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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CONTEMPT PETITION NO.444/2016

IN

WRIT PETITION NO.11662/2015

WITH

CIVIL APPLICATION NO.13661/2016

Sadashiv Tukaram Sanap.

...Petitioner..

Versus

S.P. Jaiswal & others.

...Respondents...

.....

Shri A.N. Nagargoje, Advocate for petitioner.

Smt.P.V. Diggikar, AGP for respondent nos.1 to 3.

Shri S.S. Thombre, Advocate for applicant in CA 13661/16.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 01.12.2016

ORDER :

1] Mr.Nagargoje, learned counsel for the petitioner, submits that the writ petition was filed by the petitioner seeking implementation of the order dated 21.4.2015 passed by the Deputy Director of Education, Aurangabad Division. This Court on the basis of the affidavit filed by the respondent no.3 therein disposed

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of the writ petition with a direction to complete the said enquiry within eight weeks. The said order will have to be considered in the context of the prayers made in the petition. The respondent no.3 in the said writ petition made the Court believe that he is taking steps and pursuant thereto, without entering into the merits of the matter, the Court disposed of the proceedings. The affidavit filed does not show that enquiry in respect of the points raised in the petition was made. The order of this Court is not complied with.

2] Learned AGP states that the affidavit is filed. The enquiry, as was stated in the affidavit, is conducted and even recovery was ordered, however, the persons against whom recovery is ordered, have filed writ petition in this Court and order of status-quo has been passed. The respondents have not committed any contempt of orders of this Court.

3] The contempt jurisdiction will have to be strictly construed. This Court did not pass any orders on merits in Writ Petition No.11662/2015. Relying on paragraph no. 5 of the affidavit in reply filed by the respondent no.3 therein, the Court observed that it does not propose to

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go into the merits of the matter and expected the enquiry initiated to be completed as expeditiously as possible and preferably within a period of eight weeks. The enquiry subsequently is concluded. The respondents are at liberty to take further steps as per the enquiry.

4] In the present contempt petition, we are not concerned with the merits of the contentions raised. This Court would be concerned with the compliance of the orders passed. This Court had not passed any orders on merits. On the contrary, in paragraph no.3 of the order, it was observed as under:-

"It is made clear that we have not expressed any opinion on the merits of the matter."

It was also observed in paragraph no.2 as under:-

"In view of the statement made by respondent no. 3 in para 5 of his affidavit-in-reply, we do not propose to go into the merits of the matter. However, we hope and expect that the inquiry initiated should be completed as expeditiously as possible and preferably within a period of eight weeks from today."

5] The order does not clarify as to the nature of enquiry and further steps that were directed to be

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undertaken by the respondents. If after the enquiry, some orders are passed, the said orders are required to be assailed in appropriate proceedings. The contempt proceedings cannot be entertained in that regard.

6] Considering the aforesaid aspects of the matter, as the enquiry is concluded as per the affidavit filed by the present respondent no.2, the order in letter and spirit stands complied with.

7] The contempt petition accordingly stands disposed of. No costs. Civil Application No.13661/2016 for intervention is allowed to be withdrawn at the request of the learned counsel for the applicant.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)