

# Dr.Rattan Singh vs Shri A.D.N. Vajpayee & Others on 13 July, 2016

**Author: Sandeep Sharma**

**Bench: Mansoor Ahmad Mir, Sandeep Sharma**

1

IN THE HIGH COURT OF HIMACHAL PRADESH  
SHIMLA

COPC No.11 of 2016 alongwith COPC Nos.3 of 2016 and 12 of 2016

Judgment Reserved on: 23.06.2016

Date of decision: 13.07.2016

1. COPC No.11 of 2016

Dr.Rattan Singh

....Petitioner

Versus

Shri A.D.N. Vajpayee & Others ....Respondents-Contemnors

2. COPC No.3 of 2016

of

Dr.Sanjeev Kumar

....Petitioner

rt

Dr.Pankaj Lalit & Another

Versus

....Respondents-Contemnors

3. COPC No.12 of 2016  
Dr.Bhawani Singh

Versus

....Petitioner

Dr.Pankaj Lalit & Another

....Respondents-Contemnors

Coram

The Hon'ble Mr.Justice Mansoor Ahmad Mir, Chief Justice.  
The Hon'ble Mr.Justice Sandeep Sharma, Judge.

Whether approved for reporting ?1 Yes.

For the Petitioners:

Mr.Anand Sharma, Advocate.

For the Respondents: Mr.J.L. Bhardwaj, Advocate.

Sandeep Sharma, J.

All these Contempt Petitions are being taken together for final adjudication since a common issue is Whether the reporters of Local Papers may be allowed to see the judgement?

involved and similar relief has been claimed by the petitioners in all these petitions.

.

2. By way of present Contempt Petitions, petitioners have invoked the jurisdiction of this Court under Sections 11 and 12 of the Contempt of Courts Act, 1971 for initiating contempt proceedings against the respondents for willful of non-compliance of the judgment dated 18.04.2012 passed in CWP(T) Nos.634 to 639 and 642 of 2008 and thereafter rt subsequent order dated 26.8.2015 passed in COPC No.278 of 2015 alongwith connected matters, titled: Dr.Bhawani Singh vs. Professor Mohan Jharta.

3. Careful perusal of the averments contained in the instant Contempt Petition suggests that present petitioners approached this Court by way of aforesaid Civil Writ Petitions seeking regularizastion of their services. Petitioners were appointed as Research Associates with the Institute of Integrated

Himalayan Studies, (for short `IIHS'), a project undertaken by the Himachal Pradesh University (for short `HPU'), under the U.G.C. Scheme. Record further reveals that in the writ petition, respondents-University initially took a stand that the services of the petitioners cannot be regularized by them as they are not the employees of the University. However, during the pendency of aforesaid writ petitions, this Court was informed with regard to decision .

taken by the respondents to continue with the establishment of the IIHS. In this regard, on 28.3.2011, Director of IIHS issued a Notification informing its employees that the Hon'ble Vice-Chancellor, HPU/President IIHS, as per the decision of of the Executive Committee of IIHS in its meeting held on 3rd March, 2011, has been pleased to allow to continue the rt Institute beyond 31.3.2011 as such for the financial year 2011-2012 or till the funds are available in the Institute, whichever will be earlier.

4. Thereafter, the respondents-University vide communication dated 9.9.2011, conveyed the Director of the IIHS that the matter has been examined in detail and it has been decided that the IIHS may be made a permanent Multi Disciplinary Research Institute of the HPU under the provisions of Ordinance 24.6 of the University. Vide aforesaid letter, Director of the IIHS was further requested to submit the proposal to the Dean of Faculties, Academic Council and Finance Committee/Executive Council, accordingly.

5. Pursuant to the aforesaid communication sent by HPU, Director of IIHS sent a communication to the Dean of .

Studies, HPU on 4.2.2012, requesting therein that Institute be treated as part of the HPU and the staff on the establishment be treated at par with the HPU employees.

6. During the pendency of the aforesaid writ of petitions, it was informed that University has already taken favourable decision with regard to IIHS and final decision on rt this issue would be taken at the shortest possible time. This Court, keeping in view the aforesaid developments, disposed of the aforesaid writ petitions vide judgment dated 18.4.2012 by passing following orders:

"6. Consequently, present petitions are disposed of with direction to the respondent-University to consider the petitioners' case for continuation of the Institute of Integrated Himalayan Studies as a permanent Multi-

Disciplinary Research Institute of the Himachal Pradesh University and also the issue of their continuance/absorption/regularization therein. All consequential benefits shall be made available to the petitioners once a decision is finally taken by the respondent-University. Needful be positively done within a period of three months from the date of receipt of certified copy of the order. It is open for the petitioners to bring out their individual grievances to the respondent-authorities which shall also be considered within the aforesaid period."

.

