

Bill No. XII of 2018

THE CONTEMPT OF COURTS (AMENDMENT) BILL, 2018

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BILL

further to amend the Contempt of Courts Act, 1971.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Contempt of Courts (Amendment) Act, 2018.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

5 **2.** In the Contempt of Courts Act, 1971, in section 2, for clause (f) the following shall be substituted namely:—

Amendment
of section 2 of
Act 70 of
1971.

10 (b) “civil contempt” means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court including non-filing of counter or reply affidavits or proceedings within the time granted by the Court or wilful breach of an undertaking given to a Court;

Explanation 1.—For the purpose of this clause, the non-filing of counter or reply affidavits or proceedings by the official respondents within the time granted by the any Court of law, shall amount to a Civil Contempt.

Explanation II.—The term “official respondents” in the above Explanation I shall include all the officials representing the Union or State Governments or any authority or body or institution of self Government established or constituted by or under the Constitution; or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government; bodies owned, controlled or substantially financed by the Central Government or a State Government and non-Government organisations substantially financed by the Central Government or a State Government, who were arrayed as respondents in the legal proceedings before any court of law. 5

Explanation III.—If the “official respondent” is having a legal officer or a Government pleader or a standing counsel or an advocate on record or any law officer to represent it before the appropriate Court of Law, the responsibility of filing the Counter affidavit or reply proceedings shall lie equally between the official respondent and legal officer representing it and they shall jointly and severally face the contempt proceedings, if any, initiated against any of them for this purpose.” 10 15

STATEMENT OF OBJECTS AND REASONS

The Contempt of Courts Act, 1971 was enacted to uphold the dignity and authority of the courts, ensure compliance with the directions of court, preserve an effective and impartial system of justice and to maintain public confidence in the administration of justice. The Act defines two types of contempt. One is civil contempt and other is criminal contempt. The civil contempt is defined as wilful disobedience to any judgement, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court.

2. There are large numbers of pending cases before various courts where the government is a litigant and reports indicate that large number of cases are pending because of non-filing of counter or reply affidavits by the various government authorities in spite of specific directions from the concerned courts. The non-filing of counter/reply affidavits is causing a lot of inconvenience to the courts in the administration of justice. This is also creating delay in doing justice to the people approaching the courts. Often, Courts are taking a serious view of delay in filing counter/reply affidavits and impose heavy costs to be recovered from the offices concerned.

3. The Government is sensiting its officers from time to time to file counter affidavits reply within the time granted by the courts. The Government also appoints Law Officers/ Government Pleaders/ Standing Counsels/ Advocate on Record/Solicitors to represent various Government departments in various courts. However, the law officers are not taking the responsibility of filing counters and they simply inform the respondent officials about the case and keep silent until a reply comes from them. Similarly, officials are also not choosing to file the counters until and unless court takes a serious view. Lack of proper coordination between government officials and law officers is one of the reasons for not filing the counter affidavits within time. Therefore, the responsibility of filing counter should be the equal responsibility of the official respondent and law officer representing him in the court and they should be jointly and severally responsible for non-filing within the time granted by courts.

4. Though, non-filing of counter affidavits within the time granted by court can be interpreted as disobedience of the order of the Court, contempt proceedings are not initiated in this aspect till now. Therefore, it is necessary to explicitly bring the non-filing of counter affidavits within time granted by courts as a contempt of court and as such an amendment is proposed to the parent Act to this effect. The proposed amendment ensures in-time filing of counter affidavit and thus helps the court to deliver judgments at the earliest so that the justice is not delayed. The proposed Bill addresses the above concerns to a certain extent.

Hence this Bill.

DR. K.V.P. RAMACHANDRA RAO

ANNEXURE

EXTRACTS FROM THE CONTEMPT OF COURTS ACT, 1971

(70 OF 1971)

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Definitions. **2.** In this Act, unless the context otherwise requires,—

(a) * * * *

(b) ‘civil contempt’ means wilful disobedience to any judgement, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;

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further to amend the Contempt of Courts Act, 1971.

(Dr. K.V.P. Ramachandra Rao, M.P.)