



2026:AHC:93405-DB

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CONTEMPT APPEAL No. - 4 of 2026

Dhanendra Kumar Jain,
Secretary, C/M
Digambar Jain College

.....Appellant(s)

Versus

Sunil Kumar Jain And 6
Others

.....Respondents(s)

Counsel for Appellant(s) : Naman Agarwal, Sumit Suri
Counsel for Respondent(s) : Avneesh Tripathi, Ritesh Upadhyay

Court No. - 42

**HON'BLE SIDDHARTHA VARMA, J.
HON'BLE JAI KRISHNA UPADHYAY, J.**

1. Heard Sri Nipun Singh, learned Senior Counsel assisted by Sri Naman Agarwal, learned counsel appearing for the appellant; Sri Radha Kant Ojha, learned Senior Counsel assisted by Sri Ritesh Upadhyay, learned counsel appearing for respondent no.1 and Sri Rahul Agarwal, learned Senior Counsel assisted by Sri Avneesh Tripathi, learned counsel appearing for the respondent-University.

2. For the Digambar Jain College, Baraut, Baghpat, the Committee of Management had constituted a selection committee which had conducted interviews for 13 posts of Assistant Professor till 22.11.2023 and thereafter had sent the documents with regard to the selected

candidates to the university for its approval. In the meantime the State Government by its order dated 22.11.2023, stayed the further proceedings of selection. The Committee of Management headed by the appellant, Dhanendra Kumar Jain, Secretary, challenged the order dated 22.11.2023 in Writ-A No. 20415 of 2023. This writ petition was disposed of by the High Court on 20.12.2023 whereby the order of the State Government dated 22.11.2023 passed by the Joint Secretary, State of Uttar Pradesh was set-aside and the matter with regard to the controversy was remanded to the Joint Secretary, State of Uttar Pradesh, Lucknow, who was required to pass orders afresh. In pursuance of the order of the High Court dated 20.12.2023, the State Government on 06.05.2024 restrained the Committee of Management from making further appointments on the post of Assistant Professor by taking a ground that since the Uttar Pradesh Higher Education Services Selection Commission Act, 2023 had come into existence with effect from 21.08.2023, the appointments had to take place as per the provisions of the Act. The Committee of Management, headed by the present appellant, challenged the order dated 06.05.2024 by means of writ petition being Writ-A No. 7979 of 2024. Similarly, five other candidates who were selected up till the date 22.11.2023 also filed a writ petition being Writ-A No. 7792 of 2024. Even before the writ petitions i.e. Writ-A No. 7792 of 2024 and Writ-A No. 7979 of 2024 which had challenged the order dated 06.05.2024 could be decided, the State Government vide order dated 20.11.2024 recalled the order dated 06.05.2024. The order dated 20.11.2024 was challenged by the respondent, Sri Sunil Kumar

Jain, in the instant Appeal by filing writ petition being Writ-A No. 19843 of 2024.

3. Since the order dated 20.11.2024 had not been stayed in Writ-A No. 19843 of 2024, the Committee of Management, headed by the present appellant, proceeded to select candidates for the remaining 8 posts of Assistant Professor and this selection was submitted to the university for its approval on 09.12.2024. Since the appointments were neither approved nor disapproved by the university therefore the Committee of Management under Clause 17 of the State University Act considered the appointments of all the appointed candidates as approved and issued appointment letters to 17 candidates on 09.01.2025. In the meantime, the writ petitions being Writ-A No. 7792 of 2024 and Writ-A No. 7979 of 2024 challenging the order dated 06.05.2024 and the writ petitions challenging the order dated 20.11.2024 by which the order dated 06.05.2024 had already been recalled, were heard and were decided on 21.01.2025. By the order dated 21.01.2025, the High Court once again set-aside the order dated 06.05.2024 and without taking note of the order dated 20.11.2024 directed the State Government to pass orders afresh within a period of four weeks from 21.01.2025. Since the order dated 20.11.2024 which had earlier recalled the order dated 06.05.2024 had never been stayed by any court of law, on 09.01.2025, the selected candidates had already joined and the joining was also accorded approval by the Vice Chancellor of the University on 15.01.2025.

4. Be that as it may, as per the order dated 21.01.2025 passed in writ petitions being Writ-A No. 7792 of 2024, Writ-A No. 7979 of 2024 and Writ-A No. 19843 of 2024, the State Government allowed the Committee of Management, appellant, on 21.04.2025 to complete the selection process. Resultantly, on the basis of the order dated 21.04.2025 passed by the State Government, the appellant, Committee of Management continued to make further appointments and ultimately on 26.07.2025 the Vice Chancellor of the university formally communicated to the, appellant, Committee of Management about the approval of its various appointments.

