

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CONTEMPT PETITION NO. 672 OF 2018
IN
PUBLIC INTEREST LITIGATION NO. 25 OF 2008

Rajendra S/o Harinarayan Sharma

Petitioner...

Versus

The State of Maharashtra,
through its Principal Secretary,
Mr. Mahesh Pathak

Respondent...

.....
Mr Zia-Ul-Mustafa Quadri Taher Ali, Advocate for petitioner
Mr. S. M. Ganachari, AGP for respondent/State
.....

**CORAM : PRASANNA B. VARALE &
MANISH PITALE, JJ.**

DATE : 27TH SEPTEMBER, 2018.

PER COURT:-

1. By this contempt petition, the petitioner raises a grievance of non-compliance of the order dt. 23.04.2018 passed by this Court in Public Interest Litigation No. 25 of 2018. The petitioner had approached this Court by way of PIL raising composite grievance, and more particularly, against respondents No. 6, 7, 8 and 9 for non-distribution of the commodity i.e. Kerosene, as per the Government policy.

2. Perusal of the order passed by the Division Bench of this Court dt. 23.04.2018 in PIL No. 25 of 2018 shows, that the State Government had filed its affidavit-in-reply before this Court making a statement therein that the appropriate steps are in progress and it was also assured to this Court that after considering the entire record, the respondents No. 1 to 4 would take the issue to its logical end after following the principles of natural justice, and if necessary, hearing would be given to respondents No. 6 to 9. The Division Bench further observed in para 11 and 12, which reads as under :

11. Pursuant to the grievance raised by the petitioner, the State Authorities have taken appropriate action and suspended the licenses issued in favour of respondents No. 6 to 9. In case of any further grievance, it would be open for the petitioner to avail of an appropriate remedy as available in law.

12. Thus, in view of the reply filed by the State and its officials, in our opinion, no further orders are necessary in this Public Interest Litigation. Hence the Public Interest Litigation stands disposed of.

3. The order dt. 06.06.2018 passed by the District Supply Officer, Nanded (hereinafter referred to as “DSO” for the sake of brevity) is placed on record. The order clearly shows that this order was passed subsequent to the order passed by this Court and also on considering the report of the Tahsildar, Umari, submitted to the office

of DSO on 25.05.2018. The DSO on the backdrop of the order of this Court and in view of the report submitted by the Tahsildar found that respondents No. 6 to 9 have distributed 50% of the Kerosene as required under the scheme by way of home delivery. The DSO also found that these respondents No. 6 to 9 are entitled to pay certain penalty and the license fees. Accordingly, the DSO recovered all such amount from these semi-whole sellers and the licenses already granted in favour of them, are renewed.

4. Mr Zia-Ul-Mustafa, learned counsel for the petitioner submits before us, that the DSO failed in not giving any opportunity to the petitioner while passing the order and it is also submitted before us that the report submitted by the Tahsildar was not reflecting the true position. It is further alleged that, a fictitious and bogus report was submitted by the Tahsildar to the DSO. The learned counsel then submitted that the petitioner was before this court in the PIL with other prayers thereby seeking directions against the authorities about the strict compliance of the Government policy under the scheme. What the learned counsel submits before us is clearly expanding the scope of the contempt petition. As stated above, the Division Bench while disposing of the PIL, made it clear that the Division Bench is not inclined to pass any further orders in

view of the action taken against respondents No. 6 to 9 and assurance was given to this Court that the issue would be taken to its logical end. This court while passing the aforesaid order has not directed the authorities to hear the petitioner. The insistence of the petitioner for giving an opportunity of hearing is clearly unacceptable. The other contentions of the petitioner is that, the order passed by the authorities is on a sham and bogus report. Certainly, even this aspect cannot be dealt with by this Court in the Contempt Petition moresoever when this Court permitted the petitioner to avail of the alternate remedy available in law.

5. With the observations as above, we are of clear opinion that the petition lacks merit & deserves to be dismissed and is accordingly dismissed.

[MANISH PITALE]
JUDGE

[PRASANNA B. VARALE]
JUDGE