

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

**CONTEMPT PETITION NO. 727 OF 2015
IN
WRIT PETITION NO. 7398 OF 2015**

Sagar Maschya Vyavsaik Sahakari
Sanstha Ltd., Partur,
Through its President
Shaikh Hamid Shaikh Rashid .. Petitioner

Versus

Bharat Ambarsingh Chavan and others .. Respondents

Shri G. R. Syed, Advocate for the Petitioner.
Shri Z. Z. Quadri, Advocate for the Respondent No. 1.
Shri S. Y. Patil, Advocate h/f Shri P. P. Dudile, Advocate for
Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA
A. M. BADAR, JJ.
DATE : 02ND MARCH, 2016.**

PER COURT :

. The present contempt petition is filed on the ground that the present respondent No. 1 had filed misleading affidavit in Writ Petition No. 7398 of 2015. Though auction of said fishing tank is said to have been conducted on 04th July, 2015, the respondent No. 1 in his affidavit filed in the said writ petition nowhere contended that the auction had taken place. The order of status quo was passed by this Court initially on 03rd September,

2015 and the same was continued till final order of this Court in the said writ petition. The learned counsel submits that, if the respondent No. 1 would have brought to the notice of this Court that, the auction proceedings have taken place earlier, the petitioner could have taken steps in that regard and the Court would have passed different order. The respondent No. 1 misrepresented before the Court. It amounts to interference in the course of administration of the justice inter alia amounts to contempt of the Court. As such, the action deserves to be taken against him. The learned counsel further submits that, the auction is allotted in favour of the respondent Nos. 2 and 3, who are private parties. As per the relevant Government Resolution the tank can not be allotted to the private parties.

2. The learned counsel for the respondent No. 1 submits that, the respondent No. 1 has tendered unconditional apology to this Court. It was negligence on the part of the respondent No. 1 in not mentioning about the auction of the said fishing tank being conducted on 04th July, 2015. However, the respondent No. 1 has obeyed the order of this Court by maintaining status quo and the respondent No. 1 has never interfered, nor obstructed the petitioner in his business of fishing. Subsequently, the respondent No. 1 has cancelled the agreement in favour of respondent Nos. 2 and 3 and has also issued no objection certificate to the petitioner for fishing till 31st March, 2016. The learned counsel submits that the respondent No. 1 did not had

any intention of misrepresenting the facts before the Court. It is only because of inadvertence, the respondent No. 1 could not mention the factum of the auction being conducted on 04th July, 2015. The corrective steps have been taken by the respondent No. 1. The respondent No. 1 has tendered unconditional apology for the same.

3. We have perused the affidavit filed by the respondent No. 1 in Writ Petition No. 7398 of 2015. In the said affidavit in reply filed, the respondent No. 1 did not even remotely contend that the fishing tank involved in the writ petition was already auctioned on 04th July, 2015. The affidavit in reply is completely silent in this regard.

4. This Court also disposed of the writ petition on the statement of the respondents that they would not interfere or disturb the petitioner in carrying out his fishing activity. Non mentioning the aspect of auction is certainly objectionable, because of non mentioning of the said fact, the Court certainly was misled in passing order. The respondent No. 1 is Gram Vikas Adhikari of the Gram Panchayat and a responsible officer who is expected to subscribe to the high degree of sincerity and responsibility, so also is expected to bring all the facts to the notice of the Court. The Court was guided by the affidavit filed by the respondent No. 1 in the writ petition and so also the submissions made that the petitioner therein would be allowed to

do the fishing activity. The respondent No. 1 claims that the same was due to negligence. The said act of negligence cannot be accepted by this Court. Certainly, non disclosure of detail and material facts would tantamount to interference in the course of administration of justice.

5. We have read the present affidavit in reply filed by the respondent No. 1 to the present contempt petition, wherein he has candidly accepted about non disclosure of auction being held in affidavit filed in writ petition and has submitted his unconditional apology for the same. He has taken some corrective steps in that regard by cancelling the agreement in favour of respondent Nos. 2 and 3 and also issued no objection certificate to the petitioner to do business of fishing activity till 31st March, 2016. Considering the affidavit in reply filed in the present contempt petition. So also considering that non disclosure of auction in writ petition was not malafide, but act of negligence. We are not taking any action of contempt against him, however, the respondent No. 1 is admonished that in future he will not commit such acts of negligence and mistake. With these observations the contempt petition is disposed of.

[A. M. BADAR, J.]

[S. V. GANGAPURWALA, J.]