5. The respondent no. 1, oblivious of all that happened after the passing of the order dated 21.04.2025, filed a writ petition being Writ-A No. 10333 of 2025 against the order dated 21.04.2025 and on 25.07.2025, the order dated 21.04.2025 was kept in abeyance by the High Court. The present appellant being absolutely oblivious of the order dated 25.07.2025, on 26.07.2025 issued further appointment letters to all the other selected candidates.

6. From the record we find that the order dated 25.07.2025 was served upon the appellant on 05.08.2025. However, the respondent no. 1, in the present appeal, filed a contempt petition being Contempt Application No. 6614 of 2025 on 18.11.2025, alleging that there was contempt committed of the order of the High Court dated 25.07.2025 in Writ-A No. 10333 of 2025 and of the order dated 21.01.2025 in Writ-A No. 19843 of 2024. When this contempt petition was filed and on 18.02.2026 the Contempt Court directed the Principal Secretary Higher

Education, Uttar Pradesh; Director of Higher Education, U.P., Prayagraj and the Secretary of the Committee of Management, Digambar Jain College, Baraut, Baghpat to remain present in the Court on 30.03.2026 and to explain as to why charges be not framed against them, the instant Contempt Appeal was filed.

7. For the appellant Sri Nipun Singh, learned Senior Counsel assisted by Sri Naman Agrawal, upon a pointed question being asked with regard to the maintainability of the instant Appeal, submitted that when an order was passed at the intermediate stage in the contempt proceedings then appeal could be filed against that order under Section 19(1) of the Contempt of Courts Act, 1971 and relied upon a judgment of this Court reported in **2018 SCC OnLine All 6741 (Suhas L.Y., District Magistrate versus Taulan Singh)**. Since learned counsel for the appellant relied upon the paragraphs no. 20, 21, 22, 23 and 26 of the judgment reported in **2018 SCC OnLine All 6741 (Suhas L.Y., District Magistrate versus Taulan Singh)**, they are being reproduced here as under:

20. In view of the above rulings, it is apparent that no doubt as regards appeal lying under Section 19(1) of the Act against a final order. But there is no discrepancy but as per the citation relied upon by the learned counsel for the appellant i.e. Purshottam Das Goyal case (Supra), it is evident that even an order which is passed at intermediate stage in the contempt proceedings may be appealable under Section 19(1) of the Act which is the case here involved as the order which has been impugned, has been passed by the Contempt Court at intermediate stage of the proceedings.

21. As against the above, learned counsel for the appellant has relied upon R.N. Dey v. Bhagyabati Pramanik, (2000) 4 SCC 400. In this

case, the collector made an order under the Land Acquisition Act, 1894 for acquisition of 39.02 acres of land believed to be the property of the respondents. Initially the compensation rate was fixed at Rs. 27,126/- per hectare then it was raised to 4,23,500/- per hectare. The State filed an appeal before the High Court against the enhancement and also an application for stay of the payment. The respondent claimants filed an application seeking payment of compensation. The Appellate Court directed an ad-hoc payment of Rs. 1,00,000/- which was made later on by another interim order dated 15.5.1992. High Court directed that appellants pay three quarters of Rs. 800/- per cottah the rate admitted by appellant. At this stage, the startling information that the respondents had no right, title or interest in the acquired land at all, was brought to the notice of the appellants. It appeared that the suit land had already vested in the state under the Estates Acquisition Act, 1953 and that the intermediaries had been paid compensation under that Act. The State contending that the respondents had obtained the award by fraud, moved an application for vacation of the High Court's order for payment. The respondent claimants on the other hand filed an application contending that the officers of the State were in contempt as they had not complied with the order of the High Court. When notice was issued to them, the appellants appeared and tendered an unqualified apology which the Court accepted. The High Court, then, by the same order directed the appellants to deposit with the Registrar the compensation money payable, however, the High Court did not pass an order on an application moved by the Collector, seeking vacating of the rule issued in the Contempt of Court proceedings. The High Court directed that this application would be heard along with the first appeal. In the Appeal before the Supreme Court, it was contended on behalf of the appellants that in the circumstances, there was no basis for the contempt application and that the High Court ought not to have issued rule in the matter at all. The respondent claimants, instead of filing such an application, could have sought the execution of the award in their favour, as there was no order staying the judgment and award of the Land Acquisition Judge and the first appeal of the appellants was still pending before the High Court. On behalf of respondents, it was contended that the appellants having tendered

unconditional apology, no longer had the right to appeal and that the Supreme Court ought not to interfere as matters are still at an interlocutory stage.

