

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 349 OF 2015

Shri. Ambavale Bapurao KondibaPetitioner
V/s.
Zilla Vidya Vikas Mandal & Ors.Respondents

* * * * *

Ms. Lata Patne i/by. Mr. Vinod Joshi, Advocate for the
petitioner.

Mr. Ajay A. Joshi, Advocate for respondents no.1.

Mr. Ganesh Bhujbail, Advocate for respondent no.3.

Ms. M.S. Bane, AGP for respondent no.5.

CORAM :- SMT. R.P. SONDURBALDOTA, J.

DATED :- 4TH OCTOBER, 2016.

P.C. :-

1). Ms. Bane, the learned AGP tenders an additional affidavit stating that an amount of Rs.1,14,086/- was deposited in the petitioner's account on 20th September, 2016. With this payment, the order of which contempt is alleged, stands complied with.

2). The petitioner filed the present petition on 21st April, 2015 alleging breach of the order of this Court dated 20th December, 2014 passed in Writ Petition No. 9520 of 2013. By that order, the respondents were directed to pay the amount of backwages to the petitioner within a period of eight weeks. On 8th January, 2016 this Court noted that, after 5th January, 2015 respondent no.4, the Education Officer had not taken any coercive steps to ensure compliance of the order by the Management, respondents no.1 to 3. Later, on 2nd August, 2016 on noticing that no effective steps had still been taken for compliance, this Court directed respondent no.4 to remain present in the Court to explain the non-compliance. By the same order, a *prima-facie* view was expressed that the respondents, including the Education Officer, have committed contempt of the Court. The Education Officer appeared before the Court on 9th August, 2016 and made a statement that a sum of Rs.4,24,780/- would be disbursed directly in the Account of the petitioner on/or before 15th September, 2016. Even thereafter, no steps were taken by the Education Officer in compliance of the order, as well as, in compliance of the statement made by him to the Court which had been accepted. Finally, the compliance had to be secured by this Court by passing further orders on 19th September, 2016, 20th September, 2016, 21st September, 2016 and 27th September, 2016.

3). The record thus shows, non-compliance by the respondents of the order dated 20th December, 2014 and

additional non-compliance by the Education Officer of the order dated 9th August, 2016.

4). Mr. Joshi, the learned Advocate appearing for respondent no.1, submits that, after the order dated 20th December, 2014 was passed, this respondent had immediately moved the Government and at the instance of this respondent the order dated 30th March, 2015 was passed by the Director of Education, (Secondary and Higher Secondary) which was made available to the Education Officer. Respondent no.1 had, on several occasions reminded the Education Officer for action on the order. He failed to take any steps. Respondent no.2 to the petition is no more. Mr. Bhujbal, the learned Advocate for respondent no.3 submits that, respondent no.3 was only an in-charge Head Master at the relevant time. From the above facts, it becomes clear that compliance of the order dated 20th December, 2014 had rested with the Education Officer alone and he had not taken any steps despite reminders from respondent no.1. Therefore, breach of the order by the Education Officer is clearly established. There is also commission of patent act of contempt by the Education Officer in not complying with the statement made by him to the Court on 9th August, 2016, which statement had been accepted by this Court. On acceptance by the Court of the statement, the same assumed the character of an Undertaking to the Court. Ms. Bane, the learned AGP, however, pleads that in view of atleast the delayed compliance of the order, a lenient view of conduct

on part of the Education Officer be taken and no further action be taken against him towards committal for contempt. Considering the fact that the Education Officer is a Government Servant and his committal for contempt would entail serious consequences for him and considering the fact that the order dated 20th December, 2014 today stands complied with, I am not inclined to take any action for contempt against the Education Officer. However, he must pay the costs of this petition quantified at Rs.20,000/- to the petitioner within a period of 4 weeks from today. The Contempt Petition is disposed off accordingly.

(SMT. R.P. SONDURBALDOTA, J)