

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

CONTEMPT PETITION NO. 246 OF 2017
IN WRIT PETITION NO. 4521 OF 2016

(Smt. Nanda w/o Govindrao Bhute & Ors. vs. Shri Prabhat Ranjan (IPS), The Director General,
Maharashtra State Home Guard and Civil Defence Head Quarters, Mumbai & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
S.M. MODAK, JJ.
OCTOBER 16, 2018.**

Heard Shri R.R. Gour, learned counsel for the petitioners, Shri P.S. Tembhare, learned AGP for respondent No. 1 and Shri G.A. Kunte, learned counsel for respondent No. 2.

2. The grievance is about non compliance of order dated 13.12.2016 in Writ Petition No. 4521 of 2016. By that order, Respondent No. 2 has been asked to decide the Appeal preferred by the petitioners – Contemnors. The Contempt petitioners (original petitioners) point out that respondent No. 1 (in Contempt Petition) has not decided that Appeal.

3. Respondent No. 1 has filed reply affidavit and he is relying upon the order dated 28.08.2014 issued by the Commandant General, Home Guard, Maharashtra State, delegating powers to decide such Appeal to the Deputy Commandant General, Home Guard.

4. Shri Gour, learned counsel points out that delegation is effected by exercising some powers under the Maharashtra Civil Services (General Conditions of Service) Rules, 1981. He invites attention to the provisions of the Maharashtra Home Guards Act, 1947, particularly Section 6-B (3) of the Act. He contends that the provisions of the Maharashtra Home Guards Act, 1947, do not envisage such delegation.

5. Shri Kunte, learned counsel submits that delegation has been done on 23.08.2014 and the order of this Court is more than 2 years thereafter. Respondent No. 1 has accordingly allowed Respondent No. 2 to decide the Appeal by obeying orders of this Court as also delegation, as such there cannot be any contempt. He is also seeking time to explain how the delegation is legally sustainable.

6. In present jurisdiction, we are not inclined to delve more into controversy. There is a specific direction of this Court dated 13.12.2016 to respondent No. 2 (in writ petition) to decide the Appeal. Section 6-B(3) *prima facie* does not support any delegation. We, therefore, find that the interest of justice can be met with by permitting the present incumbent to decide the Appeal afresh.

7. However, Shri Kunte, learned counsel, upon instructions, informs that the Deputy Commandant, who has decided the Appeal, is now promoted on that post.

8. In this situation, with the consent of parties, we direct the Secretary, Home Department of the State of Maharashtra to take decision on the petitioners' Appeal within three months.

9. With these directions and keeping all contentions open, we dispose of the present Contempt petition. However, there shall be no order as to costs.

JUDGE

JUDGE

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