7. Close scrutiny of the record further reveals that Registrar of the HPU vide communication dated 4.8.2012, conveyed the decision of the Executive Council, HPU, meeting of which was held on 2.7.2012, wherein it was decided that IIHS would be made permanent Multi-Disciplinary Research of Institute of the HPU. In the aforesaid meeting it was also resolved that the aforesaid Institute would be made regular rt Department of the University if the State Government would take responsibility to disburse the salary, allowances, service and pensionary benefits etc. to the employees working therein and the matter was further to be referred to the Finance Department to take necessary action. But respondents deliberately and intentionally solely with a view to defeat mandate contained in the aforesaid judgment passed by this Court dillydallied the compliance of the judgment and ultimately present petitioners were compelled to approach this Court by way of Contempt Petition bearing No.581 of 2012. However, during the pendency of the Contempt Petition, referred hereinabove, CMP No.72 of 2012 was moved by the petitioners for issuance of appropriate direction with regard to salary to which the Registrar, HPU filed reply dated 6.11.2012 and stated as under:

.

"Accordingly the same had been placed before the Apex Body i.e. Executive Council, Competent Authority in its meeting held on 2.7.2012 under resolution No.17 for its consideration as per the direction of the Hon'ble Court and had decided that the University intends to continue the of project i.e. Institute of Integrated Himalayan Studies in the University Campus subject to the condition that the State Government/University Grants Commission should be ready to bear the rt financial liabilities of this project as the University is fully dependent on the State Government/University Grants Commission, the extract of the decision was also annexed as R1."

8. Similarly, Director of IIHS also filed affidavit and stated as under:

"2. That the averments made in Para 5 are admitted. The meeting of the Executive Council of Himachal Pradesh University was held on 2.7.2012, wherein the decision was taken on the judgment delivered by the Hon'ble Court on dated 18th April, 2012 that the institute of Integrated Himalayan Studies will continue. It was also resolved in the meeting that if the State Government would take responsibility to disburse the salary, allowances, service and pensionary benefits etc., then the said institute can be made regular department of the University. But, the University has not been able to take any decision in this regard till date."

.

9. Perusal of averments contained in affidavit, referred hereinabove, clearly suggest that services of the petitioners were to be regularized as per the directions issued by this Court vide judgment dated 18.4.2012 and pursuant of to their regularization, they were also to be paid all consequential benefits. Accordingly, on 15.7.2013, this rt Court, taking note of the averments contained in the

aforesaid affidavit, passed the following directions:

"Counsel for the respondent No.1 states on instructions, from Prof. Mohan Jharta, Registrar of the University, who is present in the Court that the salary of the petitioners will be released within one week from today and the proposal regarding regularization will be taken forward within two months from today. For the time being, we defer the hearing of these matters till 24th July, 2013."

10. However, this Court, on the statement having been made by Prof. Mohan Jharta, Registrar, HPU, wherein he stated that the salary of the petitioners would be released within one week from today and proposal regarding regularization will be taken within two months from today, adjourned the matter till 24.7.2013.

11. On 24.7.2013, this Court disposed of the Contempt Petition No.581 of 2012 by passing following .  
order:-

"Counsel for the University, on instructions, states that the amount payable to the petitioners has already been credited to the bank account of the Director of Institute of Integrated Himalayan Studies (IIHS), Centre of Excellence, H.P. of University, Shimla, for further disbursement of the salaries of the employees of the Institute out of the self financing schemes of different rt teaching Departments of the H.P. University. The said Institute shall immediately disburse the amount so received to the concerned employees on pro rata basis within 10 days from today.

2. As regards the other issue, it appears that a Committee has been constituted by the Executive Council in its meeting held on 12th July, 2013 to explore the possibility of continuation of the Institute. The matter is under active consideration of the University. Counsel for the University further submits that even the proposal regarding regularization will be taken forward within the time frame indicated to the Court on the last occasion, on 15th July, 2013.

3. As a result, nothing further requires to be done in the petitions. If there is any further cause of action available to the petitioners, they are free to take recourse to appropriate remedy, which can be considered on its own merits."

12. Careful perusal of the aforesaid order passed by this Court clearly demonstrates that amount payable to the .

petitioners on account of rendering their services in the Institute was credited to the bank account of Director of IIHS for further disbursement of the salary to the employees of the Institute out of self-financing scheme of different teaching of departments of the HPU. It also emerge from the order that the matter with regard to possibility of continuation of the Institute rt was also under active consideration University, wherein proposal with regard to procedure of the regarding

regularization was to be taken within time frame indicated to the Court on 15.7.2013. It appears that aforesaid orders passed by this Court were not complied with by the respondents in letter and spirit because on 24.2.2014 Finance Committee of the University had approved the regularization as well as creation of post for the existing incumbents of the Institute and pursuant to the decision taken by the Executive Council, Registrar of HPU had given undertaking to this Court at the time of passing of order dated 24.2.2014. But fact remains that the petitioners were not considered, however, some of Members of the working staff were granted relief ignoring the other similarly situate persons like petitioners. This Court while perusing letter dated 18.3.2014 (Annexure P-10) found that University Grants .

