

circumstances of each case. No law in general terms can be laid down that non production of the driving licence or non production of any evidence of having a valid driving licence would automatically result in a presumption of the vehicle being driven by a unqualified driver. We are further of the consider view that in view of the facts in the present case the burden of proof was on the insurance company which led no evidence to discharge that burden. During the course of arguments also nothing has been pointed out to show that the insurance company had led any evidence to discharge that burden. Thus, in our considered opinion, the finding of the Motor Accident Claims Tribunal against the insurance company cannot be interfered with. With respect we cannot agree with the law laid down by the Single Bench in Surinder Paul's case (supra) and the same cannot be permitted to hold good, and is, therefore, overruled.

(7) In view of the observations made above, we find no force in this appeal and the same is dismissed.

J.S.T.

Before Hon'ble Ashok Bhan, J.

COURT ON ITS OWN MOTION

versus

RURAL COLLEGE OF EDUCATION, KATHAL,—*Respondent.*

C.O. C.P. 746 of 1991.

The 9th July, 1994.

Contempt of Courts Act, 1971, S. 20—Limitation—S. 20 contemplates a complete bar on the power of courts to initiate contempt proceedings after expiry of period of one year from date on which the act of contempt is alleged to have been committed—Code is absolute enactment—No discretion with courts.

Held, that S. 20 of the act prescribes a bar to the initiation of any proceedings of contempt by the court either of 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. The Limitation is not to be reckoned by the date of the presentation of the application. Court is barred from initiating the proceedings after the expiry of period of one year from the date on which the contempt is alleged to have been committed.

(Para 9)

J. S. Khehar, Advocate, for the petitioner.

Chandra Singh, Advocate for Mohinder Singh Dhul and Veermati, respondents.

R. K. Malik, Advocate for Jai Pal and Dev Karan Punia, Respondent.

JUDGMENT

Ashok Bhan, J.

(1) Rural College of Education, was established and maintained by Rural College Society, Kaithal, which was registered under the Indian Registration Act, 1960. This institution is affiliated with Kurukshetra University. Kurukshetra University issued instructions that admission to the B.Ed. course be given to the persons who are domiciled in Haryana. College authorities gave admission in violation of the instructions issued by the Kurukshetra University. Since admissions were given by the college in violation of the instructions issued by the Kurukshetra University, it refused to recognise the admissions granted by the college. Management of the College filed C.W.P. No. 1857 of 1978 in this Court. A learned Single Judge allowed the writ petition on 9th October, 1978 against which L.P.A. No. 630 of 1978, was filed which was ultimately ordered to be placed before the Full Bench for final adjudication. Order of learned Single Judge was set aside and writ petition was ordered to be dismissed. This judgment is reported as *Kurukshetra University and others v. Rural College of Education, Kaithal* (1). Taking a compassionate view, the Full Bench ordered that the students already admitted to B.Ed. course had already suffered on account of the dismissal of the writ petition and directed that they be duly registered by the university and would be treated as students of the University. Full Bench further directed that the disaffiliation of the College shall be withdrawn by the University on the management of the college giving an undertaking that in future they will not admit any student to B.Ed class in violation of the instructions issued by the University. Governing body of the college in the year 1970 (sic 1979) passed a resolution and authorised Shri Mohinder

(1) A.I.R. 1980 Punjab and Haryana 103.

Singh Dhul its President to file an undertaking in terms of the orders passed by the Full Bench. Shri Mohinder Singh Dhul filed an undertaking in this Court and the University revoked the disaffiliation order as directed by this Court. Against the judgment and order of the Full Bench, management of the college filed Special Leave petition in the Supreme Court of India.

(2) In the meantime, in the year 1980-81 again admissions were given by the college in violation of the instructions issued and the undertaking filed in this Court. C.W.P. No. 2090 of 1980 and some other writ petitions were filed in the Supreme Court of India directly regarding these admissions. In these writ petitions, as an interim measure, it was ordered by the Supreme Court that there would be no stay but the admissions made in the meantime shall be subject to the result of the writ petition. Writ petitions filed were taken up by the Supreme Court for hearing and were decided on 26th April, 1991. The writ petitions were dismissed and it was held that "since the College authorities have acted in violation of the express undertaking given to the High Court, *prima facie* they are guilty of contempt. We, therefore, direct the High Court to take appropriate action against the college and its Governing Body."

