

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

WRIT PETITION NO. 7812 OF 2018

Shafiyoddin Jamalauddin Mohammad ...Petitioner

Versus

The State of Maharashtra
Through Collector, Beed and Ors. ...Respondents

Mr S.P. Brahme, Advocate for Petitioner
Mrs G.L. Deshpande, Assistant Government Pleader for
Respondent Nos. 1 to 3

WITH
CIVIL APPLICATION STAMP NO. 3666 OF 2019

The State of Maharashtra
Through Collector, Beed and Ors. ...Applicants

Versus

Shafiyoddin Jamalauddin Mohammad ...Respondent

Mrs G.L. Deshpande, Assistant Government Pleader for
Petitioners
Mr S.P. Brahme, Advocate for Respondent

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 31ST JANUARY, 2019

ORAL ORDER:

1. The present Writ Petition depicts the irresponsible attitude of the Government Officer at the help of the affairs. The petitioner had approached this Court by filing Writ Petition No. 15212/2017 against the order sealing the shop of the petitioner. This Court on 14th February, 2018

directed the authority to consider the claim of the petitioner for release of shop within a period of four weeks. We had also asked the petitioner to show his willingness to pay the amount as demanded by respondents under protest.

2. It is submitted by Mr. Brahme, the learned Counsel for the petitioner that the petitioner pursuant to the order deposited Rs.71,000/- with the authority. However, till date the authority has not decided the matter as per the order of this Court dated 14th February, 2018. Thereafter, the Civil Application was filed by the petitioner in the said Writ Petition bearing Civil Application No. 4727/2018.

3. In the said Civil Application, under order dated 27th April, 2018, we had observed that there is no decision with regard to the release of shop and the order dated 14.02.2018 is not entirely complied with. We had asked the Collector to consider the aspect of the release of shop as directed under order dated 14.02.2018 and take decision on its own merits. The said order is passed on 27th April, 2018. As yet, the decision has not been taken and the shop is sealed.

4. We fail to understand the apathy on the part of the authorities in not taking decision in spite of the orders of this Court. It appears that they have shown disrespect to the orders passed by this Court.

5. The learned AGP further submits that the petitioner had located himself in the parking place and the same is illegal.

6. In the present matter also, from time to time, adjournments

were sought on behalf of the State for filing affidavit-in-reply. Under order dated 24th January, 2019, we had adjourned the matter at the request of the learned Assistant Government Pleader with condition that the respondent Nos. 1 and 2 shall deposit the costs of Rs. 25,000/- by the next date.

7. Pursuant to our orders, the cost has been deposited.

8. We had made certain observations under the order dated 14th February, 2018 in writ petition No.15212/2017. The said observations were on the basis of the documents on record, the applications filed and also *inter se* communications between the Public Works Department and the Office of Collector, and so also, the certificate issued by the Tahsildar.

9. The petitioner cannot be said to be an encroacher or an unauthorized occupant. The petitioner was allowed to occupy the said premises since the year 2002. Even valuation was done. It also appears that the petitioner has been given the licence of stamp vendor in Tahsil Premises, Parli.

10. The same appears to have been continued by the authorities and the last renewal is made on 31st March, 2017.

11. In case the petitioner is a tenant then certainly for eviction, the respondents have to follow the provisions of The Maharashtra Government Premises (Eviction) Act.

12. Be that as it may. Now, the affidavit has been filed that the Collector would take decision within two weeks regarding the shop. The

said statement is accepted as an undertaking to this Court.

13. The respondents shall de-seal the shop which the petitioner was occupying forthwith.

14. After the decision is taken by the Collector, the parties are at liberty to take appropriate steps.

15. It is submitted that the Civil Application is filed for recall of the order dated 24th January, 2019 imposing costs upon the respondents.

16. We were constrained to impose costs upon the respondents because of their conduct. The facts narrated supra shows the defiance on the part of the authorities in adhering to the orders passed by this Court. The Writ Petition is disposed of.

17. The facts on record do not persuade us to accept the Civil Application. In view of that, Civil Application is disposed of.

18. Mr Brahme, the learned Counsel for the petitioner graciously submits that cost deposited by the respondents be given to the High Court Advocates Bar Association, Aurangabad.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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