

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 307 OF 2017
IN
WRIT PETITION NO. 10377 OF 2016

BRAMHNATH SHANKAR GHODKE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mrs. Sharada P. Chate, Advocate for the petitioner
Mr. P.S. Patil, A.G.P. for the respondent/State

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

DATE : 05-07-2017

ORAL ORDER :

1. This Court's order has been complied with, though belatedly.
2. We would have expected the respondents to give explanation and by seeking extension of time, to comply with the order of this Court. Though that course has not been adopted, we would appreciate, if the learned Government Pleader invites the

attention of all Public Officials, to the observations of the Hon'ble Supreme Court, 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.”

3. Contempt Petition is disposed of accordingly.

[MANGESH S. PATIL]
JUDGE

[S.C. DHARMADHIKARI]
JUDGE

arp/