

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO.95 OF 2019

IN

WRIT PETITION NO.3317 OF 2013

Sudhakar Dattatray Mule

Versus

Zilla Parishad, Jalna and Others

Mr.Ajay S. Deshpande – Advocate for Petitioner.

Mr.U.S.Mote – Advocate for Respondent Nos.2 and 3.

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CORAM : PRASANNA B. VARALE &

ANIL S. KILOR, JJ.

DATE : 07th November, 2019.

ORDER :-

1. Heard Mr. Deshpande, learned counsel for the petitioner.
2. On a grievance that the order of this Court dated 22nd January, 2015 in Writ Petition No.3317 of 2013 is not complied with, the present petition was filed.
3. By order dated 11th February, 2019, simple notice was

issued to respondent Nos.2 and 3 and in response to the notice, learned counsel appearing for respondent No.2 Smt.Nima Arora, Chief Executive Officer, Zilla Parishad, Jalna and respondent No.3 Mr .Uttam B. Chavan, Chief Accounts and Finance Officer, Zilla Parishad, Jalna placed on record a communication dated 8th April, 2019 and a decision annexed to the said communication under the signature of respondent No.2 - Chief Executive Officer, Zilla Parishad, Jalna.

4. It was the submission of the learned counsel for respondent Nos.2 and 3 that there is due compliance of order of this Court as this Court directed the authority to take a decision on hearing the parties. The learned counsel for respondent Nos.2 and 3 submitted that the penultimate paragraph of the decision particularly refers to hearing of the petitioner by the authority.

5. Mr. Deshpande, learned counsel for the petitioner, vehemently submitted before this Court that under the garb of decision being taken, the authority only reiterated its earlier decision and this is nothing but an attempt of empty formality of the authority. It was the submission of Mr. Deshpande that the

petitioner, in the hearing, made a reference to the facts as well as a decision of the Hon'ble Apex Court. Mr. Deshpande then submitted that in support of the submission, the petitioner also placed the necessary documents before the authority and as such the authority, rejecting the claim of petitioner, is only reiterating its act and this cannot be termed as a compliance of the order.

6. It was the submission of Mr. Deshpande, learned counsel for the petitioner, that the authority taking decision only referred to the Hon'ble Apex Court's judgment, but it was a mechanical reference. As such it was a non-application of mind of the authority in arriving at the decision. Mr. Deshpande further made a submission that in such a situation, the matter be relegated to the Chief Executive Officer for a decision afresh.

7. Though the submission of Mr. Deshpande looks very attractive at the first blush, for the simple reason that, such an exercise of assessing the merit and deciding the lis on merit between the parties, can be a permissible exercise in an appropriate challenge before this Court but certainly we cannot

permit ourselves to undertake this exercise in a contempt petition by expanding the scope of contempt petition and sphere and compass of a contempt petition would not permit us to undertake this exercise. We may add further that the petitioner may have all justified grounds of having a grievance against the order passed by the authority including a grievance in the nature of non-application of mind but then this can be considered only in the challenge raised to the order.

8. Considering all above facts, we are not inclined to accept the submission of the learned counsel Mr. Deshpande for the petitioner and in our opinion as the decision is taken by the authority under the directions of this Court, there is no reason to pass any further order in the contempt petition except granting liberty to petitioner to challenge the decision, in case petitioner feels aggrieved and if so advised. Accordingly, the contempt petition is disposed of.

(ANIL S. KILOR, J.)

(PRASANNA B VARALE, J.)

JPC