till it is changed by a higher court or by a permissible legislative measure. Those living and functioning under the Constitution have to accept and submit to this obligation of respecting the constitutional authority of the courts. Under a constitutional government, such final authority has to vest in some institution. Otherwise, there will be a chaos. The court's verdict has to be respected not necessarily by the authority of its reason but always by reason of its authority. Any conduct designed to or suggestive of challenging this crucial balance of power devised by the Constitution is an attempt to subvert the rule of law and an invitation to anarchy.

11. *The contemner, for reasons which can only be attributed to his misconception of his role and over-zealousness to assert himself and his side of the matter intentionally overstepped his limits and conveniently ignored the above legal position, and abrogated to himself, in substance the role of a judge in his own cause. He has thus in effect not only challenged the jurisdiction of the Court to discharge its functions but also its authority to do so.*"

(emphasis supplied)

22. In **Bal Kishan Giri (supra)**, it was observed by the Supreme Court as follows :

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"12. This Court in *M.B Sanghi v. High Court of Punjab and Haryana*, while examining a similar case observed: (SCC p.602, para 2)

"2. ... The foundation of [judicial] system which is based on the independence and impartiality of those who man it will be shaken if disparaging and derogatory remarks are made against the presiding judicial officers with impunity. It

is high time that we realise that the much cherished judicial independence has to be protected not only from the executive or the legislature but also from those who are an integral part of the system. An independent judiciary is of vital importance to any free society."

13. In *Asharam M. Jain v. A.T Gupta*, while dealing with the issue, this Court observed as under: (SCC p. 127, para 3)

"3. ... The strains and mortification of litigation cannot be allowed to lead litigants to tarnish, terrorise and destroy the system of administration of justice by vilification of Judges. It is not that Judges need be protected; Judges may well take care of themselves. It is the right and interest of the public in the due administration of justice that has to be protected."

14. In *Jennison v. Baker All ER p. 1006d*, it was observed: (QB p. 66 H)

"... 'The law should not be seen to sit by limply, while those who defy it go free, and those who seek its protection lose hope.'"

15. The appellant has tendered an absolute and unconditional apology which has not been accepted by the High Court. The apology means a regretful acknowledgment or an excuse for failure. An explanation offered to a person affected by one's action that no offence was intended, coupled with the expression of regret for any that may have been given. **Apology should be unquestionable in sincerity. It should be tempered with a sense of genuine remorse and repentance, and not a calculated strategy to avoid punishment.**

16. Sub-section (1) of Section 12 of the Act and the Explanation attached thereto enables the court to remit the punishment awarded for committing the

contempt of court on an apology being made to the satisfaction of the court. However, an apology should not be rejected merely on the ground that it is qualified or tendered at a belated stage if the accused makes it bona fide. A conduct which abuses and makes a mockery of the judicial process of the court is to be dealt with iron hands and no person can tinker with it to prevent, prejudice, obstruct or interfere with the administration of justice. There can be cases where the wisdom of rendering an apology dawns upon only at a later stage. Undoubtedly, an apology cannot be a defence, a justification, or an appropriate punishment for an act which tantamounts to contempt of court. An apology can be accepted in case where the conduct for which the apology is given is such that it can be “ignored without compromising the dignity of the court”, or it is intended to be the evidence of real contrition. It should be sincere. Apology cannot be accepted in case it is hollow; there is no remorse; no regret; no repentance, or if it is only a device to escape the rigour of the law. Such an apology can merely be termed as “paper apology”.

17. In *L.D Jaikwal v. State Of U.P.*, this Court noted that it cannot subscribe to the “slap-say sorry-and forget” school of thought in administration of contempt jurisprudence. Saying “sorry” does not make the slapper poorer. [See also *T.N Godavarman Thirumulpad (102) v. Ashok Khot.*] So an apology should not be “paper apology” and expression of sorrow should come from the heart and not from the pen; for it is one thing to “say” sorry, it is another to “feel” sorry.

18. An apology for criminal contempt of court must be offered at the earliest since a belated apology hardly

*shows the “contrition which is the essence of the purging of contempt”. Of course, an apology must be offered and that too clearly and at the earliest opportunity. However, even if the apology is not belated but the court finds it to be without real contrition and remorse, and finds that it was merely tendered as a weapon of defence, the court may refuse to accept it. If the apology is offered at the time when the contemnor finds that the court is going to impose punishment, it ceases to be an apology and becomes an act of a cringing coward. (Vide *Debabrata Bandopadhyay v. State of W.B*, *Mulk Raj v. State Of Punjab*, *Hailakandi Bar Assn. v. State of Assam*, *C. Elumalai v. A.G.L. Irudayaraj and Ranveer Yadav v. State Of Bihar.*)*

19. This Court has clearly laid down that an apology tendered is not to be accepted as a matter of course and the court is not bound to accept the same. The court is competent to reject the apology and impose the punishment recording reasons for the same. The use of insulting language (sic and later on tendering an apology) does not absolve the contemnor on any count whatsoever. If the words are calculated and clearly intended to cause any insult, an apology, if tendered and lack penitence, regret or contrition, does not deserve to be accepted. (Vide *Baradakanta Mishra v. Registrar of Orissa High Court*, *Bar Council of Maharashtra v. M.V. Dabholkar*, *Asharam M. Jain v. A.T. Gupta*, *Mohd. Zahir Khan v. Vijai Singh*, *Ministry of Information & Broadcasting*, *In re, Patel Rajnikant Dhulabhai v. Patel Chandrakant Dhulabhai and Vishram Singh Raghubanshi v. State Of U.P.*)

20. That the power to punish for contempt is a rare species of judicial power which by the very nature calls for exercise with great care and caution. Such power ought to be exercised only where “silence

is no longer an option.” (See S. Mulgaokar, In re, H.G. Rangangoud v. State Trading Corpn. of India Ltd., Maninderjit Singh Bitta v. Union of India, T.C. Gupta v. Hari Om Prakash and Arun Kumar Yadav v. State Of U.P.) Power of courts to punish for contempt is to secure public respect and confidence in judicial process. Thus, it is a necessary incident to every court of justice.”

