

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR
BENCH, NAGPUR.

CIVIL APPLICATION (CAO) NO.891 OF 2014

IN

MCA NO.565 OF 2011

IN

MCA NO.1437 OF 2009

IN

WRIT PETITION NO.3020 OF 1991

DARIUS J. KHAMBATA, ADVOCATE GENERAL OF MAHARASHTRA STATE,
MUMBAI

V/S

BADRUDDIN MEHDY HIRANI

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders
.....

Court's or Judge's order

Mrs. Bharti Dangre, Government Pleader for the applicant.
Shri R.E. Moharir, counsel for employer.
Respondent in person.

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.

DATE : MARCH 02, 2015.

Heard.

In Misc. Civil Application No.565 of 2011,
this Court on 31.1.2013, passed following order,
thus:

*“This Misc. Civil Application seeks
review of judgment dated
08.12.2009 passed by this Court in
M.C.A. Stamp No. 6261/2009 with
C.A. Nos. 1618, 1621, 514, 515 and*

518 all of 2009. This Court had on earlier occasion directed the parties to give details of various proceedings filed in relation to same cause. Surprisingly, though Court expected assistance from the respondents, the respondents have failed to do so. The applicant himself has placed on record a chart disclosing therein that he has filed about 73 submissions before this Court and 28 submissions before the Registry. He has also pointed out four orders dated 22.04.1992, 05.07.1996, 23.11.2000 and 21.10.2004 in four different writ petitions. There is also a reference to the order dated 05.07.2001 in W.P. No. 1913/2011 and some stay to the criminal proceedings, which has not been vacated according to the applicant till date.

Before proceeding further, we would like to inform the applicant-in-person that this Court may, if it finds proper, proceed against him in accordance with the provisions of Maharashtra Vexatious Litigation (Prevention) Act, 1971.

We grant the respondents time of two weeks to give necessary details, without fail. If the details are not furnished, their Chief Engineer have to remain present with necessary details.

Put up the matter for further

consideration on 11.02.2013.”

Thereafter, on 15.4.2013, other order which reads as under, came to be passed:

“In the light of the earlier orders of this Court in the matter dated 14.9.2012 and 31.1.2013 and C.A. No. 491/13 which is being pressed into service today, we find that the petitioner is not interested in seriously prosecuting his grievance and is only killing the time of the Court and public at large. C.A. No. 571/13 is filed for directions and in it prayer is to hold C.A. No. 259/13 as not pressed. We find it convenient to reproduce those prayers -

“The petitioner therefore hereby most humbly and respectfully requests this Hon'ble Court kindly to :

i) hold CA No. 259/13 for directions as not pressed;

ii) reject the submissions as under filed by the counsel for the respondents at his own holding them to be highly irregular, improper and objectionable -

a) Submissions St.No. 10770/13

b) Submissions St.No. 3582/13 and

c) Pursis St.No. 2882/13

iii) direct the respondent no. 1 to appear with the records, certified copies

and the submissions in MCA No. 565/11 for review.

iv) direct the Registrar (Judicial) to reconstruct the original W.P. No. 3049/80 and W.P. No. 618/1981.”

C.A. No. 491/13 for amendment does not show the proposed amendment at all. C.A.O No. 259/13 which is sought to be withdrawn contains following prayer -

“The petitioner therefore hereby most humbly and respectfully requests this Hon'ble Court to kindly -

(i) quash the certified copies of the orders at Annexure-I, Annexure-II and Annexure-III to the submissions dated 11.2.2013 at Annexure-I hereto, apart from the certified copy of the order dated 19.10.1989 in W.P. No. 618/81 at Annexure-IV to MCA No. 565/2011 for review arising out of W.P. No. 3020/1991 pending, holding the same to be false, fabricated, misleading and denying justice for ever, in the interest of justice.

(ii) kindly direct the respondent no.1 to collect and surrender for examination the certified copies and/or typographic copies of W.P. No. 3049/1980 and W.P. No. 618/1981, apart from CA No. 410/1991, CA No. 979/1991 in WP No. 618/1981 and CA No.

1492/1996 in W.P. No. 3020/1991 served on him time and the certified copies of the various orders therein served on him time to time.

(iii) kindly direct the Registry to list MCA No. 565/11 for review arising out of WP No. 3020/1991 as ripe for being finally heard of on merits Ex-Parte.”

Shri Moharir has invited our attention to the submissions filed by the respondents vide St.No. 1764/13. In those submissions he has given the brief history of entire litigation. He points out that though the applicant/petitioner had refused to engage any advocate this Court heard him and then passed appropriate order on 8.12.2009 while disposing of MCA St.No. 6261/09 with several other applications.

We have already noted in our order dated 31.1.2013 that proceedings under Maharashtra Vexatious Litigation (Prevention) Act, 1971 may be resorted to.

