

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 114 OF 2011

Shri Vasant Jivba Patil (Nikam) .. Petitioner
vs.
Shri Ambaji Baburao Patil & Ors. .. Respondents

Mr. Harshad Shingnapurkar i/b. Mr. Amit Borkar for Petitioner.
Mr. S. S. Tambekar for Respondent Nos. 1 to 3 and 5.
Ms Aparna Vhatkar – AGP for Respondent No. 4.
Mr. Laxman Shivaji Naik – Respondent No. 3 present in person.

CORAM : M. S. SONAK, J.
DATE: 03 MARCH 2015

P.C. :-

1] There is no case of any contempt made out against the respondent nos. 1, 2 and 4. This is because it has not been demonstrated as to how the said respondents can be said to have disobeyed the interim order made by this Court on 25 August 2010 in writ petition no. 6719 of 2010.

2] The Additional Collector by order dated 20 April 2010 had disqualified the petitioner from being a member of the Kandalgaon Gram Panchayat. The petitioner instituted an appeal against the order dated 20 April 2010 before the Additional Commissioner, Pune. On 26 April 2010, the Additional Commissioner Pune, stayed the order dated 20 April 2010 disqualifying the petitioner. However, ultimately the appeal filed by the petitioner was rejected.

3] The petitioner thereafter instituted writ petition no. 6719 of 2010 before this Court. On 25 August 2010, this Court directed that the interim order made by the Additional Commissioner on 26 April 2010 will continue to operate.

4] On 7 September 2010, in the meeting of the Panchayat, issue came up with regard to the disqualification of the petitioner. The respondent no. 3, the Sarpanch and the respondent no. 5 Gram Sevak had been served with a copy of the interim order made by this Court on 25 August 2010. However, the said two respondents chose to ignore the same, upon the spacious plea that the same was not a certified copy and further that there was nothing in the order which stated that the petitioner continued to be qualified as member of the Panchayat.

5] Ultimately, writ petition no. 6719 of 2010 came to be dismissed by this Court. The petitioner however, has instituted the present contempt petition, by alleging that the respondents have deliberately and willfully breached and defied the interim order made by this Court on 25 August 2010, when in fact the same was very much in operation.

6] The respondent nos. 3 and 5 have filed replies in the present petition. From the tenor of the replies, it is clear that there is no

denial with regard to what factually transpired in the meeting of the Panchayat dated 7 September 2010. Besides, minutes of such meeting are also on record. The respondents contend that since the writ petition no. 6719 of 2010 has finally been dismissed, no case is made out to take any action under the Contempt of Courts Act.

7] The circumstance that the writ petition no. 6719 of 2010, in which the interim order dated 25 August 2010 has ultimately been dismissed, is not at all the circumstance which can come to the aid of the respondents. Admittedly, on 7 September 2010 when the interim order was not followed by the respondents, the same was very much in operation. There was really no justification on the part of the respondent no. 3 and respondent no. 5 in virtually defying the interim order granted by this Court. If there was any doubt or dispute with regard to the authenticity of the order, the said respondents could have well deferred the proceedings for some reasonable period and called upon the petitioner to produce a certified copy of the interim order. However, in absence of any doubt or dispute, it was not open to the respondents to refuse to act upon the interim order, on the sole ground that no certified copy thereof had been produced. The interim order had to be read in the context in which the same was made. There was no ambiguity whatsoever that during the pendency of writ petition no. 6719 of 2010, the

disqualification of the petitioner had been stayed. On account of the acts of the respondents, the petitioner was deprived of valuable right to take part and vote at the meeting of the Gram Panchayat held on 7 September 2010.

8] In the aforesaid circumstances, it does appear that the respondent no. 3 has acted in breach of the interim order made by this Court. In so far as respondent no. 5 is concerned, in his reply he has further submitted that he was virtually coerced into taking the decision which he ultimately took. This is not to be appreciated, particularly, from the respondent no. 5, who is a government employee. It is the duty of all concerned, including in particular the Authorities like Gram Sevaks to comply with any order that may be made by the Judicial Authorities, both in letter and spirit. However, it is not necessary to take any action against the respondent no. 5 in exercise of contempt jurisdiction, because it is possible that on the said date, the respondent no. 5 was not able to assert himself. It therefore can be said that there was no deliberate or wilful violation of the court's orders.

9] In so far as the respondent no. 3 is concerned, without prejudice to the defences raised, the respondent no. 3 has tendered an unconditional apology. Mr. Tambekar, the learned counsel for

the respondent no. 3, upon instructions from the respondent no. 3, who is personally present in Court today, once again tenders unconditional apology to this Court. Further, by way of the remorse, the respondent no. 3 volunteers and undertakes to pay an amount of Rs.10,000/- in favour of Zilla Parishad School at Kandalgaon within a period of two weeks from today. Such undertaking is accepted.

10] In view of the same, there is no necessity to take any action, other than to accept the unconditional apology tendered by the respondent no. 3.

11] Accordingly, the present contempt petition is disposed of. The undertaking of the respondent no. 3 to pay to Zilla Parishad School, Kandalgaon within two weeks from today, a sum of Rs.10,000/-, is accepted. The respondent no. 3 to file a compliance report with the Registry of this Court, indicating therein the demand draft details by which said amount has been paid to the Zilla Parishad School, Kandalgaon. The respondent no. 3 to also file on record the receipt from the said school. All such compliances to be filed within a period of four weeks from today.

12] Contempt petition is disposed of in the aforesaid terms.