

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 7 OF 2016
IN
CONTEMPT PETITION NO. 466 OF 2014
IN
PUBLIC INTEREST LITIGATION NO. 183 OF 2010

The State of Maharashtra and another.	...	Applicants. (Original Respondent Nos.1 & 2.
V/s.		
Shri Dashrath Dau Wagh.	...	Respondent (Original Petitioner)

Mrs.M.P.Thakur, AGP for the applicants/original respondent Nos.1 & 2.
Ms.Mani Prakash i/b. Mr.Kranti L.C. respondent/original petitioner.

CORAM : A.S. OKA AND C.V.BHADANG, JJ

DATED : 29th January 2016.

PC. :

Heard the learned AGP for the applicants i.e. the original respondent Nos.1 and 2. This civil application is not on board. Taken up on board.

2. The contempt petition has been filed complaining about the failure of the State to implement the order dated 27th September 2013 passed by this Court in PIL No.183/2010. After granting repeated opportunities to the State from time to time, on 8th December 2015, a notice of contempt was issued to the first and second respondents in the contempt petition as well as to one Smt.Sujata Saunik, the Principal

Secretary of the Public Health Department of the State of Maharashtra. It is after the contempt notice was issued that the present application is filed by the State Government on 21st January 2016 seeking extension of time to comply with the order passed in the said PIL. The order passed in the PIL deals with two aspects, one is of setting up of a Rural Hospital at village- Tokawade and the second is of setting up a new Primary Health Centre at village- Morushi. Both the villages are situated in the remote area of Taluka Murbad in District Thane. Paragraphs- 5 and 6 of the said order passed in PIL No.183/2010 read, thus:

“5. Consequent upon the filing of the last affidavit, it is evident that several steps have been taken by the State Government and that what requires to be done is to effectively implement the assurances given in the affidavit, in the following areas.

(I) Firstly, it has been stated that the rural hospital at Tokawade would be completed within 15 months of 3 January 2012 when the work order was issued. That period has already elapsed. Consequently, we direct that the remaining work, if any, shall be completed expeditiously and all necessary endeavor shall be made to ensure completion of work by 31 December 2013;

(ii) In terms of the assurance, which has been given in the affidavit dated 21 April 2012 of the Deputy Director of Health Services, the sanctioned staff must be filled-up immediately by the competent authority;

(iii) Steps shall be taken on an urgent basis for setting up of an new Public Health Centre at Morushi, Tal. Murbad, Dist. Thane, preferably within a period of four months from the date on which an authenticated copy of this order is made available. In the meantime all necessary steps shall be taken to ensure that outreach services are provided from the rural hospital

at Tokawade to obviate the tribal population being required to traverse long distances for availing of medical services. No further directions are necessary.

6. The petition is, accordingly, disposed of. There shall be no order as to costs.”

(Underline supplied)

3. Thus, the first direction was to complete the work of Rural Hospital at Tokawade by 31st December 2013 and to fill in the sanctioned staff in respect of the said hospital. The second direction was that steps should be taken on urgent basis for setting up a new Primary Health Centre at Morushi, Taluka Murbad, District Thane. The direction was to set up the same preferably within a period of four months from the date an authenticated copy of the said order dated 27th September 2013 is made available. Today, the learned AGP, on instructions, states that the Rural Hospital at Tokawade is complete in all respects and is fully functional. The learned counsel appearing for the petitioner in PIL and contempt petition is seriously disputing the stand taken by the State Government.

4. The State Government had constituted a committee of three members including Dr.Vrunda Karyekar, M.D (Gynaecologist) who is not in public employment. To resolve the controversy whether there is a substantial compliance of the directions issued by this Court as regards setting up of the Rural Hospital, we hereby appoint Dr.Vrunda Karyekar to visit the Rural Hospital at Tokawade. Dr.Karyekar shall ascertain whether the State Government has constructed Rural Hospital at Tokawade in terms of the assurances given to the Court and in terms of what is recorded in paragraph- 5 of the order dated 27th September 2013.