During hearing it has been informed to us that the applicant/ petitioner is not doing anything and has got no source of income. In this situation, we direct the Registry to proceed against the applicant/petitioner in accordance with the provisions of Maharashtra Vexatious Litigation (Prevention) Act, 1971.”

After going through the number of proceedings filed by the applicant, who appears in person, learned Advocate General has presented Civil Application (CAO) No.891 of 2014 for declaring the present applicant as vexatious litigant and to restrain him from initiating any civil proceedings in relation to dismissal from service of The Maharashtra State Electricity Board or in relation to any proceeding respect thereof against any person or Authority in any Court within the State of Maharashtra without previous leave of this High Court or leave of concerned District and Sessions Judge as the case may be.

Today, we have heard applicant – Badurddin s/o Mehdy Hirani on Misc. Civil Application No.565 of 2011 as also on Civil Application (CAO) No.891 of 2014. He submits that delay application in filing Misc. Civil Application No.565 of 2011 was condoned and the misc. civil application was to be heard on merits. According to him, at one stage, it was likely to be allowed but thereafter, as the Bench was not available, the situation underwent changed drastically. He has used word “topsy-

turvy”. He submits that, in this situation, as all records right from 1980 are still available and preserved, his grievance needs to be examined on merits.

Learned Government Pleader and Shri R.E. Moharir, learned counsel for the employer, however, supported the application filed by learned Advocate General. They point out that large number of proceedings filed by the present applicant one after the other and its outcome, learned Government Pleader submits that precious time of this Court has been lost and genuine causes, therefore, could be heard. She specifically reads out to Court the submission contained in paragraph No.21 in Civil Application (CAO) No.891 of 2014. We find it proper to reproduce that paragraph here, thus:

“From the above facts, it appears that the Opponent has filed six Writ Petitions for similar remedies, five of which have been summarily dismissed and one voluntarily withdrawn. Nine review and restoration applications have also been taken out by the Opponent. The Opponent has also filed a Contempt Petition which has also been dismissed. The Opponent has submitted a chart before the

Hon'ble High Court showing that he had filed approximately 73 "submissions" before the Hon'ble High Court, Nagpur Bench and 28 submissions before the Registry of the said Court. All of the proceedings filed by the Opponent relate to a challenge to his dismissal from service by MSEB. I crave leave to refer to the papers and proceedings in the matters referred to above, as may be available, when produced."

Perusal of various orders passed in the matters show that the grievance against transfer from one place to other in service and, thereafter, subsequent termination, have been looked into by this Court on more than one occasion. Considering the fact that he appeared in person he was also extended legal assistance. The Court, after examining the grievance, did not find any merit in it. The observations of this Court, in its judgment dated 25.7.1991 in Writ Petition No.618 of 1981, speak for themselves. Those observations are, thus:

"We have perused the record of the earlier writ petition and of the present petition. It is fact that there was a challenge to the order of

transfer as well as to the notice of termination in the earlier petition. The Supreme Court in the decision reported in the case of Sarguja Transport Service ..vs.. State Transport Appellate Tribunal, Gwalior and others (AIR 1987 SC 88) has held that the petitioner after withdrawing a writ petition filed by him in the High Court under Article 226, without the permission, institutes a fresh petition, cannot file a fresh writ petition in respect of the same cause of action in the High Court under that Article. In view of this decision, the present petition is not maintainable and therefore, we do not want to go into the merits of the same. The petition deserves to be dismissed only on this preliminary ground.

In the result, the writ petition is dismissed. No order as to costs.”

In earlier Writ Petition No.3049 of 1980, there was challenge to order of transfer and as also order of termination. This Court did issue notice before admission on 18.12.1980 and granted interim order. On 27.1.1981, he withdrawn that writ petition unconditionally i.e. without leave to file any fresh or other writ petition. He also did not join as per interim

orders. These facts show that dismissal of earlier Writ Petition No.3049 of 1980, thus attained finality on 25.7.1991 in-so-far as this Court is concerned.

It is, therefore, apparent that learned Advocate General is justified in moving the application. We find that the applicant is vexatious litigant.

Accordingly, with this declaration, we restrain him (Badurddin s/o Mehdy Hirani) from initiating any civil proceedings in relation to dismissal from service of The Maharashtra State Electricity Board or any proceeding in respect thereof against any person or Authority in any Court within the State of Maharashtra without previous leave of this High Court as per law or then leave of the concerned District and Sessions Judge as the case may be. All legal proceedings filed by him and pending before this Court pertaining to his dismissal from service of The Maharashtra State Electricity Board are hereby dismissed.

The above order is dictated in open

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Court and in the presence of Shri Badurddin s/o
Mehdy Hirani.

Registry to proceed further.

JUDGE

JUDGE

!! BRW !!

...../-