

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

FRIDAY, THE THIRTEETH DAY OF MARCH  
TWO THOUSAND AND TWELVE

PRESENT

**THE HON'BLE MR JUSTICE VILAS V. AFZULPURKAR**

**CONTEMPT CASE Nos.408, 409, 410, 411, 412, 413, 414, 415, 416, 417,  
418, 419, 420, 421, 422 and 534 of 2009**

**BETWEEN:**

Gandham Venkateswarlu and others.

**... PETITIONERS**

**AND**

Prof. Y.V. Rao, Director, National Institute of Technology (Regional  
Engineering College), Warangal and others.

**...RESPONDENTS**

**Counsel for the Petitioners: MR. P. MEHAR SRINIVASA RAO  
MR. T. JAGDISH**

**Counsel for the Respondents: MR. PONNAM ASHOK GOUD  
MR. AKA VENKATARAMANA**

**The Court made the following:**

**COMMON ORDER:**

Petitioners in these contempt cases had approached this Court by filing two separate batch of writ petitions seeking relief of regularization on the ground that they are working with the respondents 1 to 3 – National Institute of Technology (for short 'NIT'), Warangal. The different officials of NIT are arrayed in the writ petitions separately as respondents and for the sake of

convenience NIT is referred to as respondent herein. Petitioners had also impleaded the Ministry of Human Resource Development (for short 'MHRD') as one of the respondents to the said writ petitions. While NIT filed a counter affidavit, MHRD did not file any counter affidavit and this Court by two separate identical orders one dated 04.10.2007 and the other dated 11.10.2007 disposed of all the writ petitions with directions and the operative portion whereof is extracted hereunder:

"In the circumstances, the respondents are directed to consider regularization of the services of the petitioners, if sanctioned posts are available and, if necessary, by seeking permission from the Ministry of Human Resource Development, Government of India, in this regard and pass appropriate orders within a period of six months from the date of receipt of a copy of this order. Till such time, the services of the petitioners shall not be disturbed."

2. The respective petitioners in each writ petition have filed these separate contempt cases alleging that the respondents have disobeyed the aforesaid directions of this Court and thereby committed contempt under the Contempt of Courts Act.

3. The respondent – NIT through its Registrar has filed a counter affidavit, *inter alia*, stating that as per the directions of this Court,

the matter was placed before the Board of Governors in the 12<sup>th</sup> and 13<sup>th</sup> Meeting for discussion and it was resolved to address a letter to MHRD for their concurrence and accordingly, a letter dated 22.04.2008 and another letter dated 06.05.2008 were addressed to the Ministry apart from one more letter dated 12.05.2008. It is, however, stated that the Ministry under its letter dated 11.02.2003 had earlier directed all National Institutes of Technology to maintain ratio of 1 : 1.5 between teaching and non-teaching staff as per the recommendation of the Economic Reforms Committee. However, by then, the respondent – NIT already had excess non-teaching staff and as such, permission of Ministry was sought for approval and revival of posts.

It is stated that in response to the letters of NIT, under letter of Ministry bearing No.F-20-25/08-TSIII dated 23.05.2008, the request of NIT was

rejected and NIT was asked to adhere to the directions of the Ministry issued from to time. In view of the same, the respondent – NIT had issued termination orders to all the daily wage workers under termination order dated 25.07.2008 but immediately the said decision was deferred and kept in abeyance and all the said daily wage workers are said to be continued in the NIT on the same status and paid minimum wages. Counter affidavit also states that out of 284 teaching staff, total non-teaching staff with NIT is 363, as against requirement of maintaining the ratio of 284 : 312 to be in conformity with the ratio 1 : 1.5. It was, therefore, stated that the respondent – NIT has not disobeyed the orders of this Court and as there is no willful disobedience, no contempt arises.

4. The President of the NIT Consolidated Workers Union had made various representations, which were replied to by NIT in their reply dated 15.09.2008 wherein they have informed that the issue relating to daily wage employees was discussed in the chambers of the Ministry of Affairs for State, HRD, New Delhi on 22.08.2008 and that NIT is required to maintain the ratio between the teaching and non-teaching staff. It has to be noted that before filing of these contempt cases, the petitioners had given a legal notice to the respondents dated 16.10.2008.

5. When these contempt cases were called up for hearing, on the last two occasions, the learned standing counsel for the respondent – NIT brought a letter of the Government of India dated 08.05.2008 wherein the Centrally Funded Technical Institutes are directed that there is a ban on creation of new posts as the further decision on proposal of creation of posts requires approval of the Ministry of Finance and as per the clause, the faculty – student ratio shall require to be maintained apart from the ratio between the faculty and non-faculty posts. All the technical institutes, which were funded centrally, were asked to submit such further proposal as per the comprehensive check list together with the approval of the finance committee of the

Governing Body.

6. The counter affidavit of the respondent – NIT, which is referred to above, therefore, clearly shows that the request of NIT made in pursuance of the directions of this Court was rejected by MHRD under their proceedings dated 23.05.2008 and maintenance of the ratio was further reiterated apart from ban of creation of further posts under the letter of MHRD dated 08.05.2008, referred to above.

7. Learned counsel for the petitioners has now filed a reply affidavit together with additional documents wherein he placed reliance upon the letter of NIT dated 15.12.2003, which was produced during the hearing of the writ petitions, wherein it is specifically mentioned that the institute has more than 100 non-teaching posts vacant. Learned counsel also has placed reliance upon the letter of MHRD dated 11.01.2010 addressed to the Director of NIT informing that the issue relating to the employees (petitioners) was considered on several occasions by the Board of Governors of the Institute, who have ultimately decided to refer the matter to MHRD for clarification and guidance and the said clarification is awaited. A note prepared by the MHRD dated 12.07.2011 is also produced wherein para 4 states as follows:

“4. At the same time, it is relevant to mention that file for the restructuring of NIT-Warangal is also under submission to IFD for creation of non-faculty and faculty posts for NIT-Warangal. After the cadre structure is finalized and approved by the Hon'ble HRM, the picture will be clear as to whether there would be any vacancy in various categories of posts against which these Daily Wage/NMR persons can be adjusted after examining their eligibility for the post.”

8. Learned counsel, therefore, states that the above documents coupled with the fact that there is no categorical rejection of the request made by MHRD clearly entitles the petitioners to seek relief as to regularization in terms of directions of this Court.

9. The directions of this Court, as extracted above, are conditional and

are subject to availability of sanctioned posts as well as permission of MHRD. Even assuming that the sanctioned posts are available, still the permission of MHRD for taking up regularization is essential even as per the directions, as above. There is no material produced to show that MHRD had, in fact, granted permission and it is the respondent – NIT, which is not complying with order. Apart from that the proceedings of MHRD, referred to in the counter affidavit of the respondent – NIT, shows that on both occasions MHRD insisted to maintain faculty and non-faculty ratio and without approval of the Ministry of Finance creation of posts was not permissible. The matter, however, appears to be pending with MHRD as per the note extracted above and as such, as on today, it cannot be said that there is any willful disobedience on the part of the respondents - NIT in complying with the directions of this Court. As noted above, the non-compliance or disobedience by the respondent – NIT would arise provided MHRD grants permission for regularization of the petitioners and still the respondent - NIT does not comply with the same. Since that is not the case of the petitioners, I am of the view there is no willful disobedience on the part of the respondents is made out by the petitioners.

Consequently, the contempt cases are liable to be dismissed and are accordingly dismissed. There shall be no order as to costs.

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VILAS V. AFZULPURKAR, J

March 30, 2012  
DSK