23. The conduct of the Special Secretary and the explanations given by him do not show that his apology is sincere. The Special Secretary pleads that the order was passed on the recommendations of the Director. As noted earlier, the Special Secretary was not bound by the recommendations of the Director. Subsequently, in his affidavit dated 3.12.2024, the Special Secretary also pleads that the salary of the applicant can be paid only after the pay-roll / attendance of the petitioner/ applicant is certified by the Manager of the Committee of Management of the Institution for the period 1.5.2022 to 21.1.2023. It has been further pleaded that the salary of the applicant for the period 1.5.2022 to 20.1.2023 was not made because the Manager of the Institution had not provided the pay-roll / attendance certificate of the petitioner/ applicant for the period between 1.5.2022 to 20.1.2023. The same averment has also been made by the present District Social Welfare Officer (Development), Fatehpur in her affidavit. The explanation is apparently false and made only to mislead this Court. The attendance register would be required if the payment of arrears was dependant on the petitioner having worked in the Institution. It is apparent, as noted earlier, that the petitioner / applicant could not have worked in the Institution between 1.5.2022 to 21.1.2023 and there

was no way by which the Manager of the Institution could have provided the attendance certificate / pay-roll of the applicant. The requirement of attendance certificate from the Manager may have been required only to enforce the principle of ‘no work no pay’ and thereby deny the arrears of salary to the applicant / petitioner in accordance with the orders dated 4.11.2024 and 9.11.2024 and contrary to order dated 4.3.2024 passed by this Court. A bare reading of the order dated 4.3.2024 passed by this Court would show that the Court directed payment of salary to the applicant for the period from 1.4.2022 to 21.1.2023 after considering that she had been wrongly not allowed to work during the aforesaid period. Further, it is to be noted that the Special Secretary and the District Backward Class Welfare Officer have been charged for contempt of court not because of any delay in payment of arrears of salary to the applicant but because of the conduct of the contemnors in overriding and thereby nullifying and frustrating the order dated 4.3.2024 passed by this Court.

24. At this stage, it is relevant to note that the orders dated 4.11.2024 and 9.11.2024 which persuaded this Court to frame charges against the contemnors were passed after notices in the present contempt case were issued on 24.10.2024. The conduct of the Special Secretary shows that he has no respect for the authority of the court or fear of law. The order dated 4.11.2024 reflects arrogance of the contemnor. Apparently, the apology tendered by the Special Secretary is not genuine and has been made only to avoid punishment in contempt.

25. It is also noted that in his affidavit dated 10.12.2024, the Special Secretary has

filed different orders passed by him and the Director, Social Welfare, Government of Uttar Pradesh disclosing that disciplinary proceedings were instituted against the present District Social Welfare Officer (Development) for non-payment of arrears of salary to the applicant and adverse entry has been given to her for her failure to pay salary to the applicant in terms of the order dated 4.3.2024. It is difficult to comprehend as to how the present District Social Welfare Officer could have been held responsible for non-payment of salary to the applicant / petitioner when the senior officers in the department were recommending non-payment of arrears and orders had been passed by the previous District Social Welfare Officer (Development) and also the Special Secretary holding that the applicant was not entitled for payment of salary for the period between 1.5.2022 and 21.1.2023. The act of the Special Secretary in trying to pass the buck and his role in preventing payment of salary to the applicant in terms of the order dated 4.3.2024 passed by this Court shows that the apology tendered by the Special Secretary is not sincere and has been given only to avoid punishments in the proceedings.

26. In light of the aforesaid conclusions and the observations of the Supreme Court in *CELIR LLP (supra)*, it is the duty of this Court to take a strict view of the matter so far as the Special Secretary is concerned and wield the weapon of contempt to uphold and maintain the dignity of this court and also the majesty of law.

27. However, after considering the hierarchical structure of the bureaucracy and the fact that any non-compliance of an order passed by a senior officer may result

in disciplinary proceedings against the junior officers and also the fact that the order dated 9.11.2024 passed by Sri Prasoon Rai, the then In-charge, District Social Welfare Officer (Development), Fatehpur and presently the District Backward Class Welfare Officer, Fatehpur was consequential to the order dated 4.11.2024, the apology of Sri Prasoon Rai is accepted and he is to be discharged from the proceedings.

28. In view of the aforesaid, the Special Secretary and the then In-charge District Social Welfare Officer (Development), Fatehpur and presently District Backward Class Welfare Officer are held guilty of willful disobedience of the order dated 4.3.2024 passed by this Court in Writ – A No. 19650 of 2022. The apology tendered by the Special Secretary does not persuade this Court to discharge him from contempt as the said apology is not genuine and sincere. For reasons noted earlier, Sri Prasoon Rai, the present District Backward Class Welfare Officer, Fatehpur is to be discharged.

29. In view of the aforesaid, the Court proceeds to pass the following order : -

1. Sri Rajnish Chandra, the present Special Secretary, Department of Social Welfare, Government of Uttar Pradesh, Lucknow is hereby sentenced to detention in the Court itself and shall remain in detention till the rising of the Court at 01:00 p.m. and with a fine of Rs.2000/- (Rs. Two Thousand) payable by 4.1.2025 to the Registrar General of this Court. On failure of the aforesaid contemnor to pay the fine as noted above, the contemnor shall undergo one month imprisonment for which a warrant shall be issued by the Chief Judicial Magistrate, Allahabad.

