

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

**CIVIL APPLICATION NO. 4343 OF 2018
IN WP/8093/2016**

**BHOI CO OPERATIVE MACCHIMAR SOCIETY LTD THROUGH ITS
DIRECTOR BARKU HARCHAND BHOI**

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Applicant : Shri Ajinkya Deshmukh h/f Shri Hon Ashwin
V..

AGP for Respondents 1 to 3 : Shri S.R.Yadav.
Advocate for Respondent 6 : Shri R.T.Nagargoje.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 28th September, 2018

Per Court:

1 I have heard the learned Advocate for the Applicant. The learned AGP has strenuously attempted to convince this Court that the Assistant Commissioner of Fisheries (Technical), Jalgaon, Shri S.I.Naikwadi, who is now transferred, has not caused any willful or intentional disobedience of the order of this Court dated 02.08.2016 passed in Writ Petition No.8093/2016.

2 He has drawn my attention to the affidavit-in-reply filed by Shri Rameshkumar Jagannath Dhadil, who is presently in-charge Assistant Commissioner of Fisheries (Technical). Though an apology is tendered,

the reasons cited for presuming that the order of this Court dated 02.08.2016 is not continued/ is vacated, is that as there was no continuation of the order and the Authority believed that this Court has discontinued the interim relief. It is specifically contended in paragraph 6 of the affidavit that the interim relief stood discontinued and hence, the disputed tank was allotted to Respondent No.6 and revenue generated is Rs.82,000/-.

3 I find that on 02.08.2016 this Court (Coram : Sunil P. Deshmukh, J.) heard the learned Advocate for the Petitioner and the learned AGP and directed that the allotment of Bhokarbari Tank situated in Bhokarbari would not be proceeded with till the returnable date in this matter. The said ad-interim relief granted was continued on several occasions. In a series of orders, as the matter was adjourned, the ad-interim relief was continued. Even by the order dated 02.12.2016, the interim relief was continued and the matter was posted on 13.01.2017. The matter did not appear on the board on 13.01.2017 and thereafter.

4 In the above backdrop, the said tank was allotted to Respondent No.6 by the Committee, whose Chairperson was Mr.Naikwadi, in the meeting dated 16.01.2018. It is conceded by Mr.Naikwadi, who is present in the Court, that he did not care to call the learned AGP on telephone or enter into a communication with him (before taking any decision) so as to gather the present status of the matter.

5 This Court has consistently held that when the Court applies its mind to the matter and grants ad-interim protection, the said protection continues until it is specifically vacated by an order after the Court is convinced that the order does not deserve to be continued. In this case, as the ad-interim order was continued from time to time, it was incumbent upon Mr.Naikwadi to contact the learned AGP and take proper feedback of the matter and even seek legal opinion, if required and then, could have presented the legal opinion before the Committee. It appears that Mr.Naikwadi has not done so, thereby, clearly indicating that his conduct indicates least respect to the orders of the Court.

6 The learned AGP strenuously prays that the contempt proceedings need not be initiated against Mr.Naikwadi. The said request is accepted on the condition that Mr.Naikwadi shall deposit an amount of Rs.50,000/- in this Court from his own salary and not from the State exchequer.

7 At this juncture, the learned AGP has prayed that this Court may take a lenient view as Mr.Naikwadi has not committed the said act intentionally or deliberately. He was in-charge Assistant Commissioner of Fisheries (Technical). He was guided by the Commissioner of Fisheries, State of Maharashtra, by letter dated 03.01.2018 and since he was an in-charge officer, he lost sight of the fact that he had to collect an opinion from the learned AGP. He was under the mandate of the State and the

Cabinet and State Ministers for Fisheries to take a decision by excluding the tanks or contracts which were under the injunctory orders of the court. Having lost sight of the said fact, he became party to the decision taken by the Committee, but, without an intention of disobeying the order of this Court and lowering the majesty of law. The learned AGP, therefore, prays that costs be reduced to Rs.10,000/- and Mr.Naikwadi is willing to pay.

8 In view of the above, Mr.Naikwadi would deposit an amount of Rs.10,000/- (Rupees Ten Thousand) instead of Rs.50,000/-, from his own salary account/ personal account in this Court on or before 15.10.2018.

9 Needless to state, the allotment of tank to Respondent No.6 shall be subject to the result of this petition. It is made clear that the Respondent Authorities would not pass any further orders in connection with the matter at issue without seeking leave of the Court.

10 This Civil Application is, therefore, disposed of.

kps

(RAVINDRA V. GHUGE, J.)

Kalyan
Prakash
Sangvikar

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2018.10.03
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