Commission (for short 'UGC'), on the recommendations of the Expert Committee, approved to extend the status of the Institute as Centre with Potential for Excellence in Particular Area (CPEPA) till March, 2017 and granted Rs.7 crores for its effective and smooth functioning. It would be appropriate, at this stage, to note that as per the report of the Expert Committee, Research Staff of the Institute was required to be included in the University for the effective or smooth functioning of the Centre, whereas the liability of the Teaching/Research and non-teaching staff shall be of HPU, Shimla. It also emerges from the record that the aforesaid recommendations of the Expert Committee as well as approval given by UGC was placed before Executive Council for its consideration and Executive Council approved the same on 24.6.2014 but despite approval given and recommendations made by the concerned authorities, respondents issued a notification dated 10.6.2014 (Annexure P-12) which states as under:-

".....the following posts of Research Staff under Self - Financing Scheme are hereby created in the pay scales as shown against each for the existing incumbents of IIHS, subject to the fulfillment of eligibility criteria.

13. This Court has no doubt that the concerned authorities, solely with a view to confuse the issue at hand, issued aforesaid notification, because admittedly Executive Council as well as Finance Committee had never intended as of is reflected in the notification referred hereinabove. Since respondents failed to comply with the direction contained in the judgment dated 18.4.2012 and thereafter subsequent orders passed by this Court, petitioner(s) again approached this Court by way of Contempt Petition bearing No.257 of 2014 in the CWP(T) No.634 of 2008, wherein respondents again filed a reply dated 6.9.2014 annexing therewith notification dated 2.8.2014, notifying that the posts of the petitioners are treated alongwith pay scales and in another affidavit dated 28.10.2014, respondents admitted that the revised pay scale in respect of the petitioners are to be granted only after obtaining the same from the State Government of Himachal Pradesh and/or from the UGC as the case may be. But interestingly, when the notification came to be issued on 28.9.2014, it contained something otherwise. Respondents also stated in affidavit that in order to provide regular and revised pay scale in said encumbrance in UGC pattern the pay scale and minimum eligibility criteria .

for appointment/promotion under Carrier Advance Scheme (CAS) and pay scale applicable to these posts, its information may be supplied so as to enable this University to grant revised pay scale to the incumbent working in the institute.

of However, respondents-University issued notification dated 09.09.2014, whereby the petitioner and other similar situated persons were regularized and they all joined their duties with effect from the dates and in the pay scale mentioned in that notification. On the basis of notification dated 09.09.2014, this Court passed following order on 10.11.2014:-

"1. Respondent has filed affidavit in response to the rejoinder filed by the petitioner and has specifically stated that it is a fact that the revised pay scales have not so far been granted to the petitioners have made communication with so many institutions/ authorities and are waiting for their response. Further stated that the respondent undertakes to release the revised pay scale to the petitioners strictly in terms of judgment.

2. Mr.J.L. Bhardwaj, learned Counsel for the respondent(s) seeks three months' time to do needful. Reluctantly, two months' time is granted to comply with the directions in letter and spirit and report of compliance before the Registrar(Judicial).

.

3. It goes without saying that in case the respondent(s) fail(s) to do so, the petitioner(s) is/are at liberty to lay a motion at that time.

4. The Contempt petitions are disposed of, as indicated hereinabove."

of

14. Perusal of order dated 10.11.2014 passed by this Court clearly suggests that the respondents undertook to release the revised pay scale to the petitioner(s) strictly in terms of judgment and counsel representing the respondents sought three months' time to comply with the directions in letter and spirit. Since there was a specific direction of the Court to do the needful within a period of three months, respondents were expected to release the revised pay scale to the petitioner(s) but nothing was done by the respondents to give effect to the order dated 10.11.2014 and interestingly corrigendum dated 17.3.2015 was issued by the respondents stating therein that notification dated 2.8.2013 may be read as 2.8.2014. This Court, after perusing various directions passed by this Court from time to time, has no doubt in any manner to conclude that respondents at every step has made an attempt to defeat the directions contained in the judgment dated 18.4.2012 passed by this Court in CWP No.634 of 2008. The petitioners in the instant petitions have leveled .

serious allegations against the respondents-contemnors, which clearly suggests that some of the officials working in HPU are hell-bent or to ensure that present petitioners are not granted benefits in terms of judgment passed by this of Court and thereafter decision taken by the Executive Council

of the University, pursuant to various orders passed by this Court.

rt Though we, while initiating contempt proceedings against the respondents, do not intend to take note of the serious allegations made against the respondents but the averments contained in writ petition clearly suggests that the petitioners have been repeatedly pressurized by the respondents to either withdraw the contempt petitions and ultimately matter was landed with the police where reports and counter reports were filed against the parties to the lis. Rather, this Court is shocked to see that the petitioner, who had approached the Registrar being affected person, was given bad name and abused by his caste compelling him to report the matter to Police Station, Boileuganj, wherein FIR bearing No.228/2014, dated 25.11.2014 was registered under Sections 3(1)(x) and 4 of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Petitioners have specifically alleged .

that they were threatened and the petitioner namely; Kuldeep Singh was threatened to the effect that he would not be permitted to serve in the University and his services would be terminated in case he continued with his Contempt Petition of pending before the Court. This Court would have probably ignored the aforesaid specific allegations made by the rt petitioner with regard to defiant and arrogant attitude of the officials of the University, but after perusing copy of noting i.e. Annexure P-19, this Court has every reason to believe that there are certain disgruntled officials of the University, who deemed themselves to be above law and they all are hell-

bent to ensure that the judgment dated 18.4.2012 passed by this Court is not taken to its logical end. Vindictive attitude of the respondents clearly reflects from the noting given on the file pertaining to the release of revised pay scale with regard to petitioners wherein Registrar of the respondents-

University states that "till and so long the contempt petition is not taken till then the regularization/joining of the petitioner will not be notified." Ultimately, when this aforesaid noting came to the notice of the Vice Chancellor of the University, he reversed the remarks and noting given by the Registrar.

