

Cont. Cas (C) No. 32 of 2015

Date of order: 30.08.2018

Shri Sahani Alom

Vs.

Shri Sahajaman SK

**Coram:**

**Hon'ble Mr. Justice Mohammad Yaqoob Mir, Chief Justice**

**Appearance:**

For the Petitioner/Appellant(s) : Mr. M.F. Qureshi, Adv.

For the Respondent(s) : Mr. P. Shome, Adv.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

**Oral:-**

1. For disobedience of the order dated 11.02.2013 passed in Misc. Case (SH) No. 410 of 2012, order dated 20.02.2013 passed in WP(C)(SH) No. 84 of 2012 and also order dated 24.11.2014 in Cont. Case (C) No. 32 of 2013, instant petition for initiating contempt proceedings against the respondent has been filed in the year 2015.

2. The petitioner (Science Teacher) was placed under suspension vide order dated 24.04.2011 by respondent (the Secretary Managing Committee of Bhaitbari Secondary Madrassa School, New Bhaitbari, West Garo Hills District, Meghalaya). The said order of suspension was challenged by medium of WP(C) (SH) No. 84 of 2012, successfully, as the said petition was allowed vide judgment dated 20.02.2013, the order of suspension was quashed, the respondent (respondent No. 3 therein) was directed to pay the petitioner his arrears/current dues as permissible under law within a period of forty-five days.

3. During pendency of the said petition, vide order dated 11.02.2013 passed in Misc. Case (SH) No. 410 of 2012, the respondents No. 2 and 3 therein, were directed to release the subsistence allowance as admissible along with arrears of the subsistence allowance in accordance with the rules.

4. It appears that when the petitioner was not paid the due salary, he filed the Cont. Cas (C) No. 32 of 2013, which contempt proceedings vide order dated 24.11.2014 were closed in view of the statement of the counsel for respondent No. 2 therein, to the effect that an amount of Rs. 1,00,000/- (Rupees one lakh) in the form of cheque as arrear salary had already been paid to the petitioner and the remaining amount of the salary shall be paid within four weeks.

5. It appears that the petitioner in effect was not paid the salary. According to the petitioner all the three orders dated 11.02.2013, 20.02.2013 and 24.11.2014 as referred above were not complied with, hence instant fresh contempt petition No. 32 of 2015 has been filed. Respondent Shri Sahajaman SK, Secretary Managing Committee is alleged to have violated the said orders, so has been arrayed as party contemnor. The said alleged contemnor has filed a detailed affidavit on 28.09.2016 stating therein, that the petitioner was not reporting for joining as he was employed as an Assistant Teacher in Bakpara L.P. School, Assam, however, in the month of November he has reported for joining the Bhaitbari Secondary Madrassa School, his joining was accepted and his arrear salary from March 2011 to May 2011 amounting Rs. 27,000/- at the rate of Rs. 9,000/- per month, Rs. 81,000/- for the period of January to September 2012 and Rs. 45,000/- for the period of September 2012 to February 2013 were paid as for the said period he has rendered service in the school. It is further made clear in the said affidavit that since September 2012 to October 2014, the petitioner was working as a teacher in Bakpara L.P. School, Bilasipara Block, Assam, therefore, he could not claim salary for the said period. The current salary as claimed by the petitioner has not been drawn from the office of the District School Education Officer and the respondent (as Secretary) has resigned w.e.f. 23.11.2015.

6. The position as projected in the affidavit has not been refuted, numerous opportunities had been granted to the petitioner for filing his response to the affidavit, which he has not, as a result whereof vide order dated 08.11.2017, one more opportunity of four weeks' time was granted to the petitioner with a condition that in default the matter will be proceeded further,

still till date the petitioner has not filed any response as against the said affidavit.

7. Now, it is clear that the suspension of the petitioner was set aside consequently, he has been paid salary (arrears) right from the month of March 2011 to May 2011, January to September 2012 and also from September 2012 to February 2013 i.e., the period for which he had already rendered service in the school.

8. The judgment dated 20.02.2013, in terms whereof, the writ petition of the petitioner was finally disposed of has been complied with.

9. From the submissions of the learned counsel for the petitioner it emerged that the petitioner is not being paid for a period w.e.f. February 2013, the said period is not covered by the judgment. If the petitioner has the grievance in the context of the stand taken by the respondents, he shall be free to have recourse to available legal remedies.

9. Disobedience of the orders as claimed, in effect stand complied with. Furthermore, the Secretary alleged contemnor now, is not in position as having resigned from the post of Secretary.

10. For the stated reasons and circumstances, this contempt petition does not survive for any further consideration, liberty to the petitioner to have recourse to the available remedial measures as against the grievance for non-payment, if any, for subsequent period i.e., period after the judgment has been passed, if he so chooses.

11. Contempt proceedings are accordingly closed.

**(Mohammad Yaqoob Mir)**  
**Chief Justice**

Meghalaya  
30.08.2018  
"Sylvana PS"