Dr.Karyekar will have to ascertain whether all the necessary equipment and machines are available and are in working condition and whether all the sanctioned posts have been filled in.

5. The State Government shall make necessary arrangements for traveling of Dr.Karyekar to the Rural Hospital at Tokawade. We direct the State Government to pay remuneration of Rs.10,000/- to Dr.Karyekar within a period of two weeks from today. We request Dr.Karyekar to submit her report to the Registrar (Judicial-I) on or before 4th March 2016.

6. In view of the statement made by the learned AGP regarding compliance as far as Rural Hospital is concerned, it is not necessary to extend the time as prayed for as regards the direction in relation to the Rural Hospital. However, if we find that the said statement is not correct, then it will be a case of aggravated contempt.

7. The second direction issued in the order dated 27th September 2013 was as regards the setting up of a new Primary Health Centre at Morushi, Taluka Murbad, District Thane. The State Government was to set up the new Primary Health Centre within a period of four months. Even assuming that the authenticated copy of the said order was made available in the month of October 2013, the Primary Health Centre ought to have been set up by the end of January 2014.

8. What is pointed out by the present civil application shows a shocking state of affairs. The application discloses that on 10th December 2015 a land bearing Survey No.2/6 admeasuring 85 Gunthas was

measured and was selected for setting up the Primary Health Centre. What is pointed out is that the necessary process has been initiated by the Revenue Department to transfer the said land to the Zilla Parishad, Thane. It is stated that a new Primary Health Centre will be constructed within 18 to 24 months from the date on which the transfer of the land is made to the Zilla Parishad. The original period granted was of four months. Another serious aspect which is brought to the notice of this Court by the learned AGP, on instructions, is that in respect of the said land bearing Survey No.2/6, there are entries in the revenue records of the names of the agricultural tenants. This is a shocking state of affairs. After a contempt notice was issued, the State Government has selected the land which is having encumbrances as reflected from the revenue records. There is no assurance in the application that the encumbrances will be cleared within a particular time and within a particular time the land will be transferred to the Zilla Parishad, Thane. Moreover, there is a vague statement that after the land is transferred, the Primary Health Centre will be constructed within a period of 18 to 24 months.

9. Selecting a land for Primary Health Centre having encumbrances, that too after the contempt notice was issued, is an act amounting to an aggravated contempt. The order passed in PIL dated 27th September 2013 was on the basis of the assurances contained in the affidavit filed by the Deputy Director of Health Services. The State Government was required to identify the land in a small village of Morushi to set up a Primary Health Centre. The period of two years has elapsed but the State Government is not able to procure the land for the Primary Health Centre. Therefore, this application for extension of time is not at all bonafide. Moreover, under no circumstances, time of 24 months can

be granted for the construction of the Primary Health Centre as the original time granted was of four months. Therefore, we have no option but to reject the application for extension of time. While rejecting the application, the contemnors are put on notice that the contentions raised in the civil application make out a case of aggravated contempt which will have to be dealt with at the time of hearing of the contempt petition.

10. Accordingly, we pass the following order:

ORDER

(i) The contempt petition shall be fixed for hearing on 18th March 2016 under the caption of fresh matters. The presence of the contemnors on that day is mandatory;

(ii) We direct the office of the Government Pleader to forward the copies of the relevant orders passed by this Court in the contempt petition and a copy of the order dated 27th September 2013 passed in PIL No.183/2010 as well as copy of this order to the Chief Secretary of the Government of Maharashtra who may, in turn, bring the said orders to the notice of the highest authority of the State. We are issuing this direction as the question is of extending elementary medical aid to a remote village in a remote area of Taluka Murbad, District Thane;

(iii) There will be a direction as stated in the paragraphs- 4 and 5 above.

(C.V. BHADANG, J)

(A.S.OKA, J)