22. Allowing the appeal, the Hon'ble Supreme Court held;

The weapon of contempt is not to be used in abundance or misused. Normally, it cannot be used for execution of a decree or implementation of an order for which alternative remedy in law is provided for, discretion given to the Court is to be exercised for maintenance of the Court's dignity and majesty of law. Further an aggrieved party has no right to insist that the Court should exercise such jurisdiction as contempt is between a contemnor and the Court. It is true that in the present case, the High Court has kept the matter pending and has ordered that it should be heard along with the first appeal but at the same time, it is to be noticed that under the coercion of contempt proceedings, appellants cannot be directed to pay the compensation amount which they are disputing by asserting that the claimants were not the owner of the property in question and that decree was obtained by suppressing the material fact and by fraud. Even presuming that the claimants are entitled to recover the amount of compensation as awarded by the trial court as no stay order was granted by the High Court, at the most they are entitled to recover the same by executing the said award wherein the State can or may contend that the award is a nullity in such a situation, as there was no wilful or deliberate disobedience of the order, the initiation of contempt proceedings was wholly unjustified.

23. Further it is held that the decree holder who does not take steps to execute the decree in accordance with the procedure prescribed by law should not be encouraged to invoke Contempt jurisdiction of the Court for non satisfaction of the money decree. In land acquisition cases where a decree is passed the State is in the position of judgment debtor and, hence, the Court should not normally lend help to a party who refuses to take legally provided steps for executing the decree. At any rate, the Court should be slow to haul up officers of the Government

for contempt for non satisfaction of such money decree. Further it is held that when the Court either suo-moto or on a motion or a reference, decides to take action and initiate proceedings for contempt, it assumes jurisdiction to punish for contempt. The exercise of jurisdiction to punish for contempt commences with the initiation of proceeding for contempt and if the order is passed not discharging the rule issued in contempt proceedings, it would be an order or decision in exercise of its jurisdiction to punish for contempt. Against such order, appeal would be maintainable.

26. First of all, we would like to take up the position of law as regards the maintainability of the present appeal. It is evident from the law relied upon by the learned counsel for the respondent cited above in Mednapur Peoples Cooperative Bank Limited Case (Supra) wherein it is held that in Contempt Proceedings, it is not appropriate to adjudicate or decide any issue relating to merits of the dispute between the parties because if the High Court decides an issue or makes a direction relating to the merits of the dispute in contempt proceedings, the aggrieved person would be left with no remedy and in that case such an order would be open to challenge in an intra-court appeal. Therefore, in view of the law which has been relied upon by the learned counsel for the respondent himself, it is absolutely clear that in the case at hand by the impugned order, it is clearly apparent that the learned Single Judge was not satisfied by the impugned orders passed by the appellant whereby the representation of the respondent had been disposed of, for want of the supporting evidence being placed before the learned Single Judge and despite this fact having been brought to the knowledge of the learned Single Judge, he has chosen to direct the appellant to file his personal affidavit by the impugned order as to why further action be not taken against him, which clearly suggests that the merit of the impugned order has been touched upon by the learned Single Judge which does not appear to be the domain in a contempt proceedings and, therefore, the appeal under Section 19 would be admissible/maintainable.

8. Further, since the learned counsel for the appellant relied upon the paragraph no. 3 of the judgment reported in **(1978) 2 SCC 370**

(Purushotam Dass Goel versus Hon'ble Mr. Justice B.S. Dhillon and others), the paragraph no. 3 of the judgment is also being reproduced here as under:

3. In our opinion, the preliminary objection raised on behalf of the respondents is well-founded and must be accepted as correct. Section 19(1) says :

“An appeal shall lie as of right from any order or decision of the High Court in the exercise of its jurisdiction to punish for contempt—

(a) where the order or decision is that of a Single Judge, to a Bench of not less than two Judges of the Court;

(b) where the order or decision is that of a Bench, to the Supreme Court :

Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.”

It would appear from a plain reading of the section that an appeal shall lie to this Court as a matter of right from any order or decision of a Bench of the High Court if the order has been made in the exercise of its jurisdiction to punish for contempt. No appeal can lie as a matter of right from any kind of order made by the High Court in the proceeding for contempt. The proceeding is initiated under Section 17 by issuance of a notice. Thereafter, there may be many interlocutory orders passed in the said proceeding by the High Court. It could not be the intention of the legislature to provide for an appeal to this Court as a matter of right from each and every such order made by the High Court. The order or the decision must be such that it decides some bone of contention raised before the High Court affecting the right of the party aggrieved. Mere initiation of a proceeding for contempt by the issuance of the notice on the prima facie view that the case is a fit one for drawing up the proceeding, does not decide any question. This Court, for the first time, cannot be asked in such an appeal to decide whether the person proceeded against has committed contempt of the High Court or not. The matter has to be decided either finally or, may be, even at an earlier stage an order is made, which does decide a contention raised by the alleged contemner asking the High Court to drop the proceeding. It is neither possible, nor advisable, to make an exhaustive list of the type of orders which may be appealable to this Court under Section 19. A final order, surely, will be appealable. Our

attention was drawn by Mr Mohan Behari Lal, to Section 20 of the Act which provides :

“No court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.”

