

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CONTEMPT PETITION NO.86/2015

Choplal s/o Shrawan Lilhare

..Versus..

Shri Jitendra Naik, President Manoharbhaj Patel Education Society, Gondia and
another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 4.1.2016

Heard Shri M.R. Rajgure, advocate for the petitioner and Shri

I.N. Choudhari, advocate for the respondents.

The grievance of the petitioner is that the order passed by the
Additional Commissioner, Tribal Development, Nagpur directing the
respondents to pay 40% of the back wages has not been complied
with. It is submitted that the respondents have reinstated the
petitioner as per the order passed by the learned Additional

Commissioner, however, the other part of the order directing the respondents to pay 40% of the back wages is being wilfully disobeyed and, therefore, they are liable for action under the Contempt of Courts Act, 1971.

Shri Choudhari, advocate for the respondents, relying on the judgment given by this Court in Writ Petition No.3668/2014 on 27th March, 2015 has submitted that the order passed by the Additional Commissioner is without jurisdiction and, therefore, it cannot be enforced by invoking the jurisdiction of this Court under the Contempt of Courts Act, 1971. In the judgment given in Writ Petition No. 3668/2014, this Court relying on the judgment given by the Hon'ble Supreme Court in the case of *Secretary, A.P.D. Jain Pathshala and others V/s. Shivaji Bhagwat More and others* reported in **2011(13) SCC 99** has held that the Additional Commissioner has no authority to decide appeals filed by the employees as the State Government cannot confer adjudicatory powers on the Authority by issuing the

Government Resolution.

In view of the law laid down in the above judgment, I am not inclined to exercise the jurisdiction under the Contempt of Courts Act, 1971. At this stage, Shri Rajgure, advocate for the petitioner seeks liberty to take appropriate proceedings for enforcement of the order passed by the Additional Commissioner. Without expressing anything on merits, the contempt petition is dismissed. Needless to say that the petitioner may avail appropriate remedy according to law. In the circumstances, the parties to bear their own costs.

JUDGE

Tambaskar.