Vijai Pratap Singh Vs Ajit Prasad and Others

Court: Allahabad High Court

Date of Decision: Sept. 20, 1965

Acts Referred: Constitution of India, 1950 â€" Article 361(2)
Contempt of Courts Act, 1971 â€" Section 1, 2, 4

Citation: AIR 1966 All 305 : (1966) CriLJ 632

Hon'ble Judges: Gyanendra Kumar, J

Bench: Single Bench

Advocate: Bir Bhadra Pratap Singh, N.C. Upadhya, for the Appellant; Shanti Bhushan, K.L. Grover, G.C. Bhattacharya and Jagish Swarup, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Gyanendra Kumar, J.
The petitioner, V. P. Singh, is an Advocate practising at Azamgarh, Opposite Party No. 1, Shri Ajit Prasad Jain

was erstwhile President of the U. P. Congress Committee, while Opposite Party No. 2, Govind Sahai is the General Secretary of the U. P.

Congress Committee. Opposite Party No. 3, Rameshwar Narain Singh is the General Secretary of the District Congress Committee, Azamgarh.

Election for membership of Prarambhik (Primary) Congress Committee of Tarwa in the district of Azamgarh was held on 10-4-84 for which the

applicant and one Badri Singh were the only two candidates. Badri Singh aforesaid was declared elected. Accordingly on 16-4-64 the applicant

filed suit No. 132 of 1964 in the Court of the City Munsif, Azamgarh, on the allegations that the Election Officer had committed certain illegalities

and irregularities in conducting the said election; as such the same may be declared to be void and inoperative. Along with the plaint the petitioner

had also filed an application for injunction whereupon the Munsif issued an ad interim order, dated 18-4-64 restraining the District Election Officer.

Assistant District Election Officer and Polling Officer, Tarwa. from holding elections for membership of the District Congress Committee, Pradesh

Congress Committee and Mandal Congress Committee of Tarwa constituency. Badri Singh, who was declared elected as member of the

Prarambhik Congress Committee and who was arrayed as defendant No. 5 to the suit, was also restrained from taking part in those elections

pending final orders. Badri Singh thereupon filed an application, dated 21-4-64 praying for vacating the injunction order, dated 18-4-64.

2. It appears that by its resolution, dated 4/5-12-1950 the Working Committee of the Indian National Congress had passed a resolution to the

effect that any member of the Congress having a grievance in respect of any election of the Congress organisation should approach the tribunals set

up by the Congress for that purpose and should obtain redress by way of appeal or reference to one or the other of the tribunals established under

the Congress Constitution. It was clearly set out that such matters should not be taken to law Courts. It was accordingly resolved by the Working

Committee that any member who institutes a suit or other proceedings in law Courts against any Congress Committee or official was liable to

summary removal from the membership of the Congress by order of the Provincial Congress Committee concerned. In view of the above

resolution Sri Gulzari Lal Nanda, who had been delegated the authority of the Working Committee in respect of organisational election in U. P.,

issued a directive, dated 20-4-1964 to the President, U. P. Congress Committee, Opposite Party No. 1, to take immediate action against those

members who had gone to the Courts in regard to the Congress organisational elections anywhere in U. P. Accordingly on 21-4-1964 Opposite

Party No. 1 issued circular letters to all the District Returning Officers in U. P expelling those Congressmen from membership of the Congress who

had filed suits in law Courts concerning organisational elections. Inter alia, one such letter each was also issued by opposite parties Nos. 1 and 2 to

the District Returning Officer, Azamgarh, expelling the petitioner and removing his name from the membership of the Congress. This decision was

duly communicated by the District Returning Officer, Azamgarh, to the petitioner. Similar expulsions of many Congressmen were also made in

various other districts of U. P.

3. The application, dated 21-4-1964 of Badri Singh (defendant No. 5 to the suit) for vacating the injunction order came up for final hearing before

the City Munsif, Azamgarh, on 25-4-1964, when opposite party No. 3 filed his affidavit mentioning the fact that the petitioner had since been

expelled from the Congress organisation. The Munsif accordingly vacated the interim injunction by his order, dated 27-4-1964 principally on the

ground that the petitioner was no longer a member of the Congress organisation. On 9-5-1964 the petitioner moved an application before the City

Munsif for proceedings in contempt, inasmuch as the present opposite parties had acted in collusion with one another and. by removing him from

Congress organisation, had directly interfered with the normal course of justice by hampering the progress of the suit. The learned Munsif by his

order, dated 30-5-1964 rejected the aforesaid application mainly on the ground that the present respondents were not parties to the suit. Hence

the petitioner has filed the instant application in this Court for punishing the opposite parties for having committed the contempt of the Court of the

City Munsif, Azamgarh, on the basis of the afore-mentioned facts.

