

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

**902 CONTEMPT PETITION NO.716 OF 2019
IN WP/14228/2018**

RAMESHWAR BENISINGH GUNHOT
VERSUS
SHRI. MANJIT SINGH, THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND ANR.

Advocate for Petitioner : Mr.Ashok R. Tapse
AGP for Respondents - State : Mrs.M.A.Deshpande

**CORAM : PRASANNA B. VARALE AND
ANIL S. KILOR, JJ.**

DATE: 5th November, 2019

PER COURT:-

1. The petition was placed before this Court yesterday. On going through the petition and the annexures, this Court was not inclined to entertain the petition. The learned counsel for the petitioner sought time to seek instructions. At the request of the learned counsel, the petition was adjourned for today.

2. Today, the learned counsel for the petitioner expressed his inability to make submissions for want of instructions and simply submitted that the petitioner be permitted to withdraw the petition with liberty to approach the State

Government.

3. In normal circumstances, this Court would have allowed such a request made by the counsel representing the party, but for peculiar reasons, we are unable to accept the request of the counsel. The reasons reflected from perusal of the document are of such nature that they only show a casual approach of the party and this typical casual approach prompted us not to accept the request of the learned counsel.

4. It would be necessary for us to refer to certain facts which prompted us to arrive at a conclusion stated above. The petitioner was appointed on compassionate ground in the then Nanded Municipality, Nanded (Presently known as Nanded Waghala City Municipal Corporation, Nanded), in the year 1993 as 'Jakat Jawan'. By order dated 18.03.2008, the petitioner was dismissed from the services. The copy of the order is placed on the record and it would be interesting to note that the dismissal of the petitioner was on account of his continuous absenteeism. The perusal of the order shows that initially for continuous absenteeism the

petitioner was subjected to a penalty of deduction of paltry amount of Rs.20/- from his salary. In spite of an action of deduction of the said amount from salary, the petitioner did not make his ways. The petitioner was again following the same approach of keeping himself absent. Then, the Authority considering the absenteeism, increased the amount of penalty and then ultimately the petitioner was subjected to suspension following departmental enquiry. Then, the petitioner was reinstated in services by imposing penalty. Petitioner was reinstated in the services from 12.02.2007 and soon after his reinstatement in the next month, the petitioner was again absent from his duties. Notice was issued to the petitioner. The petitioner has submitted his reply. Nanded Waghala City Municipal Corporation, Nanded (hereinafter referred to as 'the Corporation') was not satisfied with the reply submitted by the petitioner and ultimately took a decision vide Resolution dated 21.01.2008 passed in the meeting of Standing Committee to dismiss the petitioner from services. The petitioner could not find sufficient time to approach the Mayor of the Corporation for five long years or to make any representation and submitted his representation on

26.08.2013, seeking reinstatement in the services. The Corporation probably was unable to consider the representation on the back-drop of the fact that statutory remedy is available to the petitioner for filing an appeal against his dismissal. The petitioner again, after five years could found an opportune time to submit his appeal to the Authority and that was submitted on 18.02.2017. The Corporation in its Standing Committee meeting passed Resolution dated 28.02.2017, condoned the delay and allowed the appeal. As soon as the appeal was allowed, the petitioner at that point of time, was prompt enough to submit an application to the Corporation on 29.03.2017 seeking his reinstatement. It seems that the Commissioner of the Corporation on the very date i.e. 29.03.2017, forwarded a communication to the Principal Secretary of Urban Development Department, whereby the Commissioner by assigning detail reasons raised an objection to the Resolution dated 28.02.2017 passed by the Corporation. The Commissioner in clear words was pleased to observe that the Resolution passed by the Corporation thereby condoning the delay of 10 long years is clearly unsustainable and the Resolution dated 28.02.2017 be

suspended. The petitioner then submitted representation to the Principal Secretary, the copy of the same is placed on record. Interesting enough to note that the copy of the representation neither bears any date nor month but only refers to year 2018.

5. The perusal of the documents placed on record further shows that the petitioner has filed Writ Petition No.14228 of 2018 in this Court and raised challenge to order passed by the State Government dated 09.11.2017. By the said order the State Government, on the back-drop of the facts, was pleased to accept the proposal of the Commissioner of the Corporation of suspending the Resolution. The perusal of this order dated 09.11.2017, copy of the same is placed on record, shows that this communication refers to an opportunity of hearing to the parties and the order prompted the concerned parties to submit their Say to the State Government within a period of thirty days. The petitioner had approached the State Government and the Corporation had also filed its Say. Considering these facts, the Division Bench of this Court by order dated 26.03.2019 passed in Writ Petition No.14228 of 2018, disposed of the

Writ Petition and observed that it is for the State Government to take final decision and the State Government shall take final decision in that regard expeditiously and preferably within a period of four months from the date of order i.e. 26.03.2019.

6. The petitioner is before this Court by way of present Contempt Petition with principal prayer in Clause-'B' and the same reads thus:

"B. The respondents may please be punished under the provisions of Contempt of Court's Act 1971 for disobedience of order dated 26.03.2019 passed by Division Bench of this Hon'ble Court in Writ Petition No.14228/2018 in the interest of justice."

7. Again the perusal of the documents placed on record shows that on 18.04.2019, the Desk Officer of the State of Maharashtra forwarded a communication to the Commissioner of the Corporation with reference to the order of this Court dated 26.03.2019, seeking certain feedback from the Commissioner of the Corporation.

8. The petitioner seems to have submitted an application

to the Information Officer of the Corporation calling upon the said Officer to inform the petitioner as to the decision taken by the State Government in view of the directions of this Court. By communication dated 03.08.2019, the petitioner was informed that as the matter is pending before the State Government, the Corporation is unable to provide any information to the petitioner. Now, only on this reply communication dated 03.08.2019, the petitioner has approached this Court with a submission that the act of the respondents and more particularly, the State Government is an act of disobedience of the order of this Court dated 26.03.2019.

9. Firstly considering the communication dated 18.04.2019, it is more than clear that the State Government acted upon immediately and by giving reference of the order of this Court sought for certain information or feedback from the Commissioner of Corporation. This communication clearly shows that the allegation of the petitioner that the State Government has acted showing disregard to the order of this Court, is only on assumptions and presumptions of the petitioner and secondly, the

cardinