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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.10 OF 2008

Shri. Pramod Mahadeo Thakur ... Petitioner

Versus

The Secretary,
The Law and Judiciary Department and Ors. ... Respondents

Mr. Rahul S. Thakur for the Petitioner.

Mr. A.B. Vagyani, Government Pleader a/w Mr. P.G. Sawant, AGP for the
Respondent Nos.1 to 4 and 7.

Mr. Sanjay Udeshi i/by M/s. Sanjay Udeshi & Co. for the Respondent
No.8.

**CORAM : A.S. OKA &
A.A. SAYED, JJ.**

DATE : 27th OCTOBER, 2016

PC.

1 This PIL along with the connected matters were disposed of
by a judgment and order dated 7th and 13th August, 2015. This PIL is
kept on board for reporting compliance with the final judgment and
order. In the present PIL, the grievance of the Petitioner who is a
member of the Bar was regarding the failure of the State Government to
take steps for construction of new Court building and judicial quarters
at Panvel. Apart from issuing other directions, while disposing of the

PIL, two directions were issued as regards parking facility to be provided to the newly constructed Court. Clauses (j) and (s) of paragraph 28 of the final judgment and order are relevant which read thus :-

- “(j) Considering the grievance made that there is no appropriate access road to the new Court complex at Panvel and considering the grievance that there is no adequate parking facility proposed, the State Government shall take all possible steps to ensure that appropriate access road having adequate width is provided to the Court complex and adequate parking facilities are provided. The State Government shall also take into consideration the fact that during the last few years, there is enormous rise in the filing of Civil and Criminal cases in the Court at Panvel ;
- (s) A separate compliance affidavit shall be filed stating the arrangement which the State Government proposes to make as regards the access to the Court building at Panvel and for providing adequate space for parking at the Court premises at Panvel.”

2 Thereafter, the Petition appeared before this Court from time to time for reporting compliance. Order dated 1st July, 2016 deals with Civil Application (St.) No.17404 of 2016 filed by the State Government for seeking extension of time to comply with other directions. Clause 1 of the said order records that unless the issue of

parking is sorted out, the prayer for extension sought by the State Government for completing the work of Court building and Judicial Officers' quarters cannot be considered. Civil Application was ordered to be listed on 12nd July, 2016. The State Government was directed to make appropriate statement regarding allotment of appropriate land for parking. The order dated 28th July, 2016 records that the State Government has not taken any decision on the issue of allotment of a land for parking of the vehicles for the new Court building. The said order records a factual statement that adjacent plot of land in possession of the Police Department is lying vacant for last 30 years and, therefore, the same can be conveniently allotted for parking of vehicles. Paragraph 3 of the said order records a statement of the learned AGP that a meeting is fixed on 10th August, 2016 by the State Government to take appropriate decision regarding providing the facility of parking of vehicles. The said order records that an application for extension of time will be kept pending till the issue of parking is sorted out.

3 Further order dated 7th October, 2016 notes that not only that compliance affidavit was not filed as regards the aforesaid clauses (j) and (s) of the operative part of the final judgment, but on 10th August, 2016, 7th September, 2016 and 26th September, 2016, though the meetings were fixed in Mantralaya for taking a decision on the issue

of parking, the said scheduled meetings were cancelled. Paragraph 2 of the order dated 7th October, 2016 reads thus :-

“2. Thus, there is a gross breach of the directions contained in the final judgment and order dated 7th and 13th August 2015 and in particular the Clauses (s) and (t) of the operative part of the said final judgment and order. This is a fit case to issue notice of contempt to the Chief Secretary of the State Government. However, Shri Vagyani, the learned Government Pleader assures the Court that the appropriate decision will be taken within a period of one week from today. In view of this statement, we are not issuing notice of contempt today.”

4 Though a case was made out on 7th October, 2016 to issue a notice of contempt to the Chief Secretary, this Court did not issue notice to the Chief Secretary as an assurance was given by the State Government through the learned Government Pleader that appropriate decision will be taken within a period of one week. Only in the light of the said assurance that a contempt notice was not issued. Paragraph 3 of the said order reads thus :-

“3. We may note here that the final judgment and order dated 7th and 13th August 2015 has been accepted by the State Government. The Clause (s) of the operative part of the said final judgment and order is very clear which directs the State Government to make an

arrangement for providing adequate space for parking at the Court premises at Panvel. It is obvious that the said Clause (s) cannot be interpreted to mean that a discretion is left to the Government to decide whether parking space should be provided or not. This Court had directed the State Government to file an affidavit setting out arrangement which the State Government proposes to make for providing space for parking at the Court premises at Panvel. Needless to add that considering the pendency and filing of the civil and criminal cases in the Court at Panvel, the Court cannot function unless there are adequate facilities for parking. We may note here that as a result of the fact that there are no arrangements for parking, the District Court Administration is unable to take possession of the newly constructed Court premises at Panvel. It was pointed out across the bar that the present premises in which the Court at Panvel is functioning does not have elementary facilities such as toilet facilities for the members of the Bar and the litigants.”