4. Opposite parties Nos. 1 and 2 filed their respective written statements, with almost identical pleas, while opposite party No. 3 filed his counter

affidavit, more or less on similar grounds. Their contention is that the Indian National Congress is a voluntary organisation which is not incorporated

or registered under any law. It has its own constitution and procedure for elections and has set up different tribunals for the settlement of disputes

relating to organisational elections, which are, therefore, alleged to be beyond the jurisdiction 01 the Courts of law. It was contended that the

opposite parties had full right and justification for expelling the petitioner and removing his name from the member ship of the Congress; that this

was done on the strength of the resolution of the Congress Working Committee, dated 4/5th December 1950 and the circular letter, dated 20-4-

64 issued by Shri Gulzari Lal Nanda to the President of the U. P. Congress Committee (opposite party No. 1) that opposite parties Nos. 1 and 2

were duty bound to co-operate with Shri Nanda and so, in their turn, they issued circular letters to all the District Returning Officers of U. P.,

expelling all Congressmen (including the petitioner) who had approached law Courts to seek redress regarding organisational elections; and that

the petitioner or his suit in question was not directly or indirectly in the minds of opposite parties Nos. 1 and 2 when the circular letters referred to

above were issued by them, and that the name of the petitioner was removed from Congress membership, in the light of the general policy of the

Congress and not with a view to render his suit infructuous or to oust the jurisdiction of the Court. It was, therefore, pleaded by all the opposite

parties that they were not guilty of any contempt of the Court of the City Munsif. Azamgarh.

5. It is the admitted case of the parties that soon after filing his written statement, dated 26-2-1965 opposite party No. 1 (Shri Ajit Prasad Jain)

became the Governor of Kerala. A preliminary objection has, therefore, been taken on his behalf that in view of the provisions of Article 361(2)

and (3) of the Constitution of India, the present proceedings for contempt of Court, which are in the nature of criminal proceedings, cannot be

continued against opposite party No. 1, who is now the Governor of a State and no coercive process can be issued against him during his term of

office. The relevant portions of Article 361 read as under:--

(2) No criminal proceedings whatsoever shall be instituted or continued against.....

the Governor or Rajpramukh of a State, in any Court during his term of office.

(3) No process for the arrest or imprisonment of the. . . . Governor or Rajpramukh of a State, shall issue from any Court during his term of office.

The reply on behalf of the petitioner is that proceedings in contempt are neither criminal nor civil in nature but sui generis, as such Sub-clauses (2)

and (3) of Article 361 have no application to the instant case.

6. The learned Counsel for the parties concedes that there is no direct authority on the question involved in the instant case. The main thing which

has, therefore, to be determined in this case is whether the present action for con tempt of Court can at all be termed as a criminal proceeding

within the meaning of Article 361(2) of the Constitution of India. No word in a statute can be considered to be superfluous. The use of the word

''whatsoever'' after the words ''criminal proceedings'' in Sub-clause (2) of Article 361 is not without significance. Evidently it embraces not only

criminal proceedings per se but even quasi criminal proceedings or those proceedings which ultimately merge into a criminal proceeding. If the

present case can fall in any of these three categories, it cannot be continued against opposite party No. 1, who is currently the Governor of a State.

The bar is constitutional and is absolute.

6a. Now let us examine the nature of the present proceedings in contempt. The distinction between civil contempt and criminal contempt is well

known. The question for determination is whether the instant proceedings are in the nature of civil contempt or criminal contempt or quasi civil and

quasi criminal which may ultimately merge into a criminal contempt. In this connection reference may be made to the leading case of O''Shea v.

O''Shea and Parnell (1890) 15 PD 59. In that case the alleged contempt of Court consisted of the publication in a newspaper called The

Freeman''s Journal'' of an article commenting upon the conduct of the petitioner thereto in a pending action against his wife for dissolution of

marriage, which was calculated to prejudice the petitioner in the eves of the public and to discredit him in the assertion of right in the Court of trial

The probate Court held that Tuohy was the manager of the office of the newspaper and was responsible for publication of the article. He was

found guilty and a fine of 100Ã¯Â¿Â½ was inflicted on him and in default it was ordered that a writ of attachment should issue against him unless he paid

the fine within a certain period. Tuohy went up before the Court of appeal. The objection taken on behalf of the respondent was that the infliction

of fine and in default the issue of a writ of attachment was a criminal proceeding; and Section 47 of the Judicature Act of 1873 says that no appeal

would lie to the Court of appeal against a criminal proceeding. So the appear was incompetent. On the other hand, the contention of the appellant

was that attachment for contempt of Court was a civil proceeding and was not a criminal matter and as such an appeal lay to the Court of appeal.

It was pointed out that the question was not determined by the fact that the proceeding in respect of which the order was made was a civil

proceeding for a contempt of a Court in a civil proceeding may be of a criminal character. It was also point-out that there were two kinds of

contempt of Court; when it is a mere disobedience of an order of the Court in a civil action it is not a criminal proceeding, and then there will be an

appeal; for in that case attachment is issued only to enforce the order in the civil action. But in O''Shea''s case, (1890) 15 PD 59, it was alleged

that there had been an interference with the course of justice by a stranger to the suit which was a high public injury and, therefore, criminal. On

behalf of the appellant it was said in reply that the contempt was not an insult to the Judge or to the dignity of the Court: it was a private injury to

the petitioner whose rights in the cause were prejudiced by it and, therefore, it was of civil nature. The controversy rested on the interpretation of

the material part of Section 47 of Judicature Act 1873 which ran as follows:--

And no appeal shall lie from any judgment of the said High Court in any criminal cause or matter .....

Cotton, L. J, delivered himself on the point as under:--

The present proceeding is for a contempt of Court. Of course, there are many contempts of Court that are not of a criminal nature; for instance,

when a man docs not obey an order of the Court made in some civil proceeding, to do or to abstain from doing something as where an injunction

is granted in an action against defendant, and he does not perform what he is ordered to perform, and then a motion is made to commit him for

contempt that is really only a procedure to get something done in the action, and has nothing of a criminal nature in it. But is that so here ..... what

gives the Court the power to act is the fact that the appellant has done something to prevent the course of justice by preventing the divorce suit

from being properly tried. That is clearly a contempt of Court of a criminal nature. . ..... every thing done to prejudice the judge or jury in the trial

of an action is a criminal act, because it is an attempt to prevent the course of justice an application to punish an attempt to induce the jury not to

try the case properly, which is as much a criminal act as an attack upon the Judge himself.. .. In the present case the whole proceeding is to punish

the appellant for a wrong which he has done, and not to the doing of anything for the petitioner''s benefit in the action in the Divorce Division. It

was a proceeding therefore, entirely out-side the divorce action.

Lindley, L. J. agreeing with Cotton L. J. observed:--

It is really an appeal from a summary conviction for a criminal offence,"" The opinion of the third fudge, viz.. Lopes, L.J. was also the same. He

held:--

The object of the application was to obtain the punishment of the appellant ..... I am clearly of opinion that this order was made in a criminal

matter.

In Seaman v. Burley 1896 2 QB 344, the matter of interpretation of Section 47 of the Judicature Act 1873 again came up for consideration where

a warrant of distress was issued on an application to enforce payment of a poor rate. It was held that inasmuch as the proceedings before the

justices may end in imprisonment of the person in default it was a criminal matter within the meaning of Section 47.

7. Coming to Indian decisions reference may first be made to the well known case of Tarit Kanti Biswas, In the matter of AIR 1918 Cal 988 (SB),

wherein it was pointed out by Sir Asutosh Mookerjee, inter alia, relying upon the English authority of (1890) 15 PD 59, noted earlier:--

A criminal contempt is conduct that is directed against the dignity and authority of the Court. A civil contempt, on the other hand, is failure to do

something ordered to be done by a Court in a civil action for the benefit of the opposing party therein. Consequently, in the case of a criminal

contempt, the proceeding is for punishment of an act committed against the majesty of the law and as the primary purpose of the punishment is the

vindication of the public authority the proceeding confirms as nearly as possible to proceedings in criminal cases. In the case of a civil contempt on

the other hand, the proceeding in its initial stages at least, when the purpose is merely to secure compliance with a judicial order made for the

benefit of a litigant, may be deemed instituted at the instance of the party interested and thus to possess a civil character. But, here also refusal to

obey the order of the Court may render it necessary for the Court to adopt punitive measures against the person who has defied its authority at that

stage at least the proceedings may assume a criminal character. In this manner the dividing line between acts which constitute criminal and others

which constitute civil contempt may become indistinct in those cases, where the two gradually merge into each other. . ... The power to punish for

contempt is inherent in the very nature and purpose of Courts of Justice. It subserves at once a double purpose, namely, as an aid to protect the

dignity and authority of the tribunal and also as an aid in the enforcement of civil remedies. The power may consequently be exercised in civil or

criminal cases or independently of both and either solely for the preservation of the authority of the Court or in aid of the rights of the litigant or for

both these purposes combined By reason of this two-fold attribute, proceedings in contempt may be regarded as anomalous in their nature

possessed of characteristics which render them more or less difficult of ready or definite classification in the realm of judicial power. Hence such

proceedings have some times been styled sui generis. That they are largely of a criminal nature inasmuch as the Court has power to convict and

punish for the wrong committed, cannot be disputed and yet it must be recognised that in some respects by reason of the end subserved they

partake of the nature of a civil remedy This dual characteristic has given rise to many controversies, the difficulty in each case is to determine when

a particular proceeding assumes the criminal rather than the civil aspect, or when of both, and if the latter which feature must control. The question

has been repeatedly and elaborately discussed by the Supreme Court of the United States . . The view deducible from these decisions is in general

agreement with what is indicated above, namely, a proceeding to punish for contempt has the essential qualities of a criminal proceeding, whether

the proceeding is initiated primarily to vindicate the Court''s authority or solely as a coercive and a remedial measure to enforce the rights of the

litigant or for both these purposes combined. This must be so since it necessarily results from the nature of the power to punish for contempt that

whatever the primary purpose of such a proceeding may be, it is always within the power of the Court to make its judgment, in part, at least,

punitive or vindicatory in character. In other words, where the sole purpose sought by initiating the proceeding is to secure the coercive and

remedial action of the Court against a party, the Court may nevertheless, in its discretion, add a punishment by way of fine or imprisonment, for the

failure of the person in contempt to obey its mandate, I think it undeniable that the proceeding must be regarded from its inception to the point of

judgment as of a criminal nature.

8. It was next contended on behalf of the petitioner that a criminal proceeding must necessarily arise out of an "offence'' as understood in law, and

inasmuch as the present proceedings do not arise out of any statutory offence, they cannot be considered to be criminal in nature and as such do

not confer immunity on the Governor of a State. The reply on behalf of opposite party No. 1 is that the present proceedings do arise out of an

offence and even if they do not so arise out of a statutory offence, they would still be considered to be criminal in nature.