He submitted that initiation of the proceeding by the High Court will be without jurisdiction if it is in violation of Section 20. It may be so. If the alleged contemner in response to the notice appears before the High Court and asks it to drop the proceeding on the ground of its being barred under Section 20 of the Act but the High Court holds that the proceeding is not barred, it may well be that an appeal would lie to this Court under Section 19 from such an order although the proceeding has remained pending in the High Court. We are not called upon to express our final opinion in regard to such an order, but we merely mention this type of order by way of an example to show that even orders made at some intermediate stage in the proceeding may be appealable under Section 19. In our considered judgement, an order merely initiating the proceeding without anything further, does not decide anything against the alleged contemner and cannot be appealed against as a matter of right under Section 19. In a given case special leave may be granted under Article 136 of the Constitution from an order initiating the proceeding. But that is entirely a different matter. What we are deciding in this case is that the present appeal filed under Section 19(1) of the Act does not lie and is incompetent.

9. Still further since the learned counsel for the appellant relied upon the judgment of Supreme Court in **R.N. Dey and others versus Bhagyabati Pramanik and others** reported in (2000) 4 SCC 400 and he specifically relied upon paragraphs no. 10, 11 and 12, the same are being reproduced here as under:

10. In our view the aforesaid contention of the learned counsel for the respondents requires to be rejected on the ground that after receipt of the notice, officers concerned tendered unconditional apology and after accepting the same, the High Court rejected the prayer for discharge of

the rule issued for contempt action. When the court either suo motu or on a motion or a reference, decides to take action and initiate proceedings for contempt, it assumes jurisdiction to punish for contempt. The exercise of jurisdiction to punish for contempt commences with the initiation of a proceeding for contempt and if the order is passed not discharging the rule issued in contempt proceedings, it would be an order or decision in exercise of its jurisdiction to punish for contempt. Against such order, appeal would be maintainable.

11. *For the aforesaid purpose, reference can be made to the decision in Purshotam Dass Goel v. Justice B.S. Dhillon [(1978) 2 SCC 370 : 1978 SCC (Cri) 195] wherein the Court observed that: (SCC p. 372, para 3)*

“If the alleged contemnor in response to the notice appears before the High Court and asks it to drop the proceeding on the ground of its being barred under Section 20 of the Act but the High Court holds that the proceeding is not barred, it may well be that an appeal would lie to this Court under Section 19 from such an order although the proceeding has remained pending in the High Court.”

12. *The Court further observed that if the order decides some disputes raised before the Court by the contemnor asking it to drop the proceedings on one ground or the other, the appeal against the said order is maintainable.*

10. Further, learned counsel for the appellant relied upon the judgment of Supreme Court reported in **(2018) 13 SCC 142 : ECL Finance Limited versus Harikishan Shankerji Gudipati and others**. From this judgment, learned counsel for the appellant specifically relied upon paragraph no. 7 and therefore the same is being reproduced here as under:

7. *The learned counsel for the respondents submits that before issuing notice, the learned Single Judge had considered the merits of the case and had already made his mind to punish the respondents and,*

therefore, an appeal would lie, in view of the decisions referred to above. We are afraid the contention made by the learned counsel for the respondents cannot be appreciated. The observations made by the learned Single Judge in the order dated 22-12-2016 [ECL Finance Ltd. v. Harikishan Shankarji Gudipati, 2016 SCC OnLine Bom 15898] , while issuing notice in the contempt petition, is only for the prima facie satisfaction as to whether the contempt petition needs to be considered on merits. Only after such a preliminary stage, notice can be issued. Now, it is open to the respondents to file their reply and after considering the defence, the learned Single Judge will have to take a call as to whether it is a case to be proceeded against for punishing the respondents. In case such a decision is taken by the High Court, it is, at that stage, that the respondents get a right to file an appeal before the Division Bench in terms of Section 19(1)(a) of the Act. Such a stage having not arisen, the impugned order [Harikishan Shankarji Gudipati v. ECL Finance Ltd., 2017 SCC OnLine Bom 3949] passed by the Division Bench is only to be set aside. Ordered accordingly.

