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

**CONTEMPT PETITION NO.56 OF 2017
IN
WRIT PETITION NO.10411 OF 2016**

Subhash s/o Shriramlal Jaiswal,
Age: 62 years, Occu: Business,
R/o Dhanmandi Bagh, Near Vegetable
Market, Aurangpura, Aurangabad

..PETITIONER

VERSUS

1. Keshav Netke,
Sub-Divisional Officer and Deputy
Collector, Phulambri & Paithan Division,
Office at Opp. S.T. Workshop,
Mukundwadi, Aurangabad

2. The State of Maharashtra

..RESPONDENTS

Mr P. N. Sonpethkar, Advocate for petitioner;
Mrs M. A. Deshpande, A.G.P. for respondent No.2

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 27th February, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. On the backdrop of the grievance raised in the petition that the order dated 15th October, 2016, passed by this Court in Writ Petition No.10411 of 2016 is not complied with, the Division Bench of this Court was pleased to issue notice to respondents on 21st February, 2017, making the same returnable on 10th March, 2017.

(2)

3. Perusal of the order dated 15th October, 2017 shows that on the backdrop of a fact situation that there is an establishment of Taluka Level Committee constituted under the Government Circular dated 13th February, 2015, the Division Bench of this Court thought it fit to permit the petitioner to approach Taluka Level Committee and then said exercise is undertaken by the petitioner by submitting appropriate representation to the Committee. The Committee, in turn, was directed to take appropriate decision within a stipulated period of eight weeks from the date of receipt of the application. With these directions, the writ petition was disposed of.

4. In response to the notice, respondent No.1 Keshav Netke, Sub Divisional Officer, Jalna filed affidavit-in-reply on 9th March, 2017. It may be necessary for us to refer to the contents of the affidavit-in-reply reflected in paragraph 4, which reads thus:

"4. I say and submit that, the present petitioner has filed application on 21.10.2016 after receipt of the said application the present deponent has communicated to the Tahsildar and intimated that, to take decision as per Rules and Regulation. It is further intimated that, the compliance report be submitted. Hereto annexed and marked as EXHIBIT R-1 is the copy of communication dated 28.10.2016"

(3)

5. In para 5 of the affidavit-in-reply, the deponent submitted that there is a delay in compliance of the order and further submits that delay was occurred due to unforeseen difficulty, namely, the deponent was assigned with an election duty and being returning officer, he was required to take necessary steps in the conduct of the election under the directions of his superior authorities.

6. The communication dated 28th October, 2016, referred to in para 4 is placed on record along with affidavit-in-reply at annexure R-1. By this communication, the Sub Divisional Officer (Revenue), Paithan-Phulambri directed Tahsildar, Phulambri to take immediate steps in view of the order of this Court. The entries accordingly taken in record are also placed on record by way of a copy of the document at annexure R-2 of affidavit-in-reply.

7. It is the submission of Mr Sonpethkar, learned Counsel for the petitioner that it was expected of the authorities to grant an opportunity of hearing to the petitioner before they could take any step and accordingly enter the entries in the document. It was further submitted by Mr Sonpethkar that the petitioner was expecting a communication to him before initiation of an action by the authorities. As such, the submission of learned Counsel for the petitioner is, the order is not complied with in letter and spirit.

(4)

8. Though learned Counsel for the petitioner submits that the order is not complied with in letter and spirit, we are unable to accept the submission of learned Counsel for the petitioner for the simple reason that it only refers to the expectation of the petitioner. The Division Bench of this Court, by an order dated 15th October, 2016 permitted the petitioner to approach the Taluka Level Committee. The Committee, in turn, was directed to take appropriate decision within a stipulated period. In the order, there is nothing suggestive of the duty fastened on the authorities of providing an opportunity of hearing or an intimation of their proposed action prior to taking necessary steps. If that is so, then merely because it is the impression of the petitioner, we cannot accept the submission that the order is not complied with. We further state that it was also an attempt of learned Counsel for the petitioner to submit before us that an entry recorded is not in consonance with the material. If the petitioner is having any grievance about entries so recorded in the directions by this Court, the petitioner is at liberty to take appropriate steps and avail appropriate remedy, if so advised to him.

9. Keeping the aforesaid option open for the petitioner, we see no reason to keep the petition pending on the backdrop of the fact that the order of this Court is complied with and accepting the statement of respondent No.1 that though there is delay in compliance of the order, the delay is purely

(5)

unintentional and for bona fide reasons, the contempt petition is accordingly disposed of.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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