

**Government of West Bengal**  
**Minority Affairs and Madrasah Education Department**  
**"NABANNA", HRBC Buildings, Howrah – 711 102**

No.485-MD

Date: 28-02-2023

**Notification**

Whereas, the Hon'ble Supreme Court of India by a judgment dated 02.02.2023 in the matter of Contempt Petition (C) No. 352 of 2022 in Civil Appeal No. 5808 of 2017, Snehasis Giri and Ors. Vs Subhasis Mitra with other Contempt Petitions has constituted a Committee headed by Justice Debi Prosad Dey, retired Judge, Calcutta High Court as Chairman with other two members to be nominated by the State Government.

Now therefore, in compliance with the aforesaid judgment of the Hon'ble Supreme Court dated 02.02.2023, the other two members of the Committee are hereby nominated as follows:-

- I. Justice Debi Prosad Dey, Retired Judge, Calcutta High Court--- Chairman;
- II. Shri Manish Gupta, I.A.S(Retd), Ex. Additional Chief Secretary, Higher Education Department, Ex. Chief Secretary, Govt. of West Bengal - Member;
- III. Shri Sripati Mukhopadhyay, Ex. Registrar, University of Burdwan - Member.

All interested person who want to seek verification of their claim as well as those who are likely to be affected by the report of the Committee, may make representation within 24.03.2023 on all working days within office hours from the date of this notification.

The other terms of reference of the Committee shall be as mentioned in the Judgment of the Hon'ble Supreme Court dated 02.02.2023 and as may be prescribed by the Committee.

The Committee is to consider the following points in terms of the Judgment of the Hon'ble Supreme Court dated 02.02.2023:-

- (a) Whether the madrasah or its managing committee was recognized by the state government on the date on which the appointment was made?
- (b) Whether such appointments were made, of candidates who possessed the requisite prescribed qualifications and fulfilled the experience and other eligible conditions stipulated for the post concerned?
- (c) Whether such an appointment was made by following the recruitment procedure indicated in the Kolkata Gazette Notification dated 11-03-2015 (No. 93-SE/S/10R-14/2013-9<sup>th</sup> February, 2015) and in Kolkata Gazette Notification dated 04-03-2016 (No. 486-MD/O/2M-11/2016)?
- (d) Whether the appointments were made against vacancies that existed and whether the vacancies conformed to the staffing pattern for the concerned institution/madrasahs
- (e) Whether after the appointments were made, the persons appointed actually worked on their respective posts?
- (f) Whether the appointments were actually made on the date of the appointment letter, or were backdated?

The office of the Committee shall be at Moulana Abul Kalam Azad Bhawan, DD-45, Block- DD, Salt Lake City, Sector-I, Kolkata-64.

Sd/-  
Md. Ghulam Ali Ansari, IAS  
Secretary  
to the Government of West Bengal

REPORTABLE

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE/INHERENT JURISDICTION

CONTEMPT PETITION (CIVIL) NO. 352 OF 2022

IN

CIVIL APPEAL NO. 5808 OF 2017

SNEHASIS GIRI AND ORS.

...APPELLANT(S)

VERSUS

SUBHASIS MITRA

...RESPONDENT(S)

WITH

Conmt. Pet. (C) No. 513/2022; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 26444/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 26491/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 26494/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 28769/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 31083/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 31438/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 30666/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 30680/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 26487/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 26469/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 26467/2022]; Conmt. Pet. (C) No. 514/2022; Conmt. Pet. (C) No. 515/2022; Conmt. Pet. (C) No. 498/2022; Conmt. Pet. (C) No. 516/2022; Conmt. Pet. (C) No. 517/2022; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 26462/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 26464/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 30663/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 31670/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 31780/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 32494/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 32497/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 32506/2022]; Conmt. Pet. (C)

\_\_\_\_/2023 [@Diary No(s). 32511/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary  
 No(s). 33710/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 33736/2022];  
 Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 34013/2022]; Conmt. Pet. (C)  
 \_\_\_\_/2023 [@Diary No(s). 34060/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary  
 No(s). 34065/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 34253/2022];  
 Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 34296/2022]; Conmt. Pet. (C)  
 \_\_\_\_/2023 [@Diary No(s). 34340/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary  
 No(s). 32500/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 32502/2022];  
 Conmt. Pet. (C) No. 353/2022; Conmt. Pet. (C) No. 354/2022; Conmt. Pet. (C)  
 No. 355/2022; Conmt. Pet. (C) No. 364/2022; Conmt. Pet. (C) No. 365/2022;  
 Conmt. Pet. (C) No. 366/2022; Conmt. Pet. (C) No. 367/2022; Conmt. Pet. (C)  
 No. 368/2022; Conmt. Pet. (C) No. 369/2022; Conmt. Pet. (C) No. 370/2022;  
 Conmt. Pet. (C) No. 371/2022; Conmt. Pet. (C) No. 372/2022; Conmt. Pet. (C)  
 No. 373/2022; Conmt. Pet. (C) No. 374/2022; Conmt. Pet. (C) No. 494/2022;  
 Conmt. Pet. (C) No. 512/2022; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s).  
 31442/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 31472/2022]; Conmt.  
 Pet. (C) \_\_\_\_/2023 [@Diary No(s). 31569/2022]; Conmt. Pet. (C) \_\_\_\_/2023  
 [@Diary No(s). 31622/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s).  
 31674/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 32505/2022]; Conmt.  
 Pet. (C) \_\_\_\_/2023 [@Diary No(s). 39408/2022]; Conmt. Pet. (C) No.  
 360/2022; Conmt. Pet. (C) No. 361/2022; Conmt. Pet. (C) No. 362/2022;  
 Conmt. Pet. (C) No. 363/2022; Conmt. Pet. (C) No. 375/2022; Conmt. Pet. (C)  
 No. 376/2022; Conmt. Pet. (C) No. 377/2022; Conmt. Pet. (C) No. 503/2022;  
 Conmt. Pet. (C) No. 504/2022; Conmt. Pet. (C) No. 505/2022; Conmt. Pet. (C)  
 No. 506/2022; Conmt. Pet. (C) No. 507/2022; Conmt. Pet. (C) No. 508/2022;  
 Conmt. Pet. (C) No. 509/2022; Conmt. Pet. (C) No. 378/2022; Conmt. Pet. (C)  
 No. 379/2022; Conmt. Pet. (C) No. 380/2022; Conmt. Pet. (C) No. 495/2022;  
 Conmt. Pet. (C) No. 496/2022; Conmt. Pet. (C) No. 497/2022; Conmt. Pet. (C)  
 No. 499/2022; Conmt. Pet. (C) No. 500/2022; Conmt. Pet. (C) No. 501/2022;  
 Conmt. Pet. (C) No. 502/2022; Conmt. Pet. (C) No. 510/2022; Conmt. Pet. (C)  
 No. 511/2022; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 40504/2022];  
 Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 42287/2022]; Conmt. Pet. (C)  
 \_\_\_\_/2023 [@Diary No(s). 35108/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary  
 No(s). 35111/2022]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 557/2023];  
 Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 811/2023]; Conmt. Pet. (C)  
 \_\_\_\_/2023 [@Diary No(s). 1615/2023]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary  
 No(s). 3030/2023]; Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 3235/2023];  
 Conmt. Pet. (C) \_\_\_\_/2023 [@Diary No(s). 3480/2023]; Civil Appeal  
 No. \_\_\_\_/2023 [@SLP (C) No. 3352/2021]

## JUDGMENT

### S. RAVINDRA BHAT, J.

1. Leave granted in SLP(C) No. 3352 of 2021. Permission to file Contempt Petitions in Civil Appeal No. 5808/ 2017 is granted. These are taken along with the remaining above-mentioned Contempt Petitions.

2. This order will dispose of several contempt petitions which complained of willful and deliberate violation of judgment of this Court in *Shaikh Md. Rafique v. Managing Committee, Conti Rahamania High Madrasah & Ors*<sup>1</sup>. This court had to consider the correctness of the view expressed by the Calcutta High Court which held that some provisions of the West Bengal Madrasa Service Commission Act, 2008 (hereafter, "the Act") was unconstitutional. Those provisions regulated the process of appointment of teachers in aided Madrasas which were recognized as minority institutions. This court recorded its finding that the provisions in question, i.e., Sections 8, 10, 11 & 12 of the Act were valid and constitutional. At the same time the court was conscious that some appointments were made by the *madrasas* during the pendency of the appeals and held as follows:

*"58. In the end, we declare all nominations made by the Commission in pursuance of the provisions of the Commission Act to be valid and operative. However, if after the disposal of the matters by the High Court any appointments are made by the concerned Madarshas, such appointments of teachers shall be deemed to be valid for all purposes. But the Commission shall hereafter be competent to select and nominate teachers to various Madarshas in accordance with the provisions of the Commission Act and the Rules framed thereunder."*

3. All the petitioners argued that even during the pendency of the proceedings in appeal, contempt proceedings had been drawn seeking release of salaries of teachers who were appointed after the provisions of the Act were declared unconstitutional by the High Court. The petitioners advert to interim

orders dated 10.05.2016, 01.08.2016, 17.05.2018, directing that those recruited or working during the pendency of the proceedings ought to be paid salary. It is argued that the effect of the judgement is that even while upholding the provisions of the Act, the court at the same time protected the recruitment of the petitioners. In these circumstances, denial of the benefit of regular service to them on one pretext or the other by the respondent contemnors amounts to deliberate and willful disregard of the Act, and calls for appropriate stringent action.

4. After notice was issued in this contempt proceedings and considering the submissions of the parties, this Court had on 12.07.2022 directed the respondents (alleged contemnors) to consider and verify the claims of the petitioners to examine whether they were legal and valid and release appropriate amounts. The subsequent order of 23.02.2022 had observed that the terms of the final judgement of this court, especially para 58 disclosed that benefits were not confined and relief not granted only to the parties to the litigation but that the directions had the effect of in rem adjudication. The court therefore directed the respondent contemnors to verify from the record with respect to entitlement of all petitioners. The contempt petitioners in their response urged that there are express directions of this court to release salaries of the contempt petitioners without insisting on verifying genuineness of their claims of being teaching/non-teaching staff or having requisite qualifications as required by law. It is also pointed out that this Court was conscious that several appointments had been made which were either irregular or unsustainable having regard to the norms applicable. In this regard the respondent/alleged contemnors relied upon the order dated 07.05.2018 to submit that in that order, the court had unequivocally recorded that no equity would be created on the arrangements made in the stop gap arrangement which would be subject to the final orders in the civil appeals.

5. The respondents also argued that the judgement of this court – i.e. in the directions contained in paragraph 58 - nowhere contained an express direction

to release salary in favour of anyone including the contempt petitioners without insisting upon verification of their claims of their being teaching/non-teaching staff or their having requisite qualification as prescribed by law. It is further submitted that even if the petitioners rely upon earlier interim orders, those were only for release of salary subject to eligibility and verification as per law. The respondents have relied upon the judgement of this court in *Sudhir Vasudeva v. M. George Ravishekaran*<sup>2</sup>, to submit that the court exercising contempt jurisdiction cannot traverse beyond the four corners of the judgement or order alleged to have been flouted or examine questions which have not been dealt with or decided in the judgement of which violation is alleged. It is argued that all that this court did in the final judgement was to hold appointments of individuals made during the pendency of the appeals and the High Court judgement valid. The context of the judgement was the applicability of provisions of the Act. However, that did not mean that other statutory conditions such as qualifications, recognition or otherwise of the *madrasa* concerned; its eligibility for grant-in-aid; the qualifications held by the candidate at the time of appointment; existence of vacancies and the manner in which the selection took place, etc. could not be considered. The alleged contemnors relied upon the recruitment rules in this regard which prescribed the manner of recruitment such as publication of employment notification; the roster of vacancies; staffing pattern; whether the institution is eligible and admitted to aid or not.

6. As noted earlier, the judgement of the High Court in the appeal had declared unconstitutional certain provisions of the Act. This court, in its judgement set aside those findings of the High Court regarding validity of the Act. Consequently, the provisions of the Act were held to be valid and binding. The Act sought to regulate appointments to various institutions covered by it, including the *madrasas* in West Bengal. This court upheld the provisions of the Act after examining the relevant details and *inter alia* held as follows:

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2 (2014) 3 SCC 373

"54. The regime put in place by the State legislature thus ensures that the Commission comprising of experts in the field would screen the talent all across the State; will adopt a fair selection procedure and select the best available talent purely on merit basis; and even while nominating, the interest of the minority institution will also be given due weightage and taken care of. The statutory provisions thus seek to achieve 'excellence' in education and also seek to promote the interest of the minority institutions. The provisions satisfy the test as culled out in the decision of this Court in TMA Pai Foundation case.

55. In our considered view going by the principles laid down in the decision in TMA Pai Foundation case, the concerned provisions cannot, therefore, be said to be transgressing the rights of the minority institutions. The selection of the teachers and their nomination by the Commission constituted under the provisions of the Commission Act would satisfy the national interest as well as the interest of the minority educational institutions and said provisions are not violative of the rights of the minority educational institutions.

56. The aforesaid conclusions have been arrived at by us in keeping with the principles laid down by this Court in TMA Pai Foundation case.

We are aware that in *Brahmo Samaj Education Society, Sindhi Education Society and Chandana Das (Malakar)*, decided after TMA Pai Foundation, this Court had also dealt with the question whether the concerned authorities could validly nominate teachers to be appointed in minority educational institutions. *Brahmo Samaj Education Society* did not specifically deal with the question whether rules were valid or not and left it to the authorities to bring the rules and regulations in conformity with the principles in TMA Pai Foundation case. *Sindhi Education Society* dealt with the issue in the context of reservation. It also found that the teachers nominated by the concerned authorities would not be compatible to teach in educational institutions run by linguistic minorities. In *Chandana Das (Malakar)* the basic issue was whether the concerned institution was a minority institution or not. *Sindhi Education Society and Chandana Das (Malakar)* dealt with statutory regimes which did not have any special features or matters concerning compatibility of teachers which could be required going by the special characteristics of the minority educational institutions. However, the additional feature in the present matter shows that the composition of the Commission with special emphasis on persons having profound knowledge in Islamic Culture and Theology, would ensure that the special needs and requirements of minority educational institutions will always be taken care of and thus the present case stands on a different footing.

We, therefore, have no hesitation in going by the test culled out in the TMA Pai Foundation and hold that the provisions of the Commission Act are not violative of the rights of the minority educational institutions on any count."

7. In Para 58, the court declared the nominations by the Commission in pursuance of the provisions of the Act as valid, and the appointments made, after disposal of the matters by the High Court as deemed to be valid for all purpose. However, there is no discussion with respect to whether the court had applied its mind as to how the *madrasas* had proceeded to appoint teachers as teaching/non-teaching staff. Also there is no discussion regarding rules/regulations, applicable circulars and guidelines in terms of which aided and unaided recognized institutions could make appointments, having regard to the standard of education required and the requisite experience; whether a transparent method was followed; whether the *madrasa* concerned was recognized one or not; whether the committee or body selecting the individual was constituted in accordance with the rules and regulations, etc. The argument of the respondent/alleged contemnors that there ought to be an exercise of verification, therefore, appears to be merited and substantial.

8. In these circumstances, given the nature of the interim orders made during the pendency of the appeal, there can be no doubt that the court declared the appointments to be valid to the extent, they conformed to the concerned rules and binding norms. To hold otherwise would be to disregard the provisions, norms and guidelines constituting the essential and basic standards which every educational institution is expected to conform to.

9. Furthermore, there is merit in the respondents' submission that the court, in contempt proceeding cannot enlarge its scope and examine matters which are not part of its remit, i.e. extent of the direction or orders contained in the judgement of which contempt being alleged. In fact, in the decision in *Sudhir Vasudeva* (supra), it was held as follows:

*"19. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-*



*determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. The Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or wilful violation of the same. Decided issues cannot be reopened; nor can the plea of equities be considered. The Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. The above principles would appear to be the cumulative outcome of the precedents cited at the Bar, namely, Jharieswar Prasad Paul v. Tarak Nath Ganguly [(2002) 5 SCC 352 : 2002 SCC (L&S) 703] , V.M. Manohar Prasad v. N. Ratnam Raju [(2004) 13 SCC 610 : 2006 SCC (L&S) 907] , Bihar Finance Service House ConstructionCoop. Society Ltd. v. Gautam Goswami [(2008) 5 SCC 339] and Union of India v. Subedar Devassy PV [(2006) 1 SCC 613]."*

10. In the present case too, this court is of the opinion that the respondents' stand that without verification of the petitioners' appointment and whether the procedures prescribed were duly followed in respect of matters such as fulfilling eligibility conditions (essential qualifications and relevant experience); availability of vacancy; staff pattern in respect of *madrasas* where recognition was granted and if so for what period; whether the institution was aided and recognized or not or recognized and non-aided, and if so for what duration; whether a duly empowered selection body or bodies considered the candidature of the claimant before he/she was appointed and whether the committee or body selecting the individual/claimant was constituted in accordance with the rules or guidelines, etc is justified. In these circumstances, this court is of the opinion that further proceedings cannot be continued as no determination can be made unless there is a due verification in regard to the employment of each of the petitioners.

11. Furthermore, this court, in lawful exercise of contempt jurisdiction, cannot examine the merits of a decision, whether the state or the madrasa's stand that any of the petitioners is entitled to the benefits of being treated as an employee, having regard to the concerned rules and regulations. In *J.S. Parihar v. Ganpat Duggar*<sup>3</sup> this court explained the limited scope of contempt proceedings, as follows, in the facts of the case:

*"6. The question then is whether the Division Bench was right in setting aside the direction issued by the learned Single Judge to redraw the seniority list. It is contended by Mr S.K. Jain, the learned counsel appearing for the appellant, that unless the learned Judge goes into the correctness of the decision taken by the Government in preparation of the seniority list in the light of the law laid down by three Benches, the learned Judge cannot come to a conclusion whether or not the respondent had wilfully or deliberately disobeyed the orders of the Court as defined under Section 2(b) of the Act. Therefore, the learned Single Judge of the High Court necessarily has to go into the merits of that question. We do not find that the contention is well founded. It is seen that, admittedly, the respondents had prepared the seniority list on 2-7-1991. Subsequently promotions came to be made. The question is whether seniority list is open to review in the contempt proceedings to find out whether it is in conformity with the directions issued by the earlier Benches. It is seen that once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be the wilful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the learned Single Judge cannot be given to redraw the seniority list. In other words, the learned Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible under Section 12 of the Act. Therefore, the Division Bench has exercised the power under Section 18 of the Rajasthan High Court Ordinance being a judgment or order of the Single Judge; the Division Bench corrected the mistake committed by the learned Single Judge. Therefore, it may not be necessary for the State to file an appeal in this Court against the judgment of the learned Single Judge when the matter was already seized of the Division Bench."*

12. In a later decision, *Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda*<sup>4</sup> this court explained the limitations of a court exercising contempt jurisdiction:

*"11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarised thus:*

3 (1996) 6 SCC 291

4 (2006) 5 SCC 399

*I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.*

*II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.*

*III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.*

*IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of "jurisdiction to punish for contempt" and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions.*

*V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases)."*

13. It is thus, apparent, that if this court were to pronounce upon the merits of the respondents' position, it would necessarily have to consider the facts of each case, and decide whether the stand of the alleged contemnors – wherever a decision adverse to the petitioners is taken, is correct on its merits. That exercise, plainly is not admissible in proper exercise of contempt jurisdiction.