11. Likewise, learned counsel for the appellant further relied upon the judgment of Supreme Court reported in **2024 (12) SCC 159 : Ajay Kumar Bhalla and others versus Prakash Kumar Dixit**. Since he relied upon paragraphs no. 10 to 18 of it, the same are being reproduced here as under:

10. The narrow issue which falls for consideration at the present stage is as to whether the letters patent appeal against the order of the Single Judge dated 2-6-2023 [Prakash Kumar Dixit v. Ajay Kumar Bhalla, 2023 SCC OnLine Del 3501] was maintainable.

11. The law on the subject is settled by a judgment of a two-Judge Bench of this Court in Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda [Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda, (2006) 5 SCC 399] . Para 11 of the decision sums up the principles succinctly as follows: (SCC pp. 410-11)

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

(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).

The first point is answered accordingly.”

12. *Following the decision in Midnapore Peoples' Coop. Bank [Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda, (2006) 5 SCC 399] , it is a settled principle that an appeal under Section 19 lies only against an order imposing punishment for contempt.*

13. *In the order dated 2-6-2023 [Prakash Kumar Dixit v. Ajay Kumar Bhalla, 2023 SCC OnLine Del 3501] , it has been held that the respondents before the Court, namely, the appellants to these proceedings are guilty of contempt. A letters patent appeal would not be maintainable under Section 19, if the matter were to only rest there. However, from the extracts which have been reproduced in the earlier part of this judgment, it is evident that the Single Judge:*

(i) Recorded the submission of the respondent herein (as set out in the written submissions dated 2-3-2023) that even if the implementation of the minor penalty was to take effect from 16-10-2018, he would be entitled to all promotions till the rank of IG from 2021 till the date of his retirement on 31-3-2023; and

(ii) Held that there was wilful disobedience of the directions issued by the Division Bench on 24-12-2019 [Prakash Kumar Dixit v. Union of India, 2019 SCC OnLine Del 11864] with respect to pay fixation, seniority and all other consequential benefits including promotion.

14. *The Single Judge, after recording the submissions as adverted to above, entered a specific finding in SCC OnLine Del para 64 that “this Court is therefore, of the opinion that there is wilful disobedience” (emphasis supplied). The above finding follows immediately upon the previous paragraph of the order which records the contention of the respondent herein that he was entitled to promotion to the rank of IG, in any event with effect from 2021.*

15. Bearing in mind the above finding, the Single Judge gave an opportunity to the appellants “to issue a fresh order granting promotion to the petitioner to the rank of IG” to bring him on a par with his immediate junior. Reading the entirety of the order [Prakash Kumar Dixit v. Ajay Kumar Bhalla, 2023 SCC OnLine Del 3501] of the Single Judge, it is clear that besides holding that the appellants (who were the respondents before the Single Judge) were guilty of contempt of court, there is a crystallised finding that the respondent herein was entitled to promotion as IG, in any event with effect from 2021.

16. The Division Bench [Ajay Kumar Bhalla v. Prakash Kumar Dixit, 2024 SCC OnLine Del 3599] has lost sight of this aspect. The Division Bench, in SCC OnLine Del para 52, noted the submission of the respondent that the judgment [Prakash Kumar Dixit v. Ajay Kumar Bhalla, 2023 SCC OnLine Del 3501] of the Single Judge should not be construed as crystallising any right in favour of the respondent and should only be confined to the question as to whether the appellants herein had committed a wilful disobedience of the order of the Division Bench dated 24-12-2019 [Prakash Kumar Dixit v. Union of India, 2019 SCC OnLine Del 11864] . The Division Bench accepted this submission and observed that (Ajay Kumar Bhalla case [Ajay Kumar Bhalla v. Prakash Kumar Dixit, 2024 SCC OnLine Del 3599] , SCC OnLine Del para 53) “53. In view of our understanding of the impugned judgment, as noted above, the learned Single Judge has not decided any dispute regarding the rights and obligations of the parties....”

other than adjudicating on the issue of contempt.

17. The judgment of the Division Bench [Ajay Kumar Bhalla v. Prakash Kumar Dixit, 2024 SCC OnLine Del 3599] lost sight of the fact that whether the appeal was maintainable would have to be construed on a plain reading of the judgment of the Single Judge. Two aspects were covered by the judgment of the Single Judge:

(i) Firstly, a finding that the appellants were guilty of contempt of the order dated 24-12-2019 [Prakash Kumar Dixit v. Union of India, 2019 SCC OnLine Del 11864] ; and

(ii) Secondly, that the respondent was entitled to promotion to the rank of IG.