In support of their respective contentions, learned counsel for both the parties have placed reliance upon different portions of the Full Bench

decision of this Court in State Vs. Padma Kant Malviya and Another, . In that case the main question was whether the contemner, who had

voluntarily filed his affidavit could be cross-examined on it. As in the present case, it was argued there also on behalf of the opposite party that

contempt of Court is an act made punishable by Contempt of Courts Act XXXII of 1952, and consequently it was an offence. In that connection if

became necessary to consider the scope of Article 20(3) of the Constitution of India whether contempt of Court was an offence as defined in law

and whether a contemner was an accused. Article 20(3) of the Constitution provides that: ""No person accused of an offence shall be compelled to

be a witness against himself."" The word "offence" has been defined in Section 3(38) of the General Clauses Act X of 1897 and also in Section 4

(0), Cr. P. C. as meaning ""any act or omission made punishable by any law for the time being in force""; while S 40 of the I. P. C. provides that the

word "offence" denotes a thing punishable under the Code or any other special or local law. Thus the word offence has obviously been used in the

sense of a law enacted by a competent legislature Unlike the I. P. C. and other penal enactments the Contempt of Courts Act does not make any

particular act or omission as punishable thereunder, although maximum punishment awardable under the Act has been prescribed by Section 5, In

other words, though the maximum punishment, which may be inflicted on a contemner has been laid down, there is no offence" as such which has

been made punishable under the statutory provisions of the Act. However there can be a criminal wrong (though not offence) on the part of the

contemner for which he may be punished under the Act. The proceedings leading thereto being punitive would obviously be criminal in nature.

9. Malik, C. J. delivering the leading judgment observed as follows:--

That being the legal position that nothing can be treated as a crime unless made so under some statutory provision, the word ""law"" in the definition

of the word ""offence"" in the General Clauses Act must mean statute law. In other words, the definition in the General Clauses Act, Section 3(38)

that ""offence"" shall mean any act or omission made punishable by any law for the time being in force"" means made punishable by the Penal Code or

by a Statute passed by a competent legislature.

If I am right in my view that ""offence"" in Article 20(3) of the Constitution must mean what is made an offence by statute, then the answer to the

third question must be that a contemner is not a person accused of an "offence" within the meaning of Article 20(3) of the Constitution unless it can

be held that contempt has been made punishable by any law passed by a competent legislature.

The only other point that remains to be considered is whether contempt of Court has been made an offence under any statute .....

After considering various cases Malik. C.]. observed:

The Contempt of Courts Act (Act XII of 1926) to my mind, cannot be said to be the law which makes contempt punishable (as an offence).

To my mind, even criminal contempt cannot be said to be a crime made punishable by law and it, therefore, does not come under the definition of

the term "offence in the General Clauses Act though by ancient practice it has been made punishable by Courts of record.

(10) Desai, J. (as he then was) in his separate but concurrent judgment observed as under:--

Contempt has been divided into civil contempt and criminal contempt. It cannot be disputed that the contempt that we are considering is criminal

contempt; the object of the proceedings is not to enforce compliance with any order made by a Court but to punish for interference with the

administration of justice by a Court.

His Lordship then quoted the observations of Brewer, J. in the case "Bessette" at p. 1001 (1903) 194 U. S. 324 to the effect--

A contempt proceeding is sui generis. It is criminal in its nature, in that the party is charged with doing something forbidden, and, If found guilty is

punished.

According to Corpus Juris (11) p. 8:

Although a contempt of Court is in a sense sui generis, it is commonly regarded as in the nature of a crime although not necessarily as a criminal

offence. However criminal contempts .... are offences against organised society and public justice .and the proceedings to punish it (them) are

punitive.

11. His Lordship then quoted with approval the observations of Holmes. J. in Compers v. United States, (1913) 58 L E 1115:--

that if contempts "are not criminal, we are in error as to the most fundamental characteristies of crimes.

Though contempt may be a crime, it is not an offence as that word is understood in our Constitution."" In the end Desai, J. observed:--

I think the words "accused" and "criminal proceedings" must be understood in the same sense in which those words are used in Criminal P. C. A

contemner, even though the contempt committed by him is of criminal nature is not an accused in the narrow sense in which the word is used in

Criminal P. C. The proceedings against him may be criminal proceedings for certain purposes but not for the purpose of deciding whether an oath

should be administered to him or not. I have already shown that contempt proceedings are special proceedings not governed by "any rule. .."".

11a. Mukerji, J. likewise observed:

I have already noticed that the definition of the word "offence" in the General Clauses Act does not apply to a contemner.

12. Learned counsel for the petitioner has also placed reliance on the case of Ch. Shyam Sunder Vs. Daw Dayal Khanna, , In this case the

question was as to how the cost awarded in a contempt case be realised In that connection it was observed:

Contempt proceedings are neither civil not criminal but sui generis. A High Court punishes contempt of Court as a Court of Record in exercise of

its inherent jurisdiction and the procedure that it adopts is governed neither by the CPC nor by the Criminal Procedure

13. In Manoharlal v. Prem Shankar Tandon MR 1960 All 231, it was held:--

There are two- classes of contempt, viz (1) a criminal contempt, and (2) a civil con tempt ... It is true that even a civil contempt, when

proceedings are taken under the Contempt of Courts Act, assumes a quasi- criminal nature; but there are certain principles which have to be borne

in mind, in considering the cases of civil contempt, which is different from a criminal contempt.

