

Contempt Petition No.181 of 2021
and Sub Application No.49 of 2021

THE HON'BLE CHIEF JUSTICE
and
P.D.AUDIKEVALU, J.

(Order of the Court was made by the Hon'ble Chief Justice)

The Union, through the alleged contemnors, has filed an additional affidavit appending a copy of a notice dated July 29, 2021 issued by the office of the Medical Counselling Committee of the Government of India, Directorate General of Health Services in the Ministry of Health and Family Welfare. The overall reservation in 15 per cent under-graduate and 50 per cent post-graduate All India Quota seats for medical colleges in the State has been indicated as follows:

- (i) Schedule Castes - 15%
- (ii) Scheduled Tribes - 7.5%
- (iii) OBC (Non-Creamy Layer) as per the Central OBC list - 27%
- (iv) EWS - as per Central Government norms - 10%
- (v) PwD - 5% Horizontal Reservation as per NMC norms

2. The petitioner in the contempt proceedings, which may also now be regarded as the State since the petitioner is the political party in power at the moment, contends that the judgment and order of this court of July 27, 2020 in W.P.No.8326 of 2020 unequivocally accepted that the reservation in terms of the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act, 1993 would be applicable. In other words, according to the petitioner, the All India Quota seats will be governed by the same ratio of reservation as indicated in the 1993 Act and such aspect of the matter is evident, inter alia, from paragraph 103 of the judgment of this court as accepted by the Supreme Court at paragraph 8 of the order dated October 26, 2020 passed on the State's special leave petition arising out of this court's order.

3. Indeed, paragraph 8 of the Supreme Court order noticed the

scope of the special leave petition and observed that it was confined to whether a direction could be issued for implementation of the reservation pertaining to OBC candidates for admissions to undergraduate medical courses for the year 2020 itself. The Supreme Court then went on to record as follows:

"It is no doubt true that the High Court accepted the submissions of the Appellants that the 1993 Act can be made applicable to All India Quota seats. ..."

4. However, it is the submission of the Union and the alleged contemnors that even the High Court judgment noticed that All India Quota seats were a separate class which would not be governed by the principle of domicile and, accordingly, a Committee was constituted by this court, which was approved by the Supreme Court, to ascertain the extent of reservation that would be desirable in the All India Quota seats.

5. Prima facie, such submission militates against the purpose indicated in both the High Court order and the Supreme Court order

for constituting the Committee. Both orders indicated that the Committee would work out the modalities of implementation of the reservation for OBC candidates to All India Quota seats in this State. If it is a question of implementation, the Committee was not tasked with the duty of ascertaining the extent of reservation or the inter se allocation thereof between groups.

6. Yet, there are several paragraphs in the judgment of this court which, despite accepting the Act of 1993 in this State to have a say in the matter, speak of a balance that is required to be struck and the Union's stand now is that the balance has been struck by the Committee by indicating that one of the two options suggested could be adopted; and the Union has adopted the second option, strictly in terms of the recommendations of the relevant Committee.

7. It is the Union's further assertion that since the scope of the present lis is to, in effect, execute the previous order of this court in line with the observations in the order of the Supreme Court, once it

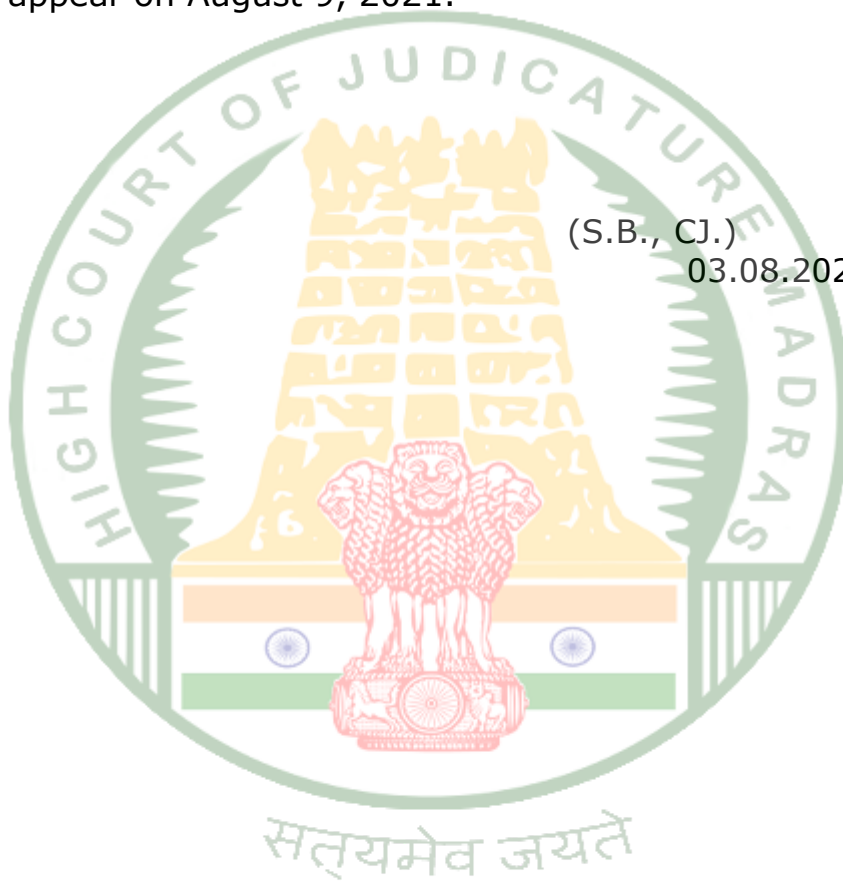
is seen that the order of this court was capable of a second interpretation and the alleged contemnors have bonafide been guided in such light, no contempt would have been committed.

8. The object of any judicial exercise is ultimately to reach the benefit of the decision to those who are entitled thereto. It is true that contempt being a quasi-criminal jurisdiction, if an order is capable of two meanings and the conduct of the alleged contemnors seems to be guided by either, the fact that the other meaning appeals to the court cannot prompt the court to hold the persons in contempt. Equally, the contempt jurisdiction is an equitable mode of execution and this court cannot leave the issue unresolved merely by saying that no contempt has been committed. A judgment has been rendered by this court and such judgment has to be interpreted to ensure that it is implemented, subject to any order of the Supreme Court in such regard. It does not appear that even the petitioner cares too much for the alleged contemnors being hauled up as long as the order of this court of July 27, 2020 is implemented

in letter and spirit.

9. At the request of the Union, the matter is adjourned and will now appear on August 9, 2021.

bbr



(S.B., C.J.) (P.D.A.,J.)
03.08.2021

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