The first aspect is not amenable to an appeal under Section 19 at the present stage. The finding that the respondent was entitled to promotion to the rank of IG would be amenable to an appeal in terms of the law laid down by this Court in Midnapore Peoples' Coop. Bank [Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda, (2006) 5 SCC 399] , more particularly in para 11(V) which has been extracted above.

18. For the above reasons, we set aside the impugned judgment and order of the Division Bench dated 10-5-2024 [Ajay Kumar Bhalla v. Prakash Kumar Dixit, 2024 SCC OnLine Del 3599] and restore Letters Patent Appeal No. 157 of 2024 in Contempt Case No. 198 of 2020 together with the associated interlocutory applications to the file of the Division Bench for consideration on merits in terms of the above directions.

12. Also, the learned counsel for the appellant relied upon the judgment of Supreme Court reported in **2025 SCC OnLine All 5390 : Pradeep Kumar Dubey versus Ram Chandra Asthana**. He relied upon the paragraphs no. 8 and 9 of the judgment and therefore the same are being reproduced here as under:

8. Confronting the aforesaid objection regarding the maintainability of the instant appeal, Shri J.N. Mathur, learned Senior Advocate submits that the learned Single Judge while passing the impugned order in contempt jurisdiction has exceeded its jurisdiction by entering into the questions which have not been dealt with and decided in the judgment and order, violation of which is alleged by the contempt-applicant and as such the impugned order dated 14.08.2025 is not sustainable being passed by the learned Contempt Court exceeding its jurisdiction. He further submits that by means of the impugned order dated 14.08.2025, the learned Contempt Court by fixing 01.09.2025 as the date for orders on sentence, has deprived the petitioner to defend the charge framed against him and as such, the impugned order is bad in law being

against the principles of natural justice. He very categorically submitted that the tenor of the impugned order dated 14.08.2025 is such that the learned Contempt Court without affording a reasonable opportunity of defence to the appellant has taken a definitive action to penalize the appellant herein. In support of his contention, he relied upon the judgment passed by the Division bench of this Court in the case of Subhash Chandra v. Srikant Goswami Posted Managing Director, Sahkari Gram Vikas Bank Ltd., 2024 SCC OnLine All 5435. He drew the attention of this Court towards the paragraph no. 69 of the aforesaid judgment which is extracted herein-below for ready reference:

“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).....”

9. Having heard the learned counsel for the parties and perused the record, this Court finds that the impugned order dated 14.08.2025 though not an order of punishment but at the same time, it is of such a nature that is tantamount to entail punishment. For ready reference, the operative portion of the impugned order dated 14.08.2025 is quoted hereinbelow:—

“13. In view of above facts and discussions, the affidavit of compliance dated 14.07.2025 filed by the respondent is hereby rejected. Following charge is framed against the respondent/contemnor under Section 12 of the Contempt of Courts Act, 1971.

“Why the respondent/contemnor, Mr. Pradeep Kumar Dubey, Principal Secretary, U.P. Legislative Assembly, Secretariat, Lucknow be not punished for willfully flouting the order of the writ Court dated 04.04.2013 passed in Writ Petition (S/S) No. 3340 of 2000, by not giving notional promotion to the applicant on the posts of Section Officer, Under Secretary, Deputy Secretary, Joint Secretary and Special Secretary, those were given to the juniors to the applicant, namely, Radhey Shyam Yadav and Sarvoday Kumar Gupta.”

14. List this case on 01.09.2025 for order on sentence.

15. In the meantime, respondent/contemnor may file response.

16. On the next date, respondent/contemnor shall appear before this Court.”

13. Learned counsel for the appellant further took the Court through the Section 19 of the Contempt of Courts Act, 1971 and therefore the same is also being reproduced here as under:

19. Appeals.—(1) An appeal shall lie as of right from **any order or decision** of the High Court in the exercise of its jurisdiction to punish for contempt—

(a) where the order or decision is that of a single judge, to a Bench of not less than two judges of the Court;

(b) where the order or decision is that of a Bench, to the Supreme Court:

Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.

(2) Pending any appeal, the appellate Court may order that-

(a) the execution of the punishment or order appealed against be suspended;

(b) if the appellant is in confinement, he be released on bail; and

(c) the appeal be heard notwithstanding that the appellant has not purged his contempt.

(3) Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2).

(4) An appeal under sub-section (1) shall be filed—

(a) in the case of an appeal to a Bench of the High Court, within thirty days;

(b) in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against

14. Learned counsel for the appellant submitted that an Appeal would lie as a matter of right from “*any order*” or “*decision*” of High Court in the exercise of its jurisdiction to punish someone for contempt and he thereafter relied upon Section 19(1)(a) of the Contempt of Courts Act, 1971 and submitted that if the decision was of a learned single judge then the Appeal would lie before a bench which would not be lesser than that of two judges. He therefore submitted that the order appealed against by which the learned Single Judge had required the appellant to be present to explain as to why charges be not framed against the

appellant, was an order passed by the learned Single Judge under its jurisdiction to punish for contempt and therefore the appeal would lie.

