

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

**CONTEMPT PETITION NO. 557 OF 2018
IN
WRIT PETITION NO. 12747 OF 2016**

Prakash Sitaram Swantsarkar

..PETITIONER

VERSUS

Manu Kumar Shrivastava and Others

..RESPONDENTS

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Mr. C.D. Fernandes, Advocate h/f Mr. A.N. Kakade, Advocate for petitioner
Mr. P.G. Borade, A.G.P. for respondent - State

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**CORAM : PRASANNA B. VARALE AND
R.G. AVACHAT, JJ.
DATED : 23rd AUGUST, 2019**

PER COURT :

Heard Mr. Fernandes, learned Counsel h/f Mr. Kakade, learned
Counsel for petitioner.

2. Perused order of this Court dated 01st August, 2019. In response to order of this Court, affidavit-in-replies are filed on behalf of Mr. Manoj Saunik, presently working as Additional Chief Secretary, Public Works Department, Maharashtra State, Mumbai, Mr. Manu Kumar Shrivastava, presently working as Additional Chief Secretary (Revenue), Revenue and Forest Department, Mantralaya, Mumbai and Mr. Anil Eknath Kulkarni, presently working as Joint Secretary, Public Works Department, Mantralaya, Mumbai.

3. In so far as the first affidavit is concerned, it is stated in the said affidavit-in-reply that the office of Executive Engineer, Public Works Department, World Bank Project Division, Ahmednagar has fixed the pay of petitioner as per the order of this Court. It is stated that thereafter necessary proposal is forwarded to the office of Accountant General, Mumbai on 16th August, 2019 for granting pensionary benefits. Copy of the said communication is annexed to the affidavit-in-reply as Exhibit R-2. This statement takes care of the grievance of non-compliance of order of this Court. It is also stated in the said affidavit-in-reply that some delay is caused in compliance of order of this Court, but same is not deliberate or intentional but for some procedural difficulties. The explanation is accepted.

4. In so far as the affidavit-in-reply of Mr. Manu Kumar Shrivastava is concerned, this Court had expressed displeasure on account of not accepting notice. An explanation is submitted to this Court in the affidavit-in-reply and more particularly in paragraph no.7 of reply, which reads thus :-

“7. As regards the issue of declining the notice issued in the instant contempt petition, I humbly submit that, the said notice, due on 23.10.18, was issued in my name but through Secretary Public Works Department, which position I have never held. In view of this apparent error, or mismatch between the name and the designation mentioned in the notice, this Deponent had only requested the process server to get either the name or the designation corrected in the notice.”

It is also submitted that this was not intentional mistake and the deponent is also tendering his unconditional apology. The deponent then prayed for recalling of order of notice.

5. The third affidavit-in-reply of Mr. Anil Kulkarni is filed in response to direction of this Court for service of notice and it may not be necessary for us to refer in detail this affidavit-in-reply as the respondents have already filed their affidavit-in-replies and same are referred to in our earlier part of order.

6. Though now the order of this Court is complied with by fixing and quantifying the pensionary benefits of petitioner, learned Counsel for petitioner was justified in submitting that as petitioner is waiting for his due entitlement for a long period and petitioner is now in his advance age, the office of Accountant General, Mumbai be directed to pass appropriate order on the proposal as expeditiously as possible.

7. In view of this submission, we deem it appropriate to direct the office of Accountant General, Mumbai to pass appropriate order on the proposal dated 16th August, 2019 forwarded through Executive Engineer, Public Works Department, World Bank Project Division, Ahmednagar received by the office of Accountant General, Mumbai, as expeditiously as possible and

not later than four weeks from today. Learned A.G.P. to communicate this order to the office of Accountant General, Mumbai today itself.

8. As the grievance of petitioner is no more survived, contempt petition is disposed of and order of issuance of notice to Respondent No. 1 dated 01st August, 2019 is recalled.

(R.G. AVACHAT, J.)
SSD

(PRASANNA B. VARALE, J.)