5 On the last date, a report submitted by the learned Civil Judge, Senior Division at Panvel addressed to the Principal District and Sessions Judge, Raigad was placed on record. The report records that a parking space is available in the newly constructed Court complex only for 40 four wheelers and 40 two wheelers. It also records that it is not possible to allow parking on the roads on the Northern and Eastern side

of the Court building. The said report records that Final Plot Nos.114 and 112/122 are situated near the new Court building which are vesting in the Panvel Municipal Corporation which have been reserved for public purpose of garden and school.

6 Today, the learned Government Pleader tenders across the Bar a letter dated 27th October, 2016 addressed to him by the Legal Advisor-cum-Joint Secretary of the State Government. All that the said letter records is that an Architect who has prepared the plans for construction of residential quarters for Police on the said adjacent land bearing Survey No.93 has been requested to examine the technical feasibility of erecting a multilevel parking for 100 four wheelers and 100 two wheelers. The letter is taken on record and marked as 'S-1' for identification. On plain reading of the said letter and on considering what is recorded in the orders passed by this Court from time to time, we find that in terms of clause (j) of paragraph 28 of the operative part of the judgment, the State Government has not taken steps to ensure that adequate parking facilities are provided to the newly built Court complex. We are informed that at present there are six Courts of Civil Judge, Senior Division and Civil Judge, Junior Division at Panvel. The learned counsel appearing for the Petitioner states that according to his information, the Court of the District and Sessions Judge was

sanctioned for Panvel which could not be established due to want of adequate premises. By no stretch of imagination, considering the enormous filing and pendency of matters in Panvel Court, maximum parking facility of 40 two wheelers and 40 four wheelers which can be provided in the new Court complex will be adequate. The Court at Panvel has jurisdiction over a large part of New Bombay. Moreover, now there is a Municipal Corporation established for the said area. Considering the large pendency and filing as well as number of lawyers regularly visiting the Court at Panvel, the present requirement for parking will be of much more than 100 four wheelers and 100 two wheelers. Moreover, the roads around the new Court complex are so narrow, that parking of vehicles on the road will lead to huge traffic congestion.

7 There is a gross breach made by the State Government of the Directions issued in terms of clauses (j) and (s) of paragraph 28 of the Judgment and order of this Court. What is noted earlier will show that repeatedly time was taken by the State Government to make compliance. Though meetings were fixed in Mantralaya on various dates, the same were ultimately cancelled.

8 Now the Court complex is ready for occupation. However, its user cannot be started as adequate parking facility is not available

and adequate access to the Court building is not available. After spending a huge amount, the Court complex has been constructed which cannot be used on account of inaction on the part of the State Government. As noted earlier, the order dated 7th October, 2016 itself notes that a case was made out to issue a contempt notice.

9 Notwithstanding the liberal view taken by this Court, there is non-compliance by the State Government which can be prima facie said to be deliberate or willful. The time granted by the Court to make compliance in terms of clauses (j) and (s) of the operative part of the judgment has expired long back as compliance was to be reported on 30th November, 2015.

10 We, therefore, direct the Registry to issue notice under Rule 9(1) of the Contempt of Court (Bombay High Court) Rules, 1994 to Shri Swadhin Kshatriya, the Chief Secretary of the Government of Maharashtra. The notice is made returnable on 16th December, 2016. Alongwith contempt notice, the present Petition shall be listed under the caption of “Directions”.

11. As the main matter is already disposed of by a detailed Judgment and Order passed by a Bench presided over by one of us (A.S.

Oka, J.) and as these disposed of Petitions are being listed before a Bench presided over by one of us (A.S. Oka, J.) for reporting compliance, we direct the Registrar (Judicial – I) to place this disposed of matter as well as other two connected disposed of matters along with contempt notice before the Hon'ble the Chief Justice so that the matters can be assigned to appropriate Bench for the purposes of ensuring that the directions in the final judgment are complied with.

(A.A. SAYED, J)

(A.S. OKA, J)