15. Sri Radha Kant Ojha, learned Senior Counsel assisted by Sri Ritesh Upadhyay, learned counsel appearing for respondent no.1 however submitted that an order by which simply the appellant had been called to explain why charges be not framed, was not such an order by which any rights of the contemnor were being affected. He submitted that even if charges were framed and the alleged contemnor is required to file his/her reply then also no substantive right of the alleged contemnor is affected. He submitted that in fact when charges are framed, an opportunity is given to the contemnor to explain as to why he be not punished for the contempt and he thus submitted that when the Section 19(1) of the Contempt of Courts Act has stated that an Appeal would lie as of right from “*any order*” then it had to be read in conjunction with the fact that the order was being passed in the exercise of the High Court’s jurisdiction to punish for contempt. He submitted that there had to be an element of punishment in the order. Till such time as the punishment was not there then that order could not be appealed against. He further submitted that even in the criminal jurisdiction, an appeal lies from an order of the sessions court only when a final order of conviction is passed, if appeals were to be filed when charges were framed then no trial would proceed. When the charges are framed then it is an opportunity to the person who is charged to explain as to whether the offence alleged is committed by him. In the instant case, he submitted that the order did not even say that the court was going to

frame charges. In fact it had only stated that the appellant had to be present to explain as to why charges be not framed against him. Learned counsel appearing for the respondent no. 1 further submitted that the Supreme Court in the judgment reported in **(2006) 5 SCC 399 : Midnapore Peoples' Co-op. Bank Ltd. & Ors. versus Chunilal Nanda & Ors.** had postulated 5 important guidelines with regard to the filing of an appeal under Section 19 of the Contempt of Courts Act. The paragraph no. 11 of the judgment in **Midnapore (Supra)** is being reproduced here as under:

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

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).

The first point is answered accordingly

16. Learned counsel appearing for the respondent no. 1 also relied upon a full bench decision of this Court reported in **2009 (65) ACC 64 (FB) : Sadhna Upadhyay Advocate v. State of U.P.** and relied upon the paragraphs no. 73 to 76 of that judgment. The same are being reproduced here as under:

73. The decision in the case of J.S. Parihar v. Ganpat Duggar, [(1996) 6 SCC 291.] was a matter arising out of a civil contempt in which proceedings had been initiated under section 12 of the Contempt of Courts Act. The Court therein was not called upon to decide any issue as presently involved, inasmuch as, in that case certain directions had been issued to decide a dispute of a seniority list which arose between the parties in that case. An appeal against the said Order was filed under section 19 before the Division Bench of the High Court and it was held that the appeal would not lie under section 19 of the Act but would be entertainable as a letters patent appeal in view of the directions given by the learned Single Judge while dropping the proceeding for contempt. It was held that an appeal would lie only when an order of punishment or conviction is passed. The word “only” has not been used by the Apex Court in para 5 of the said decision.

Apart from this as already indicated above, it was a matter pertaining to civil contempt and not a criminal contempt.

74. There is yet another case which deserves mention namely State of Maharashtra v. Mahboobs, Allibhoy, [(1996) 4 SCC 411.] A writ petition had been filed before the High Court of Bombay claiming refund of a certain amount of additional duty imposed by the Customs Department. The Customs Department filed an affidavit that the claim was a false claim as the writ petitioner had not paid any duty at all and the claim of refund was founded on forged documents. It is in this connection that a notice was issued to the alleged contemnors as to why a complaint be not filed against them under sections 191, 192, 209 and 210 of the I.P.C. and a further notice was issued to them to show cause as to why contempt proceedings be not initiated against them. Cause was shown by the notice and an order was passed for filing a criminal complaint against the respondents and while doing so, the learned Judges of the High Court took a view that no action was required to be taken under the Contempt of Courts Act. This order of the High Court by which it refused to take action under the Contempt of Courts Act was assailed before the Supreme Court in an appeal.