14. The above observations would have ordinarily been conclusive and dispositive of the present petitions. However, this court is conscious of the fact that the process of verification undertaken by the state would result in further delay and may lead to multifarious litigation, spelling uncertainty to individuals and members of staff of *madrasas* who were appointed after following all norms and procedures.

15. During the hearing this court had suggested constitution of a committee which would examine all relevant factors and verify the claims of the petitioners which could then be considered and acted upon by the same. This suggestion was acceptable to the state, the commission and concerned

*madrasas* who are represented by Mr. Rakesh Dwivedi, Mr. C.U. Singh, Sr. Advocates and other counsel.

16. During the hearing, the court had suggested constitution of a committee which would go into all relevant factors and verify the claims of the petitioners which would then be considered and acted upon by the same. This suggestion was acceptable to the state, the concerned *madrasas* and the petitioners, represented by M/s. Rakesh Dwivedi, C.U. Singh, and Huzeffa Ahmadi, Sr. Advocates, Ms. Madhumita Bhattacharjee, Mr. Bikash Ranjan Bhattacharya, and other counsel.

17. Accordingly, this Court exercising its powers under Article 142 hereby constitutes a Committee headed by Justice Debi Prasad Dey, retired Judge, Calcutta High Court. The Committee shall also consist of a Principal Secretary ranking officer of the IAS, who had served in the West Bengal cadre and stationed in Kolkata with experience in the Higher Education Department as well as a retired Registrar of one of the State Universities in West Bengal, residing in Kolkata. The State Government shall nominate the members other than the Chairman. The Committee is requested to consider the claims of the petitioner, keeping in mind the following:

(a) Whether the *madrasa* or its managing committee was recognized by the state government on the date on which the appointment was made?

(b) Whether such appointments were made, of candidates who possessed the requisite prescribed qualifications and fulfilled the experience and other eligible conditions stipulated for the post concerned?

(c) Whether such an appointment was made by following the recruitment procedure indicated in the Kolkata Gazette Notification dated 11-03-2015 (No. 93-SE/S/10R-14/2013-9<sup>th</sup> February, 2015) and in Kolkata Gazette Notification dated 04-03-2016 (No. 486-MD/O/2M-11/2016)?

(d) Whether the appointments were made against vacancies that existed and whether the vacancies conformed to the staffing pattern for the concerned institution/*madrasas*

(e) Whether after the appointments were made, the persons appointed actually worked on their respective posts?

(f) Whether the appointments were actually made on the date of the appointment letter, or were backdated?

18. The remuneration of the Chairperson of the Committee shall be ₹ 10,00,000/- and that of each member shall be ₹ 5,00,000/-. The committee shall complete its task expeditiously; and, within four months from today, submit a report to the State Government, which shall then pass appropriate orders in respect of the petitioners within two months thereafter.

19. Ms. Madhumita Bhattacharjee submitted that all necessary co-operation would be extended by the State Government, which is directed to provide infrastructure, and the necessary staff to the committee to complete its task. The State Government is directed to notify the committee, within four weeks from today, and give appropriate publicity to those interested to seek verification of their claim. Such publicity shall be through appropriate advertisement in newspapers, both in English and in Bengali. In addition, the notification shall also be placed on the website of the State Government's Minority Affairs & Madrasah Education Department, Nabanna, Howrah. The notification shall indicate the time within which representations can be made. It is open to those claiming benefit, as well as those likely to be affected by the report, to represent to the committee, within the time stipulated. The committee shall also consider a suitable and practicable method of giving hearing to those interested.

20. These petitions and pending applications/appeal(s) are disposed of in the above terms.

.....J.  
[S. RAVINDRA BHAT]

.....J.  
[DIPANKAR DATTA]

NEW DELHI,  
FEBRUARY 02, 2023.