Though, there is much more contained in the Contempt .

Petition suggestive of defiant and autocrat/dictatorial attitude of the officials of the respondent-University, but this Court purposely has chosen to highlight few, as has been pointed above. This Court, at this stage, has reasons to of believe that the respondents have no respect, whatsoever, for law and directions contained in the judgment passed by this Court rt and respondents willfully, intentionally deliberately disobeyed the orders passed by this Court from and time to time.

15. During the pendency of the Contempt Petition, as has been referred above, petitioners filed another additional affidavit with respect to steps taken by the respondents for fixation of revised pay scale and this Court after perusing the averments contained in the affidavit passed the following orders on 26.8.2015:-



"It appears that some wrong calculations have been made. At this stage, the learned counsel for the petitioners stated at the Bar that the petitioners have made representations dated 14.8.2015, Annexure P23 before the Competent Authority, the Registrar H.P. University, Summerhill, Shimla and respondents be directed to examine the same and make fresh decision.

In the given circumstances, we deem it proper to direct the Competent Authority to examine the representations of the petitioners .

and make fresh decision within six weeks from today. Ordered accordingly. The Contempt Petitions stand disposed of alongwith pending applications, if any."

16. It clearly emerges from the aforesaid order passed of by this Court that taking note of the averments contained in this affidavit filed by the petitioner, this Court directed the respondents to decide the representations dated 14.8.2015 and make fresh decision within six weeks from the date of passing of the orders. But before issuing directions contained in order dated 26.8.2015, Court very importantly noted that "It appears that some wrong calculations have been made", meaning thereby that the grievance of the petitioner with regard to wrong calculations was required to be dealt with within a stipulated period by the respondents, but as emerges from the pleadings, respondents failed to do the same within stipulated time and as such petitioners were compelled to file another representation dated 8.10.2015 reminding the respondents to comply with the directions contained in order dated 26.8.2015.

17. Perusal of representations dated 14.8.2015 as well as 8.10.2015 clearly suggest that the petitioners had .

made available all detailed clarifications with regard to calculations which were to be done by the respondents while fixing their revised pay scales. It also emerges from the representations filed by the petitioners that they had also clarified the issue with regard to applicability of their cases as per fitment table. Since representations, as mentioned above, were required to be decided by the respondents within a period of six weeks in terms of orders dated 26.8.2015, present petitioners kept on reminding the respondents to do the needful, but no action, whatsoever, was taken by the authorities of respondent-University and as such present petitioners were compelled to file the instant Contempt Petitions before this Court.

18. This Court, took cognizance of the averments contained in the Contempt Petition bearing No.11 of 2016, issued notices to the respondents, which were duly waived by Shri J.L Bhardwaj, Advocate, who was granted six weeks time to file reply to the Contempt Petition. Respondents filed reply dated 21.3.2016 to the Contempt Petitions and stated as under:

"1. That the replying respondents have highest regards to the orders passed by this Hon'ble Court and can't think of disobeying any .

directions issued by this Hon'ble Court. Further the replying respondents tender unconditional and unqualified apology for not obeying the directions issued by this Hon'ble Court and prays before this Hon'ble Court that the notices issued in the contempt petition may kindly be discharged and justice be done.

of

2. That one of the replying respondent i.e. respondent No.3 was directed to examine the representations dated 14.08.2015 made by the rt petitioner and other persons vide judgment dated 26.08.2015 passed by this Hon'ble Court and make fresh decisions within six weeks from the date of passing the judgment. It is submitted that the replying respondent No.3 before deciding the representations had given the notice to the petitioner and other persons to hear them in person and the petitioner and other persons were heard on 06.11.2015 and thereafter the respondent No.3 has decided the representations by speaking order vide order dated 05.12.2015 and the petitioner has been informed about the same.

Since the only direction was to decide the representation which directions have been complied with the notice issued in the contempt petition against the replying respondents may kindly be discharged."