75. The Apex Court after considering the provisions of section 19 held that the word "any order" used in section 19 is not independent of the expression decision and they have been put in an alternative form, saying order or decision. It was construed by the Apex Court that the order must be necessarily in the nature of punishment for contempt inasmuch as if the word "any order" is dealt with too widely, then even an interlocutory order passed in a proceeding for contempt would also become appealable, and which in the opinion of the Apex Court, would lead to a ridiculous result the Apex Court referred to the decisions of Bardakanta Mishra (supra) and D.N. Taneja (supra) and held that no appeal would be maintainable against an order dropping a proceeding for contempt or refusing to initiate proceedings for contempt. It was further held that even if no appeal would lie under section 19 then that person is not remedy less and an appeal can be filed under Article 136 of the Constitution. It is, therefore, evident that it was on account of a false claim founded on forged documents which was the subject matter of consideration and which in our opinion would might have been a

cause for criminal contempt. It is in this context that the High Court refused to initiate proceedings of contempt. The Apex Court, therefore, in the aforesaid context proceeded to interpret the impugned order which in the opinion of the Apex Court did not amount to a decision or an order passed in exercise of the jurisdiction of proceeding to punish for contempt. It is now well settled that a refusal by the Court to initiate contempt proceedings does not amount to a decision as understood under section 19 and, therefore, the same would not be appealable. The ratio of the aforesaid decision of the Apex Court is in our opinion confined only to the issue raised therein, namely refusal to initiate proceedings and not beyond that. The Apex Court was not called upon or even faced with an issue of the nature which is raised in the present case. The order impugned in the present appeal is not a mere interlocutory order as it is being questioned on the ground of incompetence, being without jurisdiction, and also that it, proceeds to confine the appellant in custody without following the procedure prescribed under law.

76. *At this juncture, we would like to refer to the scope of the appeal as understood under criminal law. In the Code of Criminal Procedure, 1973 appeals are provided for under Chapter XXIX. Section 372 of the Criminal Procedure Code declares that no appeal shall lie unless otherwise provided under the Act. Section 373 provides for appeal from orders requiring surety or refusal to accept or rejecting surety for keeping peace or good behaviour. Then comes an appeal against conviction. This provision clearly spells out that appeal would lie against conviction in a trial held by the subordinate Court in which a sentence of imprisonment is for more than seven years. Further sections 325 and 360 have also been made appealable. The provision of appeal is not attracted in certain cases where the accused has pleaded guilty section 376 spells out that no appeal shall lie in petty cases as referred to therein. Section 377 provides for an appeal by the State against the sentence awarded while convicting a person on the ground of its inadequacy and appeal is also provided for against acquittal under section 378 and under section 379 against the order of the High Court in certain cases. The aforesaid appeals have been broadly provided for under Chapter XXIX. It would be seen that*

appeals are provided for specifically either against conviction or acquittal or in some cases as provided for under section 373 of the Code of Criminal Procedure. The language used in the Criminal Procedure Code is in contrast to the language used under section 19 of the Contempt of Courts Act. Section 19 of the Act speaks of “any order or decision”, therefore, the Legislature has consciously and carefully incorporated the words which are entirely different from the language employed under the Criminal Procedure Code. In our opinion the words used in section 19 of the Act are of much wider import and cannot be said to be restricted to the remedy of appeal only in cases of an order of punishment or conviction. To our mind, the Legislature even though gave a restricted right of appeal, yet never intended to deny the opportunity of appeal where the proceedings under challenge were either without jurisdiction or was in violation of mandatory procedure or otherwise in violation of the fundamental rights guaranteed under the Constitution. This issue with which we are presently concerned, was not subject matter of discussion or even adjudication in the case of D.N. Taneja (supra).

17. Having heard learned counsel for the parties, we find that even though the judgment of **Midnapore (Supra)** did not refer to the judgment of **R.N. Dey and others versus Bhagyabati Pramanik and others** reported in **(2000) 4 SCC 400**, we are of the view that the judgment of **R.N. Dey (Supra)** was on a different issue and upon reading of the judgment of **R.N. Dey (Supra)** we find that it was a case wherein an apology tendered by the contemnor was accepted yet the High Court had rejected the prayer for discharge of the rule issued for contempt and thus the Appeal was found to be maintainable and therefore **R.N. Dey (Supra)** was confined to its own facts. The judgment rendered in **Midnapore (Supra)** is a definite guideline for coming to a decision as to when an appeal under the contempt of courts would lie and when one would lie under the Letters Patent Act.

18. In the case at hand, we find that there was absolutely no punishment till date imposed on the alleged contemnor. The only direction of the learned Single Judge was that the respondent in the contempt petition would appear and would explain as to why charges be not framed against them.

19. Thus for all the reasons stated above, we are definitely of the view that the Appeal under Section 19(1)(a) of the Contempt of Courts Act, 1971 as has been filed before us would not lie. The appellant would however not be rendered remediless. The appellant can always resort to filing an Appeal under the Letters Patent Act.

20. The instant Appeal is, accordingly, **dismissed**.

(Jai Krishna Upadhyay,J.) (Siddhartha Varma,J.)

March 30, 2026

M.S. Ansari