



2026:AHC-LKO:12155-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 141 of 2024

Dr. Mahendra Dev

.....Appellant(s)

Versus

Hari Sharan Pandey

.....Respondent(s)

Counsel for Appellant(s)	: C.S.C.
Counsel for Respondent(s)	: Suresh Chandra Verma, Girish Chandra Verma

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE JASPREET SINGH, J.**

1. Heard Shri Mohit Jauhari, learned counsel for the appellant and Shri G.C.Verma, learned Senior Counsel assisted by Shri K. B. Pandey for the respondent.
2. This Intra court appeal has been preferred under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 against the order dated 16.05.2024 passed in Contempt Application (Civil) No.3139 of 2022 whereby the Contempt Court has rejected the affidavit of compliance filed by the appellant, with a further direction to file a fresh affidavit of compliance considering the order dated 27.06.2016 passed by the then District Inspector of Schools in pursuance of the directions of Deputy Director, Secondary Education, Gorakhpur Division, Gorakhpur dated 17.05.2016, failing which, the appellant was required to appear before the Contempt Court for framing of charges.
3. Submission of the learned Standing Counsel for the appellant is that the Court has exceeded its jurisdiction by entering into the merits of the controversy and rejecting the affidavit of compliance and fresh directions have been given which are not within the domain of the Contempt Court.
4. Learned Standing Counsel has further urged that the writ court while disposing of the writ petition had directed the appellant (who was the respondent in the writ petition) to make payment of arrears of salary to

the writ petitioner within six weeks from the date a certified copy of the order was served on the Director, Secondary Education, Uttar Pradesh.

5. It is urged that since the writ petitioner was acting as the Principal in 'Gha' category of Mahavidyalaya, hence his salary has been computed on the said basis. However, the Contempt Court directed a fresh compliance to be made considering the order dated 17.05.2016 and 27.06.2016.

6. It is submitted that the Contempt Court can ascertain as to whether the order passed by the writ court has been complied with or not, but it cannot give direction beyond the ambit of the order passed by the writ court. Thus, the directions of the Contempt Court were based on merits of the controversy and the direction is beyond the order passed by the writ court, hence the same deserves to be set aside.

7. Shri G. C. Verma, learned Senior Counsel for the respondent while refuting the aforesaid contention has also raised a preliminary objection regarding maintainability of the instant intra court appeal and has submitted that the Contempt Court has not decided the lis nor has given any direction beyond the scope of the order of writ court and thus the intra court appeal deserves to be dismissed as not maintainable.

8. He has further urged that the issue had already been settled by a Division Bench of this Court who in Writ-A No.18496 of 2016 (Vidya Dhar Pandey vs. State of U.P. and 5 others) wherein the Court categorically held that the Govt. Order dated 14.10.1974 was rescinded and further held that there is no scope for treating any Sanskrit institution in any of the four categories as per the Govt. Order dated 14.10.1974. Hence, the basic premise upon which the respondents are denying the benefits to the petitioner is patently erroneous.

9. The Court has heard the learned counsel for the parties and also perused the material on record.

10. At the outset, it may be noticed that by means of order dated 16.05.2024 the Contempt Court has merely rejected the affidavit of compliance finding that the order passed by the writ court had not been complied with. An opportunity of compliance has been granted, failing

which, the officer concerned was required to appear for framing of charges. Such an order in any manner does not decide the 'lis' nor it can amount to an order expressing any opinion on merits of the controversy. The appellant has the opportunity of filing a fresh affidavit as already allowed by the Contempt Court. Even if for any reason the appellant finds that the order passed by the writ court has been complied with, then the same can be explained to the Contempt Court, who needless to say after considering the contention of the respective parties would proceed, as per law.

11. This Court had the opportunity of considering under what circumstances a special appeal can lie from an order arising out of contempt proceedings in **Subhash Chandra v. Srikant Goswami, 2024 SCC OnLine All 5435** and following principles were noted therein which reads as under:-

"69. The pith and substance of the aforesaid discussion, the legal principles involved and circumstances when an appeal may lie under Section 19 of the Contempt of Courts Act, 1971 and when a Special Appeal may lie from an order passed in contempt jurisdiction can be summarized as under :

(A) Section 19 (1) of the Contempt of Courts Act can be invoked only when the Contempt Court has exercised its jurisdiction to punish for contempt. The essence of this provision is to provide a remedy against decision where the Court has taken a definitive action to penalize a contemnor. This includes orders that impose fines, imprisonment, or other punitive measures directly related to the contemptuous behavior. Interlocutory orders, which do not entail punishment for contempt, do not fall within the ambit of Section 19. Such orders may include directions to produce documents, file affidavits, or procedural directives necessary for the continuation of the contempt proceedings. These are routine judicial actions that facilitate the progress of the case but do not constitute a final determination on the issue of contempt. Routine orders passed during the pendency of contempt proceedings are also excluded from the scope of Section 19. These orders are typically procedural and administrative in nature, ensuring that the proceedings move forward without addressing

the substantive issues of the original case or the merits of the contempt.

(B) The crux of the matter lies in the nuanced interpretation of what constitutes "merit" within the context of contempt proceedings, as referenced by the Supreme Court in the Midnapore Peoples Cooperative Bank Limited case. The term "merit" has not been defined in a *straight jacket* formula, leading to varying interpretations. However, a cumulative reading of the judgments provide clarity on several key aspects. In the Midnapore case, the Supreme Court held that in contempt proceedings, it is inappropriate to adjudicate or decide any issue related to the merits of the dispute between the parties. This principle aims to ensure that contempt proceedings do not encroach upon the substantive rights of the parties involved in the original dispute. The focus of contempt jurisdiction is to uphold the dignity and authority of the Court, not to resolve the underlying dispute. The term "merit" in this context refers to the substantive issues of the original case that led to the contempt proceedings. It encompasses the core legal and factual questions that were or are being contested in the original litigation.

(C) Special appeals from the order or judgment of a single judge bench in contempt cases hinge on the distinction between addressing the merits of the original dispute and the conduct constituting contempt. The primary responsibility of the Contempt Court is to determine whether contempt has occurred and to impose appropriate sanctions if it has. The merits of the original controversy are outside the domain of the contempt Court. However, when the Contempt Court issues directions or discusses the merits of the original controversy, it oversteps its jurisdiction. In such cases, a special appeal would lie to the High Court. This ensures that the original substantive issues are not inadvertently decided within the limited scope of contempt proceedings, preserving the parties' rights to a fair adjudication of their dispute.

(D) The interpretation of each case depends on its specific facts and circumstances. Courts must carefully distinguish between orders that address the procedural aspects of contempt proceedings and those that encroach upon the substantive issues of the original case. This distinction is crucial to maintaining the integrity of contempt jurisdiction and

ensuring that appeals under Section 19 of the Act of 1971 are appropriately limited to cases where punitive action for contempt has been taken."

12. Applying the aforesaid principle to the instant case, this Court finds that the order impugned falls short of the ingredients which are required in an order passed by a Contempt Court against which an appeal may lie.

13. Accordingly, for the aforesaid reasons, the intra court appeal is dismissed as not maintainable.

(Jaspreet Singh,J.) (Arun Bhansali,CJ.)

February 16, 2026

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