

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

**901 CONTEMPT PETITION NO. 238 OF 2017**

IN

WRIT PETITION NO. 7567 OF 2015

KADUBA HIRAMAN PATIL AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Patil Ganesh S.

AGP for Respondents/State : Mr. S.B. Yawalkar

Advocate for Respondents : Mrs. Chaitali Kutti Choudhari for R/3.

...

with

**CIVIL APPLICATION NO. 23618 OF 2017**

THE STATE OF MAHARASHTRA AND OTHERS

VERSUS

KADUBA HIRAMAN PATIL AND OTHERS

...

Advocate for Applicant/State : Mr. S.B. Yawalkar

Advocate for Applicant No.3 : Mrs. Chaitali Kutti Choudhari

Advocate for Respondents: Mr. Patil Ganesh S.

...

**CORAM : S.C. DHARMADHIKARI &  
MANGESH S. PATIL, JJ.**

**DATE : 18.07.2017.**

**P.C. :-**

. This petition alleging civil contempt states that the petitioners before this Court were persons interested in lands situated at village Pahur, Taluka Jamner, District Jalgaon. A notification under the Land

Acquisition Act, 1894 was issued on 13.02.1988. The possession of the land was taken and it is allegedly by private negotiations. The acquisition was for a public purpose namely construction of minor irrigation tank (Deolinala).

2. The rental compensation was not paid and that is why the petitioners filed a writ petition bearing no. 7567/2015 claiming that the application in that behalf be decided. That is merely kept pending. A Division Bench of this Court passed an order on this petition which is reproduced herein-below:

*“1. Heard learned counsel representing the parties. By consent the petition is disposed at admission stage.*

*2. Learned counsel representing respondent no.3 points out that no application is made to respondent no.2 to determine the rental compensation. The application is made to the acquiring body, which cannot determine rental compensation.*

*3. Learned counsel for the petitioners admits that no application is made before the Special Land Acquisition Officer seeking determination of rental compensation. He further submits that the petitioners will make appropriate application within a period of one week from the date of this order.*

*4. In view of above, we direct the respondent no.2 that in case the representation / application received from petitioner then same shall be heard and decided within a period of eight weeks*

*from the date of receipt of representation by giving opportunity of hearing to all concerned including the acquiring body. In case it is found that rental compensation is to be payable then the acquiring body i.e. Respondent no.3 shall pay the amount, as determined by the Special Land Acquisition Officer, within eight weeks from passing of order. The order saddling cost stands recalled. With this direction, the petition is disposed of.*

5. *Parties to act upon the authenticated copy of this order”*

3. Perusal of this order indicates that, the application was to be decided within a period of eight weeks from the date of receipt of representation by giving opportunity of hearing to all concerned including the acquiring body. The petitioners states that, pursuant to this order they filed a representation dated 20.04.2016. That representation was not decided. On that basis this Contempt Petition was filed in this Court on 07.03.2017.

4. After this petition two things have transpired. Firstly, that the petitioners' representation, though, received was not decided within the time frame stipulated in this Court's order. It was decided much later.

5. No application for extension of time was made by the

respondents. They were aware that a time limit was set by this Court and of eight weeks from the date of receipt of the representation. The affidavit in reply does not dispute that such representation was received from the petitioners. However, till 29.04.2017, no decision was taken on the representation.

6. In the affidavit filed by one Jitendra Dinkarrao Patil working as Deputy Collector and Special Land Acquisition Officer, Jalgoan, the explanation is that the petitioners were issued a letter dated 18.07.2016 and summoned for a hearing. They were heard on 25.07.2016. The representation was decided by an order passed on 07.07.2017. We take this affidavit on record together with an application seeking extension of time.

7. In an order passed by this Court recently we had reminded all concerned and particularly public officials, of their duties to abide by all orders and directions of this Court. The moment they are communicated to them they bind them. There is no escape route nor is there any reason, then, to delay the process. If a decision has to be taken or an order has to be passed within the time frame, the law is that before that period expires an application for extension of time can be made and if it is setting out bonafide and genuine reasons, the Court's always grant

such extension of time. They have been liberal in granting such extensions.

