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

**CONTEMPT PETITION NO.515 OF 2017  
IN  
WRIT PETITION NO.10227 OF 2013**

Shivanand Dattatray Mahajan,  
Age: 29 years, Occu: Nil,  
R/o. Pimpalgaon Hareshwar,  
Tq. Pachora, Dist. Jalgaon

..PETITIONER

VERSUS

1. Devidas Ramdas Mahajan,  
Age: 69 years, Occu: Agriculture,  
Presently working as Chairman of  
Gramvikas Mandal, Pimpalgaon Hareshwar,  
R/o. Pimpalgaon Hareshwar,  
Tq. Pachora, Dist. Jalgaon

2. Bhagwan Devchand Patil,  
Age: 54 years, Occu: Service,  
presently working as Head Master,  
R/o. Pimpalgaon Hareshwar,  
Tq. Pachora, Dist. Jalgaon

3. Khushal Gaikwad,  
District Social Welfare Officer,  
Jalgaon

..RESPONDENTS

Mr B. S. Deshmukh, Advocate for petitioner;  
Ms S. A. Jagtap, Advocate holding for Mr V. D. Sapkal, Advocate for  
respondent Nos.1 & 2;  
Mr S. Y. Mahajan, A.G.P. for respondent No.3

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

**DATE : 8th October, 2018**

**ORAL ORDER:**

Heard learned Counsel appearing on behalf of the petitioner.

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2. The grievance of the petitioner is, in spite of the order dated 20th July, 2015, passed by this Court in Writ Petition No.10227 of 2013, the same is not complied with.

3. The petitioner was before this Court for seeking consideration of his claim to a post on compassionate ground. The Division Bench of this Court, by an order dated 20th July, 2015 directed respondent No.2 to place the petitioner in the list of candidates to be appointed on compassionate ground and if there is no vacancy available with respondent Nos.3 and 4, then respondent No.2 shall, as per the seniority list, pass orders with regard to the appointment of the petitioner in some other institution in the district.

4. The documents placed on record show that the petitioner was appointed in the institute at a place Varsade Tanda, Tq. Pachora, Dist. Jalgaon to the post of Assistant Cook on compassionate ground. The order is also placed on record at Exh.'D'. The petitioner joined services on 14th September, 2015. The affidavit-in-reply is filed on behalf of respondent No.3, giving reference to this fact, namely, the appointment order is issued by the management in favour of the petitioner vide letter dated 11th August, 2015 and the petitioner has joined the duties on 14th September, 2015 as 'Assistant Cook'.

5. Now, the submission of learned Counsel for the petitioner is, on the very date when the order of this Court is passed, there was a post of a Lab Assistant vacant in the institute and the petitioner, while joining the services,

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submitted in the joining report that he is reserving his right on the post of Lab Assistant. Thus, the submission is, there is no compliance of the order of this Court. Learned Counsel for the petitioner admitted that the petition, namely, Writ Petition No.843 of 2016 was filed raising a challenge to the appointment to the post of Laboratory Assistant and the petition was withdrawn by the petitioner.

6. Considering this very fact that the petitioner who had filed substantive petition, withdrew the petition on his will and wish and considering the fact that there is substantial compliance of the order of this Court by appointing to petitioner on the post of Assistant Cook and considering the fact, which is not in dispute that the petitioner's father was also working on the post of a Peon, we are of the opinion that there is substantial compliance of the order of this Court. The petitioner's grievance is that on the very date when the order was passed, there was vacancy falling and he was entitled to claim to that post, cannot be considered by us by extending the scope of contempt petition. It is also not in dispute that on that post another person is appointed by way of promotion. Thus, what the petitioner is praying would result in unsettling the position of some of the person who was appointed by way of promotion. This also cannot be done in contempt petition. Considering all these facts, the petition is disposed of.

**(MANISH PITALE, J.)**

sjk

**(PRASANNA B. VARALE, J.)**