

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CONTEMPT PETITION NO. 338/2016 IN WRIT PETITION NO.5826/2015 (D)
 (VAISHALI LAXMANRAO SALVE VERSUS DY.DIRECTOR OF EDUCATION, NAGPUR & OTHERS)

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

Court's or Judge's orders

 Shri P.V. Vaidya, counsel for the petitioner.
 Shri D.P. Thakare, Additional G.P. for the R-1.

CORAM : SMT. VASANTI A NAIK AND
V.M. DESHPANDE, JJ.

DATE : FEBRUARY 10, 2017.

By this contempt petition, the petitioner has sought an action against the respondents for willful disobedience of the order, dated 16.08.2016 in Writ Petition No.5826 of 2015.

It is stated on behalf of the petitioner that though this Court had directed the respondents to release the arrears of salary to the petitioner with effect from 01.04.2014 till the month of July-2016 within the stipulated time, the same was not paid. It is stated that after the order of which the contempt is alleged was passed, the Education Officer (Secondary) has cancelled the approval to the appointment of the petitioner by the order, dated 31.08.2016, after observing that this Court had directed the Education Officer to take appropriate action in the matter of the grant of approval to the appointment of the petitioner. It is stated that the respondents have committed a contempt by not following the order, dated 16.08.2016.

Shri Thakare, the learned Additional Government Pleader appearing on behalf of the respondent no.1, submitted that though the salary was not released in favour of the petitioner within the stipulated time, the same is released in favour of the petitioner. It is stated that the delay in releasing the salary in favour of the petitioner was not deliberate or intentional. It is further stated that it is observed in the order of which the contempt is alleged that the respondent-Authorities ought to have taken appropriate action for cancellation of the approval, that was granted on 06.02.2015, if they were of the view that the approval was wrongfully secured. It is stated that since the approval was wrongfully secured, the action for cancellation of the approval was taken in the matter of the petitioner. It is further stated that the words used in the order, dated 31.08.2016 may not be appropriate but, since the respondent-Education Officer was entitled to take action for cancellation of the approval, the said action was taken.

On hearing the learned counsel for the parties, we find that we had only directed the respondents to pay the arrears of salary to the petitioner within the stipulated period. No other direction was issued in favour of the petitioner in the said matter. If the salary of the petitioner is released by the respondents, it would be necessary to dispose of the contempt proceedings as we do not find that the action on the part of the respondents in not adhering to the time frame stipulated in the order of which the contempt is alleged, is deliberate or intentional. So also, we find some observations in the order that the respondent-Authorities ought to have taken appropriate action for cancellation of the approval, if

they were of the view that the approval was wrongfully secured. There is a further observation that the cause of action for cancellation of approval and the cause of action for filing the writ petition is different. It appears that by referring to the said observations, some observations are made in the order, dated 31.08.2016, which are not happily worded. However, that would not be a matter of contempt as though the Court had not directed the respondents to take action for cancellation of approval to the appointment of the petitioner, the Court had made observations that could have permitted the respondents to take action for cancellation of approval to the appointment of the petitioner. If the petitioner is aggrieved by the order dated 31.08.2016, the petitioner is free to file appropriate proceedings for challenging the order of cancellation of her approval. However, that cannot be a matter of contempt as we find that our directions to the respondents to pay the salary of the petitioner have been followed.

In the result, the contempt petition is disposed of with no order as to costs.

JUDGE

JUDGE