

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

**CIVIL APPLICATION NO. 1226 OF 2019
IN
PUBLIC INTEREST LITIGATION NO. 70 OF 2018**

Vasantrao Uttamrao patil and others	... Applicants
Versus	
Mohan Sahebrao Patil and others	... Respondents

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Mr. A. G. Talhar, Advocate for applicants.

Mr. P. S. Paranjape, Advocate h/f Mr. P. B. Patil for respondent Nos.1 to 5

Mr. A. B. Dhongade, Standing Counsel for respondent No.6.

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**CORAM : PRASANNA B. VARALE
AND
NITIN W. SAMBRE, JJ**

DATED : 04th APRIL, 2019

PER COURT:-

1. In Public Interest Litigation No. 70 of 2018, the petitioners, who claim to be agriculturists and shareholders of the sugar factory, have raised grievance as regards the notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002. In the said proceedings, this Court had issued directions to respondent No.1 – Union of India, through the Director (Co-operation), Ministry of Agriculture and Farmer Welfare (Department of Agriculture), Cooperation and Farmer's Welfare), to respond to the communication issued on 30th August, 2016 by respondent

No.2 – Sugar Commissioner, State of Maharashtra within a period of six weeks.

2. After the petition was disposed of, the private respondents moved an application bearing Civil Application No. 1226 of 2019 with the following prayers :-

“A) This Civil Application may kindly be allowed.

B) By appropriate order or direction the action of criminal contempt may kindly be taken against the petitioner No.1 and 2 for suppression of material facts and for giving the false information on affidavit in PIL No.70/2018.

C) Any other suitable and equitable orders may kindly be passed in favour of the present petitioner.”

. The prayer (B) is based on the following grounds:-

(a) that the applicants to the application are not impleaded as party respondents in the Public Interest Litigation, and;

(b) there is suppression of material facts which has direct effect over the outcome of the Public Interest Litigation.

3. According to the applicants, petitioner No.1 Mohan Sahebrao Patil, an employee of the sugar factory, has suppressed the said fact in the petition and also a defaulter of the sugar factory, as there are arrears of Rs.2,90,000/-. It is also brought to the notice of this Court, through the aforesaid application that petitioner No.2 – Ashok Vithoba Shriram has also not come out before this Court

with clean hands. The said petitioner has suppressed the fact of being defaulter of the sugar factory. It is also suppressed that the said petitioner is an accused in a crime punishable under Section 304, 534 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The learned Counsel for respondent Nos. 1 and 2 i.e. original petitioners in the aforesaid background submits that there was no intention on the part of the petitioners to suppress any material facts from the Court.

5. Mr. Patil, learned counsel appearing for the original petitioner Nos. 1 and 2 submits that the pendency of the criminal proceedings or the fact that there are certain dues outstanding cannot be considered as adverse to the interest of the petitioner in regard to the issue raised in the petition. Mr. Patil, learned counsel then submits that both these petitioners tendered their unconditional apology and further urged that there was no deliberate attempt to show disrespect or disregard to the Court proceedings. According to him the petitioners expressed their strong regrets and assure this Court that the petitioners shall not repeat such conduct in future.

6. Having given our thoughts to the submissions, what is

inferred from the conduct of the petitioner is, in a PIL the petitioners are required to approach the Court with clean hands, clean mind and clean objectives. The petitioners have suppressed the substantial material facts. Conduct of the petitioners in past, if considered, the petitioners have taken undue advantage in the PIL by suppressing the same.

7. This Court was about to initiate contempt proceedings against the petitioners, however, in view of the unconditional apology tendered by them and they having volunteered to deposit costs of Rs.50,000/- (Rupees Fifty Thousand Only) each in this Court within a period of eight weeks from the date of order of this Court, this Court refrains itself from passing any order in the matter.

8. The statement of the learned counsel for petitioners, on instructions, that the petitioners will deposit an amount of Rs.50,000/- each, within a period of six weeks from the date of order of this Court, is accepted as undertaking.

9. If the said amount is deposited, a sum of Rs.50,000/- be remitted to the '*High Court Legal Services Sub-Committee, Aurangabad Bench*' and remaining Rs.50,000/- be released in favour of "*Srushti Sanvardhan Sevabhavi Sanstha*", N-4, CIDCO, Aurangabad.

10. It is made clear that, in case if the amount is not deposited as undertaken by the petitioners, the Tahsildar Shirpur shall recover the said amount as arrears of land revenue due under the Maharashtra Land Revenue Code, by executing revenue recovery certificate to the extent of aforesaid amount against petitioner Nos. 1 and 2, namely, (1) Mohan Sahebrao Patil, R/o. 5, Saraswati Colony, Shirpur, Tq. Shirpur, Dist. Dhule and (2) Ashok Vithoba Shriram, R/o. 67, Pitreshwar Colony, Shirpur, Tq. Shirpur, Dist. Dhule, and upon recovery, the said amount shall be remitted to this Court.

11. Needless to say that the Tahsildar would also be entitled to recover the costs of such recovery which is quantified to the extent of Rs. 25,000/-.

12. With these observations the civil application is disposed of.

(NITIN W. SAMBRE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

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