8. However, in the present case, we do not countenance the receipt of a civil application seeking extension of time in the month of July 2017 to be precise on 13.07.2017. The order is passed on 07.07.2017. Now the same reason which is set out in the affidavit of the said Jitendra Dinkarrao Patil is set out. We are not concerned with the merits of the decision, whether the decision is correct in law or otherwise is not our concern in contempt jurisdiction. Our concern is, that, if there is a certain sanctity to be attached to this Court's orders and directions and they have a binding effect, then, none can defeat them or frustrate their object and purpose by sitting on the files and which is the experience of ordinary citizens in all public offices. Once this Court activates the public officials and reminds them of their duty to abide by the law, then, we expect due regard and respect for this Court's direction. It is not a question of personal prestige of the Judges or their reputation, but the dignity of the Court and the sanctity and respect for its orders.

9. We therefore follow the mandate in the case of **State of Bihar and others Vs. Subhash Singh** reported in **AIR 1997 S.C.**

**1390**, in paragraph 3,4 and 5 thereof, which read thus :-

“3. ....

.....

*The normal principle that the permanent bureaucracy is accountable to the political executive is subject to judicial review. The doctrine of "full faith and credit" applied to the acts done by the officers and presumptive evidence of regularity of official acts done or performed, is apposite in faithful discharge of duties to elongate public purpose and to be in accordance with the procedure prescribed. It is now settled legal position that the bureaucracy is also accountable for the acts done in accordance with the rules when judicial review is called to be exercised by the Courts. The hierarchical responsibility for the decision is their in-built discipline. But the head of the Department/designated officer is ultimately responsible and accountable to the Court for the result of the action done or decision taken. Despite this, if there is any special circumstance absolving him of the accountability or if someone else is responsible for the action, he needs to bring them to the notice of the Court so that appropriate procedure is adopted and action taken. The controlling officer holds each of them*

*responsible at the pain of disciplinary action. The object thereby is to ensure compliance of the rule of law.*

4. *The constitutional Courts exercise their power of judicial review with constraint to ensure that the authorities on whom the power is entrusted under the rule of law or confided, is discharged truly, objectively, expeditiously for the purpose for which substantive acts/results are intended. The petitioner being a member of the permanent executive, is enjoined to comply with the orders of the Court passed in exercise of the judicial review. On an earlier occasion, while disposing of the writ petition, the High Court had directed the respondent to consider the case of the writ petitioner and to dispose it of with reasoned order within two months. Obviously, the high Court expected that the authorities would discharge their duties expeditiously as enjoined under the rules and as per the directions. Since they did not discharge the duty, necessarily, they were required to give explanation to the Court as to the circumstances in which they could not comply with the direction issued by the Court or if there was any unavoidable delay, they should have*

*sought further time for compliance. Unfortunately, neither of the steps have been taken by the officer in that regard. Therefore, the High Court was constrained to impose the costs personally against him for non-compliance of the order.*

5. ....  
.....

*Secondly, the imposition of costs personally against the officers will be counter productive and officers would desist to pursue genuine cases of public benefit or importance or of far reaching effect on public administration or exchequer deflecting course of justice. The Court before imposing costs personally against the officers should be circumspect and keep at the back of its mind the facts and circumstances in each case. Otherwise, public justice will suffer irremediably. Unfortunately, in this case the delay in compliance is of one year and five months and the officer has not explained. The High Court was constrained to impose personal costs against the officer. Under the circumstances, we do not think that it is a fit case for interference.”*

10. That judgment of the Hon'ble Supreme Court reminds the permanent executive of its duty to obey and follow the Court's orders and directions. They are the persons who are accountable rather than the political masters.

11. In the circumstances, while we allow this civil application no. 23618/2017 for extension of time, but impose costs of Rs. 50,000/- on the respondents in the contempt petition. The costs be paid by the respondents within four weeks to the petitioners. It would be open for the respondents to recover these costs and expenses for the delay from such officers who have committed a dereliction of duty and failed to abide by the orders of this Court. The Contempt Petition stands disposed of accordingly.

**[MANGESH S. PATIL, J.]**

**[S.C. DHARMADHIKARI, J.]**