

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CONTEMPT PETITION NO. 386 OF 2014
IN
WP/10538/2012

SALIM KHAN AMIR KHAN
VERSUS
THE CHIEF OFFICER, MUNICIPAL COUNCIL, BHUSAVAL, JALGAON

...

Advocate for Petitioner : Shri Sandip Rathod h/f Ms.Mahajan Surekha P.

Advocate for Respondent 1 : Shri D.A.Modke h/f Shri G.V.Wani.

Advocate for Respondents 2 to 11 : Shri Bhausahab S. Deshmukh.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 18th January, 2016

Per Court:

1 On 16.06.2015, the following order was passed by this

Court:-

“1 Ms.Mahajan, learned Advocate for the Petitioner, points out the order passed by this Court dated 09.01.2014 in Writ Petition No.10538/2012. She specifically indicates paragraphs 2, 3, 4 and 5 which read as under:-

“2. Perusal of the order dated 22-08-2012 of the division bench of this court reveals that it specifically makes it clear that the municipal authorities to decide representation made by petitioner on its own merits.

3. Further, perusal of the impugned order (exhibit H) would not be able to say that the same has been passed on merits as directed by this court. It

appears to be a resolution referring to the order passed on 06-07-2012 by Divisional Commissioner, Nashik under which he had decided the application of the present petitioner dated 24-11-2011.

4. As such, there appears to be no application of mind to the matter and to spirit of order at exhibit H. The impugned order deserves to be set aside and matter requires to be remitted for consideration afresh by municipal authorities pursuant to the provisions of the Maharashtra Employees of Private Schools and rules thereunder for disposal on merits by granting opportunity of hearing to either side. The whole exercise shall be completed as expeditiously as possible and in any case within a period of six months from today.

5. Mr. Wani, learned Counsel appearing for respondent no. 4 fairly states that earlier he had made a statement that the post falling vacant upon termination of the petitioner would not be filled in till disposal of writ petition. He continues said statement till disposal of the matter by the authorities concerned.”

2 Ms.Mahajan further submits that the Municipal Authorities were directed to decide the representation of the Petitioner. The Petitioner has submitted the representations dated 29.01.2014, 05.03.2014 and 12.05.2014 to the Chairman of the Standing Committee. A request for considering the said representations was once again renewed by the communication dated 09.06.2014 with a copy to the Respondent/ Contemner. It does not emerge from the record that the Respondent/ Contemner communicated any development on this count to the Petitioner; inasmuch as, the Standing Committee has made no communication in that regard.

3 Mr.Wani, learned Advocate appears for the Respondent/ Contemner and through an affidavit in reply indicates that he had brought it to the notice of the Standing Committee that the order of this Court dated 09.01.2014 needs to be implemented. It is

further pointed out that the Respondent took the charge on 03.07.2014 and the period that was granted by this Court was to conclude on 08.07.2014.

4 Mr.Wani further points out that the Headmaster of D.S.High School & Junior College, Bhusawal issued notice to the Petitioner for a hearing before the Standing Committee scheduled on 16.03.2015. The notice was issued on 12.03.2015 which was followed by two holidays on 14th and 15th March, 2015.

5 Ms.Mahajan submits that the Petitioner received the notice on 16.03.2015 when the hearing was scheduled at 10:30 am and the notice was dispatched through the Post Department at 14:28 hours on 12.03.2015.

6 Mr.Wani submits that on 16.03.2015 the Standing Committee concluded that the Petitioner was absent and closed the proceedings.

7 Having considered the above, ex-facie I am not convinced that the Respondent/ Contemner has behaved in a diligent manner. I desire to leave this issue open to be decided at a later stage in this petition in the light of the request made by Ms.Mahajan that she would prefer to implead the Chairman/ Members of the Standing Committee in this petition in the light of the affidavit filed by the Respondent and the information revealed by the Respondent for the first time. Ms.Mahajan reiterates that the decision of the Standing Committee dated 16.03.2015 has never been communicated to the Petitioner.

8 Mr.Wani submits that the Respondent cannot be faulted for what the Standing Committee has done.

9 In the light of the above, leave to add the

Members/ Chairman of the Standing Committee as Respondents, is granted. Addition be carried out within ONE WEEK from today.

10 *The matter be placed for hearing on 30.06.2015 to consider issuance of notice to the added Respondents.”*

2 Shri Deshmukh, learned Advocate appearing on behalf of Respondent Nos.2 to 11, submits that the President of Standing Committee of Bhusawal Municipal Council, Shri Pinjari Akhtar Haji Nadar is present in the Court today. He submits on instructions that the order dated 16.03.2015 passed by the Standing Committee shall be withdrawn forthwith. A date may be fixed by the consent of the Petitioner when he would be heard in the light of the directions of this Court dated 09.01.2014 delivered in Writ Petition No.10538/2012. After the hearing is over, the matter would be reserved for orders and a speaking order would be passed which would be communicated to the Petitioner.

3 The learned Advocate for the Petitioner, on instructions from the Petitioner who is present in the Court, submits that he would prefer to address the Standing Committee on a particular date as well as file written notes of submissions in addition to the representation which is pending adjudication. In the event, the order passed after hearing the Petitioner is adverse to the Petitioner, liberty be granted to the Petitioner

to assail the said order on it's own merits in accordance with the remedy available in law.

4 Shri Deshmukh submits on instructions that the Respondents are willing to proceed accordingly.

5 The learned Advocate for the Petitioner, therefore, is agreeable for the disposal of this Contempt Petition.

6 In the light of the above, the statement of Shri Pinjari Akhtar Haji Nadar, the President of Standing Committee, present in the Court is accepted as a statement being made on behalf of Respondent Nos.2 to 11. Consequentially, the order dated 16.03.2015 shall stand withdrawn in the light of the statement made.

7 As per the consent of the Petitioner as well as Respondent Nos.2 to 11, a hearing on the representation of the Petitioner in terms of the order of this Court dated 09.01.2014 shall be posted on 12.02.2015 at 11:00 am at the office of the Municipal Council.

8 The Petitioner and/or his representative shall participate in the said hearing and shall address the Standing Committee orally as well

as by submitting the written notes of submissions.

9 After hearing is concluded, the Standing Committee shall pass a reasoned order and communicate the same to the Petitioner.

10 In the event, the order is adverse to the Petitioner, he shall be at liberty to assail the said order in accordance with the remedy available in law.

11 Considering the controversy which gave rise to this petition, I find it appropriate to direct the Chief Officer of Bhusawal Municipal Council to participate in the hearing on 12.02.2016 as per the schedule noted above.

12 In the light of the above, the contempt proceedings are purged. This Contempt Petition is, therefore, disposed of.