14. I think the true distinction between a civil contempt and a criminal contempt seems to be that in a civil contempt the purpose is to force the

contemner to do something for the benefit of the other party, while in criminal contempt the proceeding is by way of punishment for a wrong not so

much to a party or individual but to the public at large by interfering with the normal process of law or diminishing the majesty of the Court,

However, if a civil contempt is enforced, say, by fine or imprisonment of the contemner for non-performance of his obligation imposed by a Court,

it merges into a criminal contempt and becomes a criminal matter at the end. Such a contempt, being neither purely civil nor purely criminal in

nature, is sometimes called sui generis. Contempt proceedings as a whole are also often described as sui generis inasmuch as their procedure is

neither governed by the CPC nor by the Code or Criminal Procedure. It is the con tempt of Court which lays down a procedure of its own for

doing justice in the case, in consonance with the well recognised legal principles. However, there can be no such dispute or uncertainty in respect

of the present case in so far as the grievance of the petitioner here Is that by their act and conduct the opposite parties had hampered the progress

of his suit and had thus stopped the normal process of law. The petitioner desires the opposite parties to be punished for the same. Such a

contempt would undoubtedly be of criminal nature and the action taken therein would be a criminal proceeding.

15. In view of the above discussion, I am In agreement with the view that proceedings in contempt, particularly those which are alleged to hamper

the normal course of justice, like the present, would be in the nature of criminal proceedings and would, therefore, provide absolute immunity to the

Governor of a State from being proceeded against. Contempt proceedings have sometimes been called sui generis, but it is in the limited sense that

their procedure is neither governed by CPC nor by Criminal P. C.; and also in the sense that a contempt proceeding may he civil in nature to start

with, yet it may assume a criminal form at the end, when punishment is sought to be inflicted upon the wrong-doer It is true that the instant

contempt proceedings had started against opposite party No. 1 when he was not the Governor of any State, yet the provisions of Article 381(2) of

the Constitution not only afford complete immunity to the Governor of a State from institution of criminal proceedings against him, but they further

lay down that such proceedings, if already instituted, cannot be continued against him, in any Court, during his term of office. Therefore, so long as

opposite party No. 1 remains the Governor of Kerala, the present proceedings being essentially criminal in nature, must be discontinued and the

notice issued against him is liable to be discharged. I order accordingly.

16. Now we come to the case of opposite parties Nos. 2 and 3 who are Secretaries of the U. P. Congress Committee and the District Congress

Committee, Azamgarh, respectively Their pleas had already been mentioned at the outset, while dealing with the case of opposite party No. 1, and

need not be repeated here It may, however, be emphasised that, inter alia, the case of the plaintiff was that the action of the polling officer

(defendant No. 4) in declaring the plaintiff unelected and defendant No. 5 elected was wholy illegal, void and without jurisdiction. He further

alleged that defendant Nos. 4 and 5 had acted mala fide and in collusion with each other in order to harm the plain tiff intentionally.

17. The two main questions for consideration posed on behalf of 2nd and 3rd opposite parties are: (1) whether the Civil Court is at all competent

to enquire into the matter, in view of the fact that the Indian National Congress is a voluntary organisation and being not incorporated or registered

under any law, it is not a legal entity; its constitution and procedure having set up domestic forum for deciding disputes relating to organisational

elections ? (2) whether the act and conduct of opposite parties Nos. 2 and 3 in expelling the petitions from the membership of the Congress during

the pendency of the suit, though based on the circular letters issued by Shri Gulzari Lal Nanda and opposite party No. 1 (the then President of the

U. P. Congress Committee) amount to contempt of Court by interfering with the process of law, which had been set in motion by the petitioner by

instituting suit No. 132 of 1964 in the Court of the City Munsif, Azamgarh?

18. In support of the first contention, Shri Jagdish Swarup, appearing on behalf of opposite parties Nos. 2 and 3, has not been able to place any

authority before me. In fact one of the preliminary points to be decided by the Munsif in the suit would be whether a dispute relating to

organisational election if the Congress is justiciable in a Court of law. This Court is not directly concerned with that wider question. But if I were

called upon to express my views on the point, so far as it is relevant to the present controversy, I should think that the Civil Court has jurisdiction

to decide such matters at least for the limited purpose, whether the defendants had acted mala fide, without jurisdiction or in violation of the

principles of natural justice, In this connection reliance has been placed by the learned counsel for the petitioner on the following two decisions:--

(1) Annamunthodo v. Oilfields Workers Trade Union, 1961-3 All ER 621 and

(2) T.P. Daver Vs. Lodge Victoria No. 363, S.C. Belgaum, .

19. The brief facts in the first case were that the appellant was an ordinary member of the Oilfields Workers Trade Union and, is such, had agreed

to obey and was subject to the Union''s rules. Stripped of their legal form, the charges against him were in substance that, he had attended

meetings in the works, at which non-members were present, during which he had alleged that the president-general of the union had embezzled

Pounds 25,000 of the union''s funds; that officers of the union were corrupt and had committed theft. : The rules of the union prohibited discussion

of the business of the union with persons who were not members of the union (sic) was liable to be suspended from membership or fined. The rules

also provided an appeal to the annual conference of delegates. The general counsel of the union found him guilty and expelled him from

membership. On appeal, the annual conference of delegates upheld the expulsion Thereupon the appellant sought relief in the Courts of law. Lord

Denning delivering the judgment of the Board found as a matter of fact that under none of the rules of the union applicable to the appellant was

there any power to expel him and that he was not given due notice of fresh charges nor opportunity to meet the same. It was also found that by

appealing to the annual conference of delegates, the appellant had not forfeited his right to redress in the Courts of law. It was observed:--

If the original order was invalid, for want of observance of the rules of natural justice he can still complain of it, notwithstanding his appeal.

If a domestic tribunal fails to act in accordance with natural justice, the person affected by their decision can always seek redress ""in the Courts. If

is a prejudice to am mart in be denied justice. . . But he can always ask for the decision against him to be set aside.

20. In T.P. Daver Vs. Lodge Victoria No. 363, S.C. Belgaum, , supra the facts briefly are that there is a ''Grand Lodge of Scotland'' of Masons

with its headquarters at Edinburgh. Under its supervision there are District Grand Lodges spread throughout the world There are also Daughter

Lodges under the superintendence of the District Grand Lodges. The Grand Lodge of Scotland is governed by its own written constitution and

laws. There is also a separate Constitution and laws for every District Grand Lodge. "Lodge Victoria is a Danghter Lodge at Belgaum under the

District Grand Lodge of Bombay and is governed by the Constitution and laws of the latter The appellant was a member of the Lodge Victoria.

On October 16, 1952, the second respondent made a complaint against the appellant to the Master Lodge Victoria, alleging that the appellant was

guilty of 12 masonic offences and that he should be tried and punished for the charges levelled against him under certain laws of the Constitution

On October 20. 1952. notice of the said complaint was issued to the appellant and he was informed that he was entitled to be present to state his

defence at the special meeting to be field on November 8, 1952. On October 27, 1952, the appellant submitted his answer in extenso to the

various charges levelled against him On November 8, 1952 a special meeting of the Lodge was held when each charge was read at the meeting

alone with the replies of the appellant. Each charge was put to vote and the members present unanimously held that every one of the charges

levelled against the appellant was established. In the result they passed a resolution excluding the appellant from the Lodge. On November 24.

1952, the appellant preferred an appeal against the order to the District Grand Lodge, which dismissed the same. On a further appeal to the Grand

Lodge of Scotland, his sentence was considered as one of suspension sine die'' and recommended to the Lodge Victoria to review the suspension

after a period of twelve months if the appellant applied for reinstatement On September 7, 1954, the appellant instituted a suit in the Court of the

Civil Judge. Belgaun for (1) declaration that the resolution of the Victoria Lodge dated November 8. 1952 was illegal and void and that he

continued to be a member of the Lodge despite the resolution, (2) Injunction to restrain the officers and servants of the said Lodge from preventing

him from exercising his rights therein, and (3) for recovery of damages. The Civil Judge dismissed the suit. The appeal filed by the appellant to the

High Court of Mysore was also dismissed. He then appealed to the Supreme Court.

Their Lordships of the Supreme Court observed as follows on the question of jurisdiction of Civil Courts:--

..... The jurisdiction of a Civil Court is rather limited, it cannot obviously sit as it Court of appeal from decisions of such a body; it can set aside

the order of such a body, if the said body acts without jurisdiction or does not act in good faith or acts in violation of the principles of natural

justice.

From the above weighty pronouncements of the Privy Council and the Supreme Court of India, it can well be inferred that prima facie the City

Munsif of Azamgarh has jurisdiction to entertain the suit inasmuch as the applicant alleged want of good faith and jurisdiction as well as violation of

the principles of natural justice. I might, however, make it clear that these observations of mine are not binding on the Munsif, who would decide

the matter independently on the material placed before him.

21. This leads us to the main question whether, in the circumstances of the case, opposite parties Nos. 2 and 3 are guilty of contempt of Court of

the City Munsif Azamgarh. On this question the contention of Shri Jagdish Swarup counsel for the opposite parties, is that his clients are not guilty

in contempt, inasmuch as they were bona fide acting in pursuance of the resolution of the Working Committee of the Congress dated, 4/5

December, 1960, which was enforced by means of circular letter dated April 20, 1964 issued by Shri Gulzari Lal Nanda and that of the President,

U P. Congress Committee dated 21-4-64, requiring the expulsion of all congressmen who had approached the law Courts for seeking redress or

their grievances relating to organisational elections.

It may be remembered that, during the pendency of the suit, opposite party No. 2 again issued another general circular letter dated 22-4-64 to the

same effect. It was opposite party No. 3, who had filed his affidavit in the Court of the Munsif reiterating that the expulsion of the petitioner from

the Congress was fully justified. In this Court Opposite parties Nos. 2 and 3 have described the conduct of the petitioner as misbehaviour,

reprehensible and anti-social, inasmuch as the jurisdiction of the Court was wrongfully invoked by the petitioner in relation to the domestic matters

of the Congress, when in law it does not possess such jurisdiction . . . The petitioner has introduced in the suit a fictitious cause of action and has

abused process of the Court.

22. Oswald in his well-known book on Contempt of Court 3rd Edition, at page 6 says:--

To speak generally, contempt of Court may be said to be constituted by any conduct that tends to bring the authority and administration of the law

into disrespect or disregard or to interfere with or prejudice parties, litigants or their witnesses during the litigation.

23. On the strength of the general principles laid clown by Oswald, it can safely be inferred that the acts and conduct of opposite parties Nos. 2

and 3 did bring the administration of law into disregard of justice during the pendency of the petitioner"s- suit in the Court of the City Mumif,

Azamgarh. In this connection reference may be made to the authoritative pronouncement of their Lordships of the Supreme Court in Pratap Singh

and Another Vs. Gurbaksh Singh, .

Briefly stated the facts of the case were that Gurbaksh Singh respondent was a Forester in the Punjab Forest Department, while Pratap Singh

appellant was Chief Conservator of Forest, Punjab and Bachan Singh appellant was Divisional Forest Officer, Amritsar. In 1950 Gurbaksh Singh

supplied 3 lacs cubic feet of timber to the various Ordnance Depots under orders of the then Chief Conservator of Forests. In 1954, the then

Chief Conservator of Forests sent a letter to Gurbaksh Singh alleging that there had been a short supply in the timber sent to one of the Depots

causing a loss of Rs. 11,366 to the Government. By an order conveyed in a letter dated July 16, 1956 the State Government directed the Chief

Conservator of Forests to recover 10 per cent of the loss, that is, Rs. 1136 odd annas from the respondent, in accordance with the rules contained

in the Punjab Civil Services (Punishment and Appeal) Rules, 1952. Gurbaksh Singh then instituted a suit in the Court of the Senior subordinate

Judge, Amritsar, for a declaration that the order of recovery made against him was void and without effect. After the service of the notice on the

State Government, its Under Secretary in the Forest Department sent a memorandum to the Chief Conservator of Forests in which his attention

was drawn to a circular letter issued by the Chief Secretary on January 25, 1953. which was in these terms:--

I am directed to say that the question of Government servants having recourse to Courts of law in matters arising out of their employ merit or

conditions of service has been engaging the attention of Government for some time past and it is considered necessary to lay down that in the

matter of grievances arising out of a Government servants employment or conditions of service the proper course is to seek redress from the

appropriate departmental and governmental authorities. Any attempt by a Government servant to seek a decision on such issues in a Court of law

(even in cases where such a remedy is legally admissible) without first exhausting the normal official channels of redress, can only be regarded as

contrary to official propriety and subversive of good discipline and may well justify the initiation of disciplinary action against the Government

servant.

The Under Secretary said in his memorandum that as Gurbaksh Singh respondent had not exhausted the departmental remedies open to him

before going to a Court of law, he had rendered himself liable to disciplinary action as per instructions contained in the circular letter. He further

enquired from the Chief Conservator of Forests, Pratap Singh as to what action he proposed to take against Gurbaksh Singh

On receipt of the above memorandum. Pratap Singh appellant sent a copy thereof to the Conservator of Forests, and directed that the respondent

should be proceeded with in accordance with the instructions aforesaid, and a copy of the proceedings recorded and orders passed in the case

should be forwarded to him. On receipt of the said orders, the Conservator of Forests, passed an office order appointing Bachan Singh appellant

to hold an enquiry against Gurbaksh Singh for having contravened the instructions contained in the circular letter quoted above, Bachan Singh drew

up a charge sheet against the respondent and asked him to submit an explanation in writing. In the charge-sheet it was .stated that the respondent

had gone to a Court of law before exhausting all his departmental remedies and this was contrary to official propriety and subversive of good

discipline.

On September 14, .1.957, the respondent made an application to the High Court of Punjab to the effect that Pratap Singh and Bachan Singh had

committed contempt of Court, in as much as Pratap Singh had framed and got served a charge-sheet on Gurbaksh Singh (respondent), while

Bachan Singh was holding--in enquiry into the charge, which was tantamount to interfering with his legal rights to seek redress in a Court of law

and also amounted to exercising pressure upon him with the intent of restraining him from pressing his suit. This, it was stated, amounted to an

obstruction of the judicial process and interfered with the course of justice in respect of the suit, which was pending in the Court of the Senior

Subordinate Judge, Amritsar. The High Court of Punjab came to the conclusion that both Pratap Singh and Bachan Singh were guilty of contempt

of Court, even though they were merely endeavouring to comply with the instructions of the Government, the legality or propriety of which they

had no reason to doubt. The Punjab High Court, therefore, considered that the ends of justice would be met if the two contemners were directed

to abandon the departmental proceedings and furthermore, if they were warned against complying with the instructions contained in the circular

letter issued by the State Government. Being aggrieved by the decision of the High Court both Pratap Singh and Bachan Singh went up in appeal

to the Supreme Court

Two main points in the above case were urged before the Supreme Court on behalf of the appellants: (1) that a fair construction of the terms of the

circular letter on which the two appellants took action against the respondent, it should be held that it did not constitute an interference with the

course of justice, inasmuch as it did not impose any absolute ban on a Government servant to have recourse to a Court of law for the redress of his

grievances arising out of his employment or conditions of his service, but merely imposed an obligation on a Government servant to exhaust his

departmental remedies before taking recourse to a Court of law.