19. Close scrutiny of the aforesaid submissions having been made on behalf of respondents suggest that they had examined the representations dated 14.8.2015 made by the petitioners in terms of order dated 26.8.2015 passed by .

this Court. It has been stated on behalf of the respondents that before deciding the representations due and proper opportunity was afforded to the petitioners of being heard and thereafter representations were decided vide a speaking of order dated 5.12.2015. It has been specifically stated by the respondents that since only direction was to decide the rt representation(s), they decided the matter speaking order and as such no notice, whatsoever, could be by passing issued in Contempt Petition and as such notice issued in Contempt Petition has been prayed to be discharged. Since order dated 5.12.2015 was passed by the respondents on the representations dated 14.8.2015 during the pendency of instant Contempt Petition, opportunity was afforded to the petitioners to file rejoinder, if any, to the reply filed by the respondents. Accordingly, present petitioners filed rejoinder to the reply filed by the respondents refuting therein the defence, if any, put up by the respondents. Petitioners in their rejoinder reiterated that the decision taken by respondent No.1, while deciding the aforesaid writ petitions filed by them, is not in consonance with law. Petitioners in their rejoinder specifically stated that before taking any decision, pursuant to order dated 26.8.2015 passed by this .

Court, Registrar of the University was bound to take approval from the Vice Chancellor. But, interestingly, no approval, whatsoever, was taken by the Registrar before deciding the representation(s) of the petitioners in terms of order dated of 26.8.2015 passed by this Court. Accordingly, Vice Chancellor issued notification dated 19.12.2015 and constituted rt a Committee for

onward examination and decision on the representation dated 12.12.2015 submitted by the present petitioners Dr.Rattan Singh and Others.

Perusal of notification dated 19.12.2015 (Annexure P-26) clearly suggests that representation dated 12.12.2015 was to be considered by the Committee constituted by Vice Chancellor. It also emerges from the record that after passing of order dated 26.12.2015, wherein respondents decided the representation dated 14.8.2015 filed by the petitioners, when so called speaking orders were passed, present petitioners filed a representation to the Worthy Vice Chancellor specifically detailing therein the discrepancies in the order dated 5.12.2015. Further perusal of communication dated 12.12.2015 (Annexure P-27) clearly suggests that Vice Chancellor, taking note of the objections/points made in the representation by the .

petitioners, constituted Committee comprising of Pro-Vice-

Chancellor, Finance Officer, P&DO(Retd.) and Director, IIHS to examine the representation dated 12.12.2015 which admittedly was filed by the present petitioner pointing out of discrepancies in order dated 5.12.2015 passed by Registrar purportedly in compliance of order dated 26.8.2015 passed

20. rt by this Court.

Further perusal of Annexure P-28 annexed by present petitioners alongwith the rejoinder clearly falsify the stand taken by the respondents in the reply that the representation dated 14.8.2015 stands decided vide order dated 5.12.2015 and as such respondents have already complied with the directions contained in order dated 26.8.2015. Careful perusal of communication Annexure P-

28, which stands diarized on 18.2.2016, clearly suggests that Committee constituted by the Vice Chancellor on the representation having been made by the petitioners called for the copies of proceedings of the meeting held on 26.12.2015 and thereafter on 4.1.2016. Further perusal of the minutes of the meeting of the Committee held on 6.1.2016 suggests that order dated 5.12.2015 passed by the Registrar purportedly in compliance of directions contained in order .

dated 26.8.2015 was reviewed by the Committee. Though Committee constituted by Vice Chancellor to review order dated 5.12.2015 passed by the Registrar in compliance to order dated 26.8.2015 passed detailed recommendations in of the meeting held on 6.1.2016, which clearly suggests that Registrar while passing order dated 5.12.2015 had not taken petitioners, rt into consideration the material facts as were put forth by the however, concluding part of the recommendations is reproduced hereinbelow for better understanding of the same:-

"3. From the perusal of the Fitment Tables 1, 2 and 3 of the UGC for conversion of Pre-Revised to Revised UGC Pay Scales and pay fixation accordingly, it has been ascertained by the Committee that the no name of any post notified vide above said notification has been mentioned in the requisite Fitment Tables and reflects only the basics pay in the Pre-Revised UGC scale and equivalent revised Pay Band & AGP in

the Revised UGC Scales.

4. The committee found that the Hon'ble High Court of Himachal Pradesh in its judgment/order dated 26.08.2015 observed that some wrong calculations have been made and directed the respondent to examine the same and make fresh decision. In the reply dated 05.12.2015 given by the Registrar to the representationists it has been inter-alia .

mentioned that the pay of the incumbents already fixed is in order and correct whereas it appeared to the Hon'ble High Court that the pay fixed by the University was wrong and further directed to make fresh decision. The Committee found that no fresh decision has been taken by the University instead upholding the pay of fixation as correct.

Therefore, by summing up the matter on the basis of above given facts, the Committee recommended that the incumbents/ representationists of IIHS may be given UGC Revised Pay Scales as per their designation/post w.e.f. corresponding dates of their regularization and also fix their pay on the basis of UGC Fitment Tables 1, 2 and 3, already notified. These recommendations would not only help in taking fresh decision in the matter as directed by the Hon'ble High Court but also redress the grievances of the representationists and avoid further litigation."

