

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

Contempt Petition No. 0651 of 2017
(In Criminal Writ Petition No. 01205 of 2016)

District : Aurangabad

1. Shri Sitaram s/o. Parashram
Rathod,
Age : 66 years,
Occupation : Retired
Govt. Servant,
R/o. Seva Nagar Housing
Society, Plot No.25,
N-8, CIDCO, Aurangabad.
 2. Sow. Kaushalyabai w/o. Sitaram
Rathod,
Age : 56 years,
Occupation : Household,
R/o. Seva Nagar Housing
Society, Plot No.25, N-8,
CIDCO, Aurangabad.
 3. Smt. Yogita w/o. Laxmikant
Rathod,
Age : 31 years,
Occupation : Household,
R/o. Seva Nagar Housing
Society, Plot No.25,
N-8, CIDCO, Aurangabad.
- .. Petitioners.

versus

1. Sudhir Shrivastav,
The State of Maharashtra,
Home Department,
Mantralaya, Mumbai,
Through its Secretary.
2. Dr. Arti Sing,
Superintendent of Police
(Rural),
Aurangabad District,
Aurangabad.

3. Gorakh C. Shelke,
Police Inspector,
Police Station, Karmad,
Taluka & Dist. Aurangabad.
 4. Shrichand s/o. Parashram
Rathod,
Age : 53 years,
Occupation : Govt. Service,
R/o. Sahyadri Colony, N-5,
CIDCO, Aurangabad.
 5. Mangesh s/o. Shrichand Rathod,
Age : 24 years,
Occupation : Agriculture,
R/o. Sahyadri Colony, N-5,
CIDCO, Aurangabad.
 6. Shailesh s/o. Shrichand Rathod,
Age : 28 years,
Occupation : Agriculture,
R/o. Sahyadri Colony, N-5,
CIDCO, Aurangabad.
 7. Rupchand s/o. Parashram Rathod,
Age : 59 years,
Occupation : Agriculture,
R/o. Naigavan (Chinchkhora),
Taluka & Dist. Aurangabad.
 8. Santosh s/o. Rupchand Rathod,
Age : 31 years,
Occupation : Agriculture,
R/o. Naigavan (Chinchkhora),
Taluka & Dist. Aurangabad.
 9. Nitesh s/o. Rupchand Rathod,
Age : 24 years,
Occupation : Agriculture,
R/o. Naigavan (Chinchkhora),
Taluka & Dist. Aurangabad.
- .. Respondents.

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Mr. Bhagwan V. Thombre, Advocate, for the petitioners.

*Mr. D.R. Kale, Addl. Public Prosecutor, for
respondent nos.01 and 02.*

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**CORAM : PRASANNA B. VARALE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 31ST JANUARY 2018

ORAL ORDER [Per Prasanna B. Varale, J.] :

Heard.

02. Learned Counsel for the petitioners submitted that there is non-compliance of the order of this Court dated 30.09.2016 in Criminal Writ Petition No. 01205 of 2016. Submission of the learned Counsel is, as there is wilful disobedience of the order of this Court, respondents - authorities be accordingly punished for committing contempt of this Court.

03. It would be necessary to refer certain facts, in brief, giving rise to this contempt petition. The petitioners had approached this Court by filing Criminal Writ Petition No. 01205 of 2016. Copy of the order passed by the Division Bench on 30th September 2016 is placed on record at Exhibit "B" along with the petition. Perusal of the order show that the grievance of the petitioners was, though the petitioners approached the local police station officer or police station in-charge, making grievance that certain criminal acts covering offences are committed and inspite of such approach to the authority concerned, no heed is paid. The

Division Bench of this Court found that it was only approach to the concerned police station in-charge, but in view of the provisions of the Code of Criminal Procedure, the petitioners could have availed remedy by way of approaching the Superintendent of Police, more particularly, under Section 154(3) of the Code of Criminal Procedure, 1973. Considering this fact, this Court granted liberty to the petitioners to approach Superintendent of Police, Aurangabad (Rural), raising his grievance. This Court then made it clear, that if such an application or representation is submitted by the petitioners before the Superintendent of Police, Aurangabad (Rural), within two weeks from the date of the order, the Superintendent of Police, Aurangabad (Rural), to take decision on such representation, in accordance with law, as expeditiously as possible, however, within four weeks from receiving such application.

04. Learned Counsel for the petitioners submitted that though the petitioners approached the Superintendent of Police within two weeks i.e. on 10.10.2016, the Superintendent of Police (Rural) failed to decide the representation within stipulated period of four weeks from receiving application of the petitioner.

05. Copy of the representation dated 10.10.2016 made by the petitioners is placed on record at Exhibit "C". This Court thought it fit not to issue notice and by order dated 09th November 2017, at the

request of the learned Addl. Public Prosecutor granted time to place on record, compliance of the order of this Court dated 30th September 2016. Accordingly, the matter was adjourned.

06. At the outset, Mr. D.R. Kale, learned Addl. Public Prosecutor appearing for respondent nos.01 and 02, submitted that inadvertently, affidavit in reply is filed before this Court, under a presumption that notice is issued by this Court. Learned Addl. Public Prosecutor submitted that it was *bona fide* intention of the authority to bring to the notice of this Court, the factual aspect of compliance of the order of this Court. Learned Addl. Public Prosecutor submitted that the Superintendent of Police (Rural) expressed her unconditional apology. He further submitted that there is some delay caused in deciding the representation of the petitioners which was received by the office of the Superintendent of Police (Rural). Learned Addl. Public Prosecutor submitted that the Superintendent of Police (Rural) is expressing an unconditional apology for the delay caused in deciding the representation. Learned Addl. Public Prosecutor submitted that the delay caused because the Superintendent of Police, Aurangabad (Rural), Dr. Arti Singh, assumed charge on 29.04.2017. He further submitted that as there was a routine transfer of the officers and the earlier officer, namely, Superintendent of Police was transferred and Dr. Arti Singh took over the charge on 29.04.2017. He submits that as soon she was made

aware of the order of the Court, she immediately issued directions to the subordinate officers and called report from the subordinate officers.

07. Learned Addl. Public Prosecutor further submitted that on 23.11.2017, the Superintendent of Police, Aurangabad (Rural), decided the representation of the petitioners. Copy of the decision is also placed on record. It may not be necessary to give all details. Suffice to say, that except the applications submitted to Police Station, Karmad, dated 03.03.2008 and 25.08.2010, decision on other applications is informed to the petitioners. It is also informed to the petitioners, that no decision could be taken on the applications dated 03.03.2008 and 25.08.2010 because of non-availability of the applications in the Police Station, Karmad.

08. Submissions of the learned Addl. Public Prosecutor and the documents placed on record i.e. decision dated 23.11.2017 makes it very clear, that though there is some delay caused in deciding the application or representation, the representation is decided by the authority concerned. The authority also expressed an unconditional apology for the delay with justifiable reason. We accept the apology of the officer concerned.

09. In so far as compliance of the order of this Court, the officer concerned decided the representation. If the petitioner is having any

grievance against the decision communicated to the; petitioner, he is at liberty to take appropriate steps, if so advised.

10. Considering all these facts, we are of the opinion that there is no wilful disobedience of the order of this Court. The contempt petition is accordingly disposed of.

(Smt. Vibha Kankanwadi)
JUDGE

(Prasanna B. Varale)
JUDGE

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