

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

C.P.No.381 of 2016 in P.I.L. No.14 of 2016 (D)

(The Municipal Council of Tiroda and Ors. vs. Devendra s/o. Radheshyamji Tiwari and Ors.)

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

Court's or Judge's orders.

Mr.J.P.Dubey, Advocate for the Petitioner.
Mr.G.G.Bade, Advocate for Respondent Nos.1, 2 & 4.
Mrs.Bharti Dangre, G.P. For Respondent No.5.

CORAM : B.R.GAVAI AND
KUM. INDIRA JAIN, JJ.

DATE : 10.1.2017.

Heard.

Present Contempt Petition has been filed by the petitioners contending therein that the respondents have committed gross contempt of this Court by acting contrary to the orders passed by this Court dt.21.7.2016.

Respondent No.1 herein had approached this Court challenging award of tender by the Municipal Council, Tiroda for the work of beautification, gardening, electrification etc. of 'Singada Bodi/Talao' in the City of Tiroda. It was the contention of the petitioner therein that there were various irregularities committed by the Municipal Council in awarding the said contract. This Court vide order dt.21.7.2016 had rejected

the contention, as raised in the petition, finding no substance therein. As such, the petition came to be dismissed.

However, it appears that, subsequent to dismissal of the said Writ Petition, respondent no.1 herein along with respondent nos. 2 to 4 again invoked the jurisdiction of the Collector, Gondia under the provisions of Section 308 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965. Respondent No.5, who is at present holding the Office of Collector, Gondia, entertained the said complaint and stayed Resolution No.10.

It is the contention of the petitioners that, this Court, having examined the legality of the said resolution, again raising of the said issue by respondent no.1 before the Collector, Gondia and respondent no.5 entertaining the complaint with regard to the said issue, is nothing else but a gross contempt of this Court. It is contended that, once this Court had found that there was no illegality in the said resolution, it was not permissible for respondent no.5, acting in the capacity of the Collector, Gondia, to entertain the grievance with regard to the said resolution.

We had issued notices to respondent nos. 1 and 5 directing them to personally remain present in this Court.

Accordingly, Mr. Abhimanyu R. Kale was personally present in this Court on 5.1.2015. However, since it was informed that respondent no.1 was admitted in the hospital, we had adjourned the matter till today. Today, respondent no.1 as well as respondent no.5 are personally present in the Court. Affidavits have also been filed by the said respondents.

In the affidavits, both respondent no.1 as well as respondent no.5 have admitted that they have committed a gross error, respectively, by making a complaint and entertaining the same.

It is stated on behalf of respondent no.5 that, while he was working as a Chief Executive Officer, Nanded, he had faced a problem for not entertaining the complaint and had even faced a litigation in the High Court. It is submitted on his behalf that, under the bona fide belief that if he does not entertain the complaint as made by respondent nos. 1 to 4, he may again face the same problem, he entertained the said complaint. It is submitted that there was no intention on his part to show any disrespect to the authority of this Court.

Insofar as respondent no.1 is concerned, respondent no.1 has candidly admitted that he is in contempt of this Court. He has, however, stated that he does not

have legal background and hence, out of ignorance, he has approached the Collector, Gondia.

It is a settled principle of law that ignorance of law is no excuse.

Insofar as respondent no.5 is concerned, he being a person holding a Senior Administrative position and also being a member of Indian Administrative Services, it is expected that he should be aware of the position, that once this Court has examined a particular matter and found no substance in it, it was not permissible for any Authority except the Supreme Court of India to have considered the said issue.

We have no hesitation to hold that respondent no.5 has committed a gross error in entertaining the issue which had received finality by this Court. The least that was expected of him was to have consulted the Law Officer who had represented the State Government in the said lis. However, it is informed that he had consulted the local Law Officer and on his erroneous advice, he proceeded further.

Before deciding to proceed further with the matter, we had requested the learned Government Pleader to get information regarding service record of respondent no.5. Mrs.Bharti Dangre, learned Government Pleader states that the service

record of respondent no.5 has been unblemished and on the contrary, he has received various awards for the outstanding work that has been done by him.

Respondent no.5, while admitting his mistake, has stated in the affidavit that he would forthwith withdraw the order dt.7.11.2016 and close the proceedings initiated by respondent nos. 1 to 4.

Insofar as respondent no.1 is concerned, he has not even attempted to justify his action and has candidly admitted that he has committed gross contempt of this Court.

We may reiterate that, if any parties finds that the order passed by this Court is not in accordance with law, then it is not as if they are without remedy. If respondent no.1 had found that the order passed by this Court was not in accordance with law, he could have very well approached the Hon'ble Supreme Court. However, instead of doing so, approaching an authority which is subordinate to the jurisdiction of this Court, in our view, is nothing else but a gross contempt of this Court.

In that view of the matter, since respondent no.1 has admitted his mistake and tendered his unconditional apology and since respondent no.5 has also admitted his mistake, taking into consideration his

unblemished and outstanding service record in the past, we do not propose to proceed any further in the matter. However, before parting with the matter, we would expect respondent no.5, who is a member of the Indian Administrative Service, to be diligent while dealing with the legal matters and do not commit such mistake hereinafter.

We accept the unconditional apology tendered by respondent nos. 1 and 5 and discharge the notice issued to them.

JUDGE

JUDGE