21. This Court, after perusing the minutes of the Committee constituted by the Vice Chancellor to review the order dated 5.12.2015 passed by the Registrar in compliance of the order dated 26.8.2015 passed by this Court, has all the more reasons to accept the contention put forth on behalf of the petitioners in their rejoinder that there is no compliance whatsoever, of the order dated 26.8.2015 passed by this Court. The aforesaid Committee has specifically .

recommended that incumbents/representationists of IIHS may be given UGC revised pay scale as per their designation/post w.e.f. corresponding dates of their regularization and also for their pay on the basis of UGC of Fitment Tables 1, 2 and 3, already notified. Rather Committee has recommended that the recommendations given by them would not only help in taking fresh decision in the manner as directed by the Court but also redress the grievances of the representationists and avoid further litigation. Complete narration of the facts, as has been discussed in detail, has compelled this Court to draw the inference that there are certain people in the University who instead of solving the problem and complying with the directions passed by this Court from time to time have attempted to complicate the matter taking the decision arbitrarily and illegally and repeatedly attempt has been made by these officials to hoodwink the Court by filing contradictory affidavit in this Court. After perusing the recommendations made by the Committee, as has been discussed above, it appears to this Court that the respondents at every stage have tried to hide and suppress the material facts from the Court solely with a view to defeat .

the rightful claim of the petitioners. After perusing the order dated 5.12.2015, purportedly taken in terms of order dated 26.8.2015 passed by this Court, this Court has all the reasons to believe that

few officials in University have rather of misled the Executive Council and Finance Committee at different levels during the pendency of the petition. Even in rt this Contempt Petition, respondents by way of filing reply took a stand that by way of passing speaking order dated 5.12.2015 they have complied with the judgment dated 26.8.2015 and as such, prayed for discharge of contempt notice. But after perusing the subsequent decisions taken by the Committee and recommendations of the Committee as contained in Annexure P-28, this Court is constrained to observe that respondents have crossed all limits and have dared to file false affidavit before this Court with regard to compliance of the order dated 26.8.2015, despite knowing fully well that order dated 5.12.2015 passed in compliance of order dated 26.8.2015 has been further reviewed by the Committee constituted by the Vice Chancellor. Perusal of minutes of the meeting of the Committee held on 6.1.2016 leaves no doubt in the mind of this Court that the decision contained in order dated 5.12.2015 is/was totally .

unsustainable and against the factual position. As such this Court is of the view that by filing the instant reply affidavit respondents have aggravated the Contempt and have rendered themselves liable to be punished in accordance with of Contempt of Courts Act. Since respondents in their reply have specifically stated that there was only direction to rt decide the representation which they, after considering the same, decided vide order dated 5.12.2015.

22. The word "consideration" has been examined by the Constitution Bench of the Hon'ble Supreme Court in Kaiser-I-Hind Pvt. Ltd. and another vs. National Textile Corpn. (Maharashtra North) Ltd. and others, (2002) 8 SCC 182, wherein it was held as follows:

"14. In view of the aforesaid requirements, before obtaining the assent of the President, the State Government has to point out that the law made by the State Legislature is in respect of one of the matters enumerated in the Concurrent List by mentioning entry/entries of the Concurrent List and that it contains provision or provisions repugnant to the law made by Parliament or existing law. Further, the words "reserved for consideration" would definitely indicate that there should be active application of mind by the President to the repugnancy pointed out between the proposed State law and the earlier law made by Parliament and the necessity of having such a law, in the facts and circumstances of the matter, which is repugnant to a law enacted by Parliament prevailing in a State. The word "consideration" would manifest that after careful thinking over and due application of mind regarding the necessity of .

having State law which is repugnant to the law made by Parliament, the President may grant assent....."

(p.197)

23. The word "consider" was scrutinized by the Hon'ble Supreme Court in Chairman, Life Insurance of Corporation of India and others vs. A. Masilamani, (2013) 6 SCC 530 and it was held:

rt "19. The word "consider" is of significance. The dictionary meaning of the great same is, "to think over", "to regard as", or "deem to be". Hence, there is a clear connotation to the effect that there must be active application of mind. In other words, the term "consider"

postulates consideration of all relevant aspects of a matter. Thus, formation of opinion by the statutory authority should reflect intense application of mind with reference to the material available on record. The order of the authority itself should reveal such application of mind. The appellate authority cannot simply adopt the language employed by the disciplinary authority and proceed to affirm its order."

(p-537)

24. Order passed by the competent Court, whether ad-interim or final, is required to be complied with without any reservation. The Hon'ble Supreme Court in *Prestige Lights Ltd. vs. State Bank of India*, (2007) 8 SCC 449 held that if order passed by the Court is disobeyed/not complied with, it may refuse the party violating the order to hear him on merits. In this regard, the Hon'ble Supreme Court held:

"24. An order passed by a competent court - interim or final - has to be obeyed without any reservation. If such order is disobeyed or not complied with, the court may refuse the party violating such order to hear him on merits. We are not unmindful of the situation that refusal to hear a party to the proceeding on merits is a "drastic step" and such a serious penalty should of not be imposed on him except in grave and extraordinary situations, but sometimes such an action is needed in the larger interest of justice when a party obtaining interim relief intentionally and deliberately flouts such order rt by not abiding by the terms and conditions on which a relief is granted by the court in his favour."

