

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

**CONTEMPT PETITION NO.120 OF 2013
IN
WRIT PETITION NO.8309 OF 2010.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.S.J.Salunke, advocate for the Petitioner.
Mr.D.R.Kale, Incharge Govt. Pleader for Respondent No.2.
Mr.V.D.Salunke, advocate for Respondent No.1.

**CORAM : S.V.GANGAPURWALA &
V.K.JADHAV, JJ.
Date : 11.08.2015.**

PER COURT :

1. Heard.
2. The learned counsel for the petitioner states that this Court vide order dated 26.6.2012 in W.P.No.8309/2010 as corrected vide order dated 23.7.2012, had directed the Respondent No.4 therein i.e. Respondent No.1 in present Contempt Petition to decide about the entitlement of the petitioner to Plot No.32 and if he finds, the petitioner entitled for plot No.32, shall proceed to allot the same in accordance with law. It was also clarified by the Court that the reservation made by order dated 12.7.2010, would not come in the

way of the present Respondent No.1 in proceeding to allot plot No.32. The learned counsel submits that the Respondent No.1 herein in complete defiance of the order passed by this Court on the premise that reservation exist, vide order dated 12.7.2010, rejected the application of the petitioner. The same is a willful act. The majesty of the order of this Court is lowered and the Respondent No.1 is directed to remain present for framing of the charge. According to the learned counsel, the Respondent No.1 could not have said about the orders of this Court.

3. The learned counsel for Respondent No.1 submits that in fact, Respondent No.1 is not a competent authority under the Rehabilitation Act to decide the allotment of plot. It is only the District Collector, who is competent. The District Collector had allotted plot No.47 to the petitioner which was accepted by the petitioner. The Respondent No.1 is subordinate Officer to the District Collector and had no authority even to change the allotment. The order passed by the Respondent No.1 is bonafide and in compliance of the order passed by this Court. None of the parties pointed out to the Court while disposing the Writ Petition that the present Respondent No.1 does not have authority to decide the allotment of the plot.

4. We have considered the submissions canvassed by the learned counsel.

5. As per Section 5 of the Rehabilitation Act, it is the District Collector who has the powers to order allotment of plots for rehabilitation. Earlier allotment was said to have been done by the District Collector. Be that as it may, the order is passed by the Respondent No.1, pursuant to the orders passed by this Court. The only mistake that appears to have been committed by the Respondent No.1 is that he reverted back to the reservation, which this Court had directed him to ignore it.

6. Contempt would be exhibiting supine indifference to the orders passed by this Court or willful disobedience of the orders passed by this Court. In the present matter, the Respondent No.1 passed the order. The order may be erroneous, however, only error of judgment would not tantamount to commission of an act of contempt. Over and above, Respondent No.1 was also not competent to decide the same.

7. Going through the order passed by Respondent No.1 and the orders passed by this Court, we do not think that it is a case of contempt or it is an intentional disobedience of the orders of this Court.

8. Considering the fact that the present Respondent No.1 was not competent to decide the said matter, interest of justice would be sub-served by passing the following order :

a) The District Collector, Jalna, shall decide about the

allotment of plot No.32 as claimed by the petitioner on its own merits in tune with the order passed by this Court dated 26.6.2012 read with order dated 23.7.2012 in W.P.No.8309/2010. The learned Incharge Govt. Pleader, who is present in the Court shall intimate this order to the District Collector, Jalna. The petitioner shall appear before the District Collector, Jalna, on 7.9.2015. The District Collector, Jalna, shall after hearing the petitioner decide about the said aspect as directed by this Court in W.P.No.8309/2010, vide order dated 26.6.2012 and 23.7.2012 on its own merits and in accordance with law expeditiously, preferably within three (3) months from the date of appearance of the petitioner.

b) In light of the above, the Contempt Petition stands disposed of.

c) Pursuant to the orders passed by this Court, the Respondent Nos.1 and 2 are present.

(V . K . JADHAV , J .)

(S . V . GANGAPURWALA , J .)

Dt.11.08.2015.
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