(3) Matter was placed before a Single Bench of this Court on 29th August, 1991. This Court ordered the issuance of notice of contempt to Mr. Mohinder Singh Dhul President of the Managing Committee to show cause as to why proceedings under the Contempt of Courts Act be not initiated against him. Later on notices of Contempt of Court were also issued to other members of the governing body, some of the members of the teaching staff and other employees. From the perusal of the written statement, it cannot be discerned as to who were the members of the governing body for the relevant year 1980-81 when the admissions were granted in violation of the undertaking given in this Court. Registrar, Kurukshetra University, filed his affidavit in pursuance to the notice issued to him to give the details of the Members of the governing body. Paragraphs 5 and 6 of his affidavit are reproduced below :—

"5. That the University has a letter on its file dated 18th January, 1979 which is a copy of resolution No. 4 dated 9th January, 1979 passed by the Executive Committee of the Society (Haryana Rural Education Society (Regd.)). As per the above mentioned resolution, the name, address,

designation and term of the members of the Executive Committee are reproduced as under :—

Sr. No.	Name	Address	Designation	Term
1.	Sh. M. S. Dhul, V. & P.O. Pai	(Kaithal)	Chief Advisor	1970-80 A.D.
2.	Sh. Ram Saran, V. & P. O. Pegan	(Jind)	Manager	1976-80 A.D.
3.	Sh. Shankar Lal, V. & P. O. Pai	(Kaithal)	Member Secretary	1979-83 A.D.
4.	Sh. Dharam Singh, V. & P. O. Pai	(Kaithal)	Member	1978-79 A.D.
5.	Sh. Gural Singh, V. & P. O. Rajound	(Jind)	Member	1978-79 A.D.
6.	Sh. Dhup Singh, V. & P. O. Majra	(Jind)	Member	1978-79 A.D.
7.	Sh. Kuldeep Singh, V. & P. O. Kandroli	(Kurukshetra)	Member	1979
8.	Miss Veermati, V. & P. O. Pai	(Kaithal)	Member	1979
9.	Miss Nirmalla, V. & P. O. Kandroli	(Kurukshetra)	Member	1979

“6. That Shri M. S. Dhul, in his capacity as President of the Governing Body of the Rural College of Education gave undertakings to abide the rules and regulations of the University on 13th December, 1979 and on 1st January, 1980. Therefore, the Governing Body as existed in the year 1979-80 is responsible for this commitment. The following were the members of the Governing Body during this year as detailed on the back side of the title cover of the prospectus.

MEMBERS OF THE GOVERNING BODY

- | | |
|----------------------|---------------------------|
| 1. Shri M. S. Dhul | President |
| 2. Shri Shankar Lal | Secretary |
| 3. Vacant | Manager |
| 4. Shri Ram Saran | Member |
| 5. Shri Dharam Singh | Member |
| 6. Shri Dhup Singh | Member |
| 7. Shri D. K. Punia | Member (Ex Officio) |
| 8. Shri R. B. Jolly | Member (Representative) |
| 9. Shri Jai Pal | Member (Representative)." |

(4) On the reading of this affidavit, it is clear that apart from Sarvshri M. S. Dhul, Ram Saran and Shankar Lal, no other person was member of the governing body in the year 1980-81 and, therefore, cannot be held responsible for the commission of Contempt of this Court.

(5) Shri M. S. Dhul has filed his affidavit in which he has stated that the contempt proceedings initiated against him are barred by limitation as more than 11 years had elapsed for the alleged commission of the contempt and that the Supreme Court in C.W.P. No. 2090 of 1980 had authorised the students to seek admissions at their own risk and responsibility. Written statement of other contemnors is also on the similar lines except that they have further pleaded that they were not responsible for commission of contempt of Court as they were not associated with the management of the college. On merits, there is no doubt that the three persons who were associated with the governing body i.e. M. S. Dhul, Ram Saran and Shankar Lal are guilty of giving admissions in violation of the undertaking given to this Court and, therefore, are guilty of the act of the commission of contempt of this Court. Supreme Court of India in its *interim* order in C.W.P. No. 2090 of 1980 had not authorised the governing body to give admissions in violation of the undertaking given in this Court and operation of the judgment and order passed by this Court had not been stayed by the Supreme Court of India. While disposing of the writ petition also Supreme Court held that

admissions were given by the Governing body in violation of the undertaking given to this Court. The act of the commission of contempt thus stands established on record.

(6) The next point to be considered is : Could the Proceedings under the Contempt of Courts Act be initiated in view of Section 20 of the Contempt of Courts Act (hereinafter referred to as the Act) which reads as under :—

“20. Limitation for actions for contempt :—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.”

(7) Mr. J. S. Khehar, Advocate, was requested by this Court to appear on behalf of this Court which he readily accepted and gave valuable assistance to this Court. Relying upon *Sudesh Kumar v. Jai Narain and another* (2), he argued that contempt would be alleged to have been committed within the contemplation of Section 20 of the Act from the time when the Court became aware of the commission of its contempt and not from the date of the act comprehended to be contemptuous was committed by the contemner. He further relied upon a judgment of the Supreme Court in *Baradakanta Mishra v. Misra C. J. Orissa, H.C.* (3), where their Lordships in some different context said ‘that is why the terminus a quo for the period of limitation provided in section 20 is the date when a proceeding for contempt is initiated by the Court’. Relying upon these observations of the Supreme Court, it was argued by him that limitation under section 20 of the Act will start running from the date the Court initiates the proceedings under the Act.

(8) As against this, counsel appearing for the respondents relied upon a judgment of this Court in *Romesh Kumar v. Bhagwan Dass Ahuja* (4), *Gulab Singh and another v. The Principal, Sri Ramji Das* (5), *N. Venkataramanappa v. D. K. Naikar* (6), and *Veena Sikka (Smt.) v. Smt. Shakuntla Jakhu* (7), to contend that the statute does not give any discretion to the Court to take proceedings beyond the period mentioned in section 20 of the Act.

(2) 1974 P.L.R. 23.

(3) A.I.R. 1974 S.C. 2255.

(4) 1986 (2) L.L.R. 432.

(5) A.I.R. 1975 Allahabad 366.

(6) 1978 Cr.L.J. 726.

(7) I.L.R. 1991 (2) Pb. & Hy. 238.

(9) Section 20 of the Act prescribes a bar to the initiation of any proceedings or contempt by the Court either of 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. The limitation is not to be reckoned by the date of presentation of the application. Court is barred from initiating the proceedings after the expiry of period of one year from the date on which the contempt is alleged to have been committed. So, the real point to be seen is as to when the act of contempt was committed. In this particular case, it would be seen that act of contempt was committed in the year 1980 for the first time whereas the proceedings were initiated by this Court on its own motion in the year 1991 after a lapse of 11 years. Section 20 in clear terms places an absolute fetter on the power of the Court to initiate proceedings for contempt after the expiry of a period of one year from the alleged date of commission of the contempt. Once it is established that the act sought to be initiated is beyond one year of the commission of the contempt of Court then neither the Court of its own motion nor on the application made by the aggrieved person has the power to initiate the proceedings under the Act because of section 20 of the Act.

(10) I have examined the authorities cited during the course of arguments carefully. Observations of their lordships in *Baradakanta Mishra's* case (supra) are in a totally different context and are not applicable to the facts of the present case. *Sudesh Kumar's* case (supra) was considered and explained in a subsequent judgment by this Court in *Romesh Kumar's* case (supra) and it was held that *Sudesh Kumar's* case (supra) was clearly distinguishable. I fully agree with the observations made by this Court in the subsequent case in *Romesh Kumar's* case (supra). In *Romesh Kumar's* case (supra), it was held that limitation for initiation of proceedings is one year from the act of contempt and there is no provision which stops the running of time of limitation of one year. Similar view was taken by this Court in *Smt. Veena Sikka's* case (supra). Karnataka and Allahabad High Courts have also taken the same view. The judgment rendered by the apex Court in *Baradakanta Mishra's* case (supra) was also considered by this Court and by Allahabad and Karnataka High Courts as well and it was held that the same was not applicable and the observations made are given in a different context.

(11) In my view, there is no discretion with the Court to initiate proceedings beyond the period mentioned in Section 20 of the Act. Section 20 of the Act clearly fetters the power of the Court to

initiate proceedings either *suo motu* or on an application made to initiate the proceedings under the Contempt of Courts Act after the expiry of period of one year from the date on which the act of contempt is alleged to have been committed. It is an absolute enactment which has to be obeyed absolutely. The action initiated against the respondents is, therefore, held to be beyond limitation as the alleged act of contempt was committed in the year 1980 whereas the proceedings were initiated in the year 1991. I may hasten to add here that this rule will not be applicable where the contempt is of a continuing nature. In *Firm Ganpat Ram Raj Kumar v. Kalu Ram* (8), it was held that in a case of landlord and tenant where the tenant is required to vacate the premises on the expiry of a particular period and he does not vacate the premises and give possession then failure to give possession would amount to contempt of Court, which was continuing and proceedings can be initiated against him till he delivers the possession. It was held that since it was a continuing wrong there was no application of section 20 of the Act. It was stated by the counsel for the respondents that the institution (college) has already closed and the contempt is not of a continuing nature.

(12) For the reasons stated above although I find that Sarvshri M. S. Dhul, Ram Saran and Shankar Lal are guilty of commission of Act of contempt of Court but in view of the limitation provided in Section 20 of the Contempt of Court Act, 1971, no proceedings could be lawfully initiated against them. Rule discharged. No costs.

J.S.T.

Before R. S. Mongia & Jawahar Lal Gupta. JJ.

THE KARNAL CENTRAL CO-OPERATIVE SOCIETIES BANK
Ltd.,—Petitioner.

versus

THE STATE OF HARYANA AND OTHERS,—Respondents.

C.W.P. 3827 of 1994.

August 19, 1994.

*Industrial Disputes Act, 1947—S. 25F—Termination of Service—
Workman appointed for a fixed term of 89 days—Service terminated
in strict accordance with terms of appointment—Infact if workman.*