It has been argued that on this view of the circular letter, the action taken by the appellants against the respondent did not constitute an interference

with the course of justice in respect of the suit which was pending in the Court of the Senior Subordinate Judge, Amritsar; and (2) that in any view

of the matter appellant Pratap Singh, who took no action beyond endorsing the memorandum of the Under Secretary, was not guilty of Contempt

of Court. Their Lordships of the Supreme Court while dealing with the effect of the action taken in pursuance of the circular letter issued by the

Under Secretary observed as follows:--

. . . . It should perhaps be made clear at the very outset that the question before us is not so much the validity of the circular letter in the abstract,

but the propriety of the action taken against the respondent on the basis of the circular letter at a time when his suit was awaiting decision in the

Court of the Senior Subordinate Judge at Amritsar. It must not, however, be assumed that we are holding the circular letter to be valid in the sense

that compliance with it will, in no circumstances, amount to Contempt of Court. We do not come to any such conclusion. The argument before us

is that the circular letter did not impose an absolute ban on a Government servant seeking redress of his grievances arising put of his employment or

service conditions in a Court of law; it is submitted that all that it did was to ask Government servants to exhaust first the normal official channels of

redress before proceeding to a Court of law. The emphasis, it is stated, is on propriety and discipline in the conduct of a Government servant; and

it has been submitted that judged from that point of view, the circular letter cannot be said to constitute an interference with the course of justice in

any Court of law. . . . But we have to consider in this case a somewhat different problem, namely, the action taken against the respondent during a

pending litigation, as though going to a Court of law before exhausting departmental remedies must in all cases be visited with punishment.

It appears, therefore, that appellant Pratap Singh was not merely content with forwarding the memorandum of the Under Secretary He directed his

subordinate officer to take action against the respondent. In accordance with that direction a proceeding was drawn up against the respondent and

the appellant Bachan Singh was asked to enquire into it. The appellant Bachan Singh then drew up a charge-sheet and in that charge-sheet it was

stated that the respondent had gone to a Court of law before exhausting all his departmental remedies. What would be the effect of these

proceedings on the suit which was pending in the Court of the Senior Subordinate Judge. Amritsar ? From the practical point of view, the

institution of the proceeding at a time when the suit in the Court of the Senior Subordinate Judge, Amritsar, was pending could only be to put

pressure on the respondent to withdraw his suit, or face the consequences of disciplinary action. This, in our opinion, undoubtedly amounted to

Contempt of Court. There are many ways of obstructing the Court and any conduct by which the course of justice is perverted, either by a party

or a stranger, is a contempt; thus the use of threats, by letter or otherwise, to a party while his suit is pending; or abusing a party in letters to per

sons likely to be witnesses in the cause, have been held to be contempts. (Oswald"s Contempt of Court, 3rd Ed., p. 87). The question is not

whether the action in fact interfered, but whether it had a tendency to interfere with the due course of justice, The action taken in this case against

the respondent by way of a proceeding against him can, in our opinion, have only one tendency, namely, the tendency to coerce the respondent

and force him to withdraw his suit or otherwise not press it. If that be the clear and unmistakable tendency of the proceedings taken against the

respondent, then there can be no doubt that in law the appellants have been guilty of contempt of Court, even though they were merely carrying out

the instructions contained in the circular letter.

It may be mentioned here that their Lordships of the Supreme Court fully approved the decision of this Court in Shankar Lal Sharma Vs. M.S.

Bisht, , in which in the circumstances more or less similar to those in Pratap Singh and Another Vs. Gurbaksh Singh, , this Court had expressed the

view that even though the action against the employee had been taken in accordance with the instructions contained in the circular letter, it

amounted to a threat, with a view to induce the employee to forego the assistance of the Civil Courts and, therefore contempt of Court.

24. Reverting to Pratap Singh and Another Vs. Gurbaksh Singh, , their Lordships of the Supreme Court observed as under about those

appellants:--

.....They were no doubt carrying out executive instructions given by their employer, but they carried out those instructions at a time when a Civil

suit was pending and they carried out the instructions in such a manner as to exert pressure on the respondent to withdraw the suit..... the

appellants were clearly guilty of contempt of Court.

In Pratap Singh and Another Vs. Gurbaksh Singh, their Lordships of the Supreme Court also had occasion to consider the decision in Webster v.

Bakewell R. D. C. 1918 1 Ch 300, which has been relied upon by the learned counsel for opposite parties Nos. 2 and 3 in this case. The

Supreme Court distinguished that case and found it not applicable.

25. In Pratap Singh and Another Vs. Gurbaksh Singh, , Raghubar Dayal, J. gave the minority dissenting judgment on certain points, but His

Lordship also observed:--

..... It is, therefore, only when the Departmental action directly affects the course of the judicial proceeding that It can amount to interfering with

the course of justice and. consequently, to contempt of Court. If it does not do so, there can be no case of contempt of Court.

26. In the instant case the act and conduct of the two contemners directly interfered with the course of judicial proceeding inasmuch as they did not

merely amount to a threat to the petitioner to withdraw his suit, but were actually meant to non-suit him by expelling him from the Congress

organisation and thus removing the very bed-rock on which stood the edifice of the petitioner''s claim. Opposite parties Nos. 2 and 3 have not

contented themselves by taking refuge under the circular letters issued by Shri Gulzari Lal Nanda and Shri Ajit Prasad Jain but have further

described, the petitioner''s basal right of approaching a Court of law for the redress of his grievances as ''anti social'', ''reprehensible'' and ''wilful''

misbehaviour. They have not expressed a single word of regret for their conduct either in their written statement or counter affidavit, nor was any

word of regret or apology expressed on their behalf by their learned counsel. In this situation a somewhat stricter view has to be taken.

27. Accordingly I hold that opposite parties Nos. 2 and 3 are guilty of having committed Contempt of Court of the City Munsif, Azamgarh, by

interfering with and endeavouring to make the suit of the petitioner infructuous. Therefore, I impose a fine of Rs. 500 each on opposite parties Nos.

2 and 3. They shall also pay Rs. 150 as costs of the petitioner and Rs. 80 as costs to the Government Advocate Sri N. C. Upadhya.