(p.549)

25. Though the respondents in their reply have tendered unconditional and unqualified apology for not obeying the directions issued by this Court, but subsequently an attempt has been made by filing detailed reply affidavit to the Contempt Petition to justify their conduct. Rather an attempt has been made to hoodwink this Court by stating that vide order dated 5.12.2015 order dated 26.8.2015 passed by this Court has been complied with which fact stands falsified itself after perusing the minutes of the Executive Council dated 6.1.2016 as discussed above.

26. At this occasion this Court after noticing so much illegality having been committed by the respondents in the process of implementation of the judgment dated 18.4.2012 as well as repeated orders passed by this Court in various .

Contempt Petitions, sees no reasons whatsoever to accept the so called unconditional and unqualified apology tendered on behalf of the respondents. Rather, this Court after perusing the record made available today is of the view that of respondents at every stage tried to complicate the issue by taking unnecessary objections which could be avoided as it have been observed by the Executive Committee while making recommendations, as prayed by the petitioners in their report.

27. Black's Law Dictionary (8th Edn., 1999) defines "contempt" as "Conduct that defies the authority or dignity of a Court or legislature." It also adds that "Because such conduct interferes with the administration of justice, it is punishable."

28. Salmon L.J. in *Jennison vs. Baker* (1972) 1 All.E.R. 997, observed:

".....The inherent power of the judges of the High Court to commit for contempt of court has existed from time immemorial. The power exists to ensure justice shall be done. And solely to this end, it prohibits acts and words tending to obstruct the administration of justice. The public at large no less than the individual litigant have an interest and a very real interest in justice being effectively administered".

(p.1001)

29. In the celebrated decision of *Attorney General vs. Times Newspaper Ltd.*, 1974 AC 273, Lord Diplock .

stated: (AC p.308 A) ".....There is an element of public policy in punishing civil contempt, since the administration of justice would be undermined if the order of any court of law could be disregarded with impunity...."

of While Lord Morris, summarized the purpose of contempt jurisdiction as follows:

"In an ordered community courts are established for the pacific settlement of disputes and for the maintenance of law and order. In the general interests of the community it is imperative that the authority of the courts should not be imperiled and that recourse to them should not be subject to unjustifiable interference. When such unjustifiable interference is suppressed it is not because those charged with the responsibilities of administering justice are concerned for their own dignity: it is because the very structure of ordered life is at risk if the recognised courts of the land are so flouted that their authority wanes and is supplanted."

31. The Hon'ble Supreme Court in *Chandra Shashi vs. Anil Kumar Verma*, (1995) 1 SCC 421 observed that it is necessary for the Courts to exercise its contempt jurisdiction in order to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehoods have to be appropriately dealt with, without which it would not be possible for any court to administer justice in the true sense and to the satisfaction of those who approach it in the hope that truth would ultimately prevail. It was held as under:

"8. To enable the courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehoods have to be appropriately dealt with, without which it would not be possible for any court to administer justice in the true sense and to the satisfaction of those who approach it in the hope that truth would ultimately prevail. People would have faith in of courts when they would find that truth alone triumphs is an achievable aim there; or it is virtue which ends in victory is not only inscribed in emblem but really happens in the portals of Courts."

rt (p-425)

32. Likewise, there cannot be any dispute that the Rule of law has to be maintained, whatever be the consequences. This was so observed by the Hon'ble Supreme Court in Kalyaneshwari vs. Union of India, (2012) 12 SCC 599 wherein it was held as under:

"10. The rule of law has to be maintained whatever be the consequences. The 'welfare of people' is the supreme law and this enunciates adequately the ideal of 'law'. This could only be achieved when justice is administered lawfully, judiciously, without any fear and without being hampered or throttled by unscrupulous elements. The administration of justice is dependent upon obedience or execution of the orders of the Court. The contemptuous act which interfered with administration of justice on one hand and impinge upon the dignity of institution of justice on the other, bringing down its respect in the eye of the commoner, are acts which may not fall in the category of cases where the Court can accept the apology of the contemnor even if it is tendered at the threshold of the proceedings."

(p-604)

33. In this background, the next question that arises .

for consideration is as to how a contemnor can purge himself for contempt. In Pravin C. Shah vs. K.A. Mohd. Ali and another, (2001) 8 SCC 650, one of the question which came up for consideration was as to how a contemnor can purge of himself for the contempt, although the Hon'ble Supreme Court in the said case was dealing with a criminal contempt.

However, the relevant portion of the judgment reads as rt under:

"23. Now we have to consider the crucial question how can a contemnor purge himself of the contempt? According to the Disciplinary Committee of the Bar Council of India, purging oneself of contempt can be done by apologising to the court. The said opinion of the Bar Council of India can be seen from the following portion of the impugned order:



"Purging oneself of contempt can be only by regretting or apologising in the case of a completed action of criminal contempt. If it is a case of civil contempt, by subsequent compliance with the orders or directions the contempt can be purged off. There is no procedural provision in law to get purged of contempt by an order of an appropriate court.

24. Purging is a process by which an undesirable element is expelled either from ones own self or from a society. It is a cleansing process. Purge is a word which acquired implications first in theological connotations. In the case of a sin, purging of such sin is made through the expression of sincere remorse coupled with doing the penance required. In the case of a guilt, purging means to get himself cleared of the guilt. The concept of purgatory was evolved from the word "purge", which is a state of suffering after this life in which those souls, who depart this life with their deadly sins, are purified and render fit to enter into .

heaven where nothing defiled enters. (vide Words and Phrases, Permanent Edn., Vol.35A, page

307). In Blacks Law Dictionary the word "purge"

is given the following meaning: "To cleanse; to clear. To clear or exonerate from some charge or imputation of guilt, or from a contempt." It is preposterous to suggest that if the convicted person undergoes punishment or if he tenders the fine amount imposed on him the purge would be completed.

of

25. We are told that a learned single Judge of the Allahabad High Court has expressed a view that purging process would be completed when the contemnor undergoes the penalty (vide rt Madan Gopal Gupta (Dr.) vs. Agra University, AIR 1974 All.39). This is what the learned single Judge said about it: (AIR p.43, para-13) "In my opinion a party in contempt purged its contempt by obeying the orders of the court or by undergoing the penalty imposed by the court."

26. Obeying the orders of the court would be a mode by which one can make the purging process in a substantial manner when it is a civil contempt. Even for such a civil contempt the purging process would not be treated as completed merely by the contemnor undergoing the penalty imposed on him unless he has obeyed the order of the court or he has undone the wrong. If that is the position in regard to civil contempt the position regarding criminal contempt must be stronger. Section 2 of the Contempt of Courts Act categorises contempt of court into two categories. The first category is "civil contempt" which is the willful disobedience of the order of the court including breach of an undertaking given to the court. But "criminal contempt" includes doing any act whatsoever which tends to scandalise or lowers the authority of any court, or tends to interfere with the due course of a judicial proceeding or interferes with, or obstructs the administration of justice in any other manner.

27. We cannot therefore approve the view that merely undergoing the penalty imposed on a contemnor is sufficient to complete the process of purging himself of the contempt, particularly .

in a case where the contemnor is convicted of criminal contempt. The danger in giving accord to the said view of the learned single Judge in the aforecited decision is that if a contemnor is sentenced to a fine he can immediately pay it and continue to commit contempt in the same court, and then again pay the fine and persist with his contemptuous conduct. There must be something more to be done to get oneself purged of the contempt when it is a case of criminal of contempt."

(pp-660-661)

34. This is the duty of this Court to ensure that the rt majesty, sacrosanctity and dignity of the Institution should not be allowed to be crucified. The purpose of public law is to protect the Constitutional mechanism. The law is required to be implemented in dynamic manner, which may not cause a sense of insecurity or helplessness in the mind of a single individual, as has been stated by Frank Futer.J in Jeennison case supra:

"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."

35. Hence, in view of the narration of fact as well as law discussed above, this Court deems it not proper case where unconditional and unqualified apology tendered on behalf of the respondents can be accepted. Rather, in given facts and circumstances of the case they are required to be dealt with strictly in accordance with Contempt of Courts Act because apology cannot be allowed to use as a weapon of .

defence. In the instant case where despite repeated orders, respondents failed to comply with the directions contained in judgment dated 18.4.2012, any such apology at this belated stage cannot be accepted. This Court would have considered of the apology tendered by the respondents, had they offered it in good grace, rather attempt has been made by the rt respondents to justify their conduct by way of filing written reply to the Contempt Petition that too stating wrong facts.

Unless apology is offered in good grace same deserves to be rejected.

36. As was noted by the Hon'ble Supreme Court in L.D. Jaikwal vs. State of U.P. (1984) 3 SCC 405.

"We are sorry to say we 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. Nor does the cheek which has taken the slap smart less upon the said hypocritical word being uttered through the very lips which not long ago slandered a judicial officer without the slightest compunction. Apology shall 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."

(P-406)

37. Consequently, in view of the aforesaid discussions, this Court deems it a fit case, where show cause notices are required to be issued to the respondents for non-

compliance of the judgment dated 18.4.2012 as well as .

subsequent orders passed by this Court repeatedly in four Contempt Petitions filed by the petitioners, especially order dated 26.8.2015 passed in Contempt Petition No.278 of 2015 passed by this Court.

of

38. Accordingly show cause notices be issued to respondents in Form-I of the Contempt of Court (Himachal Pradesh Rules, 1996) calling upon them to show cause why contempt proceedings against them be not initiated for having knowingly, deliberately and willfully violated the orders passed by the Court on 18.04.2012 in CWP(T) Nos.634 to 639 and 642 of 2008 and thereafter subsequent order dated 26.8.2015 passed in COPC No.278 of 2015 alongwith connected matters, returnable on 24.08.2016.

(Mansoor Ahmad Mir)

Chief Justice

July 13, 2016  
(aks)

(Sandeep Sharma)  
Judge