

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

CONTEMPT PETITION NO. 196 OF 2017  
IN WP/9563/2013

VIJAYKUMAR GANGADHAR BELURE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Shri Ajinkya Kale h/f Shri Talekar S.B..

AGP for Respondent 1 : Shri V.S.Badakh.

Advocate for Respondent 2 : Shri B.R.Kedar.

Advocate for Respondent 3 : Shri B.M.Dhanure.

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**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 17<sup>th</sup> January, 2018**

**Per Court:**

1 I have heard the learned Advocates for the respective sides. The Management is represented by the President, who is present in the Court.

2 I find that the contention of the Petitioner is that Respondent Nos.2 and 3 have deliberately restrained him from reporting for duties ever since the passing of the order by this Court dated 11.12.2013 in Writ Petition No.9563/2013. Great effort was made by the Petitioner to join the duties, but in vain due to the adamant attitude of the Management.

3 Shri Kedar, learned Advocate for the Management, strenuously contradicts the contention of the Petitioner and contends that

the Management had never restrained the Petitioner from joining the duties because the reporting for duties was a precondition for initiation of the disciplinary proceedings against the Petitioner in view of the order of this Court dated 11.12.2013. If it is presumed that the Management has restrained the Petitioner from joining the duties, it would literally amount to axing it's own feet since it could not proceed with the enquiry until the Petitioner joins. The Petitioner has systematically taken advantage of the situation and has made these allegations. Shri Kedar submits that he can substantiate his contentions with the assistance of the documents.

4           It is settled law that in the contempt proceedings, it needs to be established that the Contemnor has willfully, deliberately and intentionally disobeyed the order of this Court with an intention of overbearing the authority of the Court.

5           I find, in the present case, that disputed questions have been raised as to whether, the Petitioner was willing to join the duties and as to whether, the Management restrained him from joining the duties.

6           By the order passed by this Court on 26.09.2017 recording the eagerness of both the sides, the Education Officer (Secondary) was directed to oversee the joining of duties by the Petitioner. It is stated that the Petitioner has joined duties from 08.10.2017 and is consistently working thereafter barring some instances of absence. It is not disputed that the Petitioner is yet to receive his salary after joining the duties.

7           In the above backdrop, since the disputed questions are being put forth, this Contempt Petition cannot be entertained. Nevertheless, the Petitioner cannot be rendered remedy-less.

8           With the consent of the parties, I am, therefore, disposing of this Contempt Petition with the following directions:-

- (a)       Respondent No.2/ Management would pay the pending salary of the Petitioner inclusive of all allowances as per the scale applicable w.e.f. 08.10.2017 within a period of FOUR WEEKS from today and no extension of time shall be sought.
- (b)       After having made the above payments, the Management would be at liberty to forward the bills to the Education Department and the Education Department would consider the said bills strictly in accordance with the Rules applicable. A decision with promptitude is expected on this count from the Education Department.
- (c)       The Management shall follow Rules 36 and 37 of the MEPS Rules for initiating an enquiry against the Petitioner as is held by this Court vide its order dated 11.12.2013 and shall ensure that the Enquiry Committee is constituted under Rule 36(1) within FOUR WEEKS from today and serve the copy of allegations upon the Petitioner seeking his written explanation within SEVEN DAYS.

- (d) The Management as well as the Petitioner would be bound by Rule 36(2) onwards and the enquiry would be conducted by due adherence to Rules 36 and 37 within a period of FOUR MONTHS from the date of constitution of the Enquiry Committee.
- (e) The Petitioner shall render assistance to the Enquiry Committee and the parties are restrained from seeking adjournments on unreasonable and trivial grounds.
- (f) All contentions of the Petitioner as well as the Management with regard to the joining of duties and unpaid salary are kept open, to be raised before the appropriate authority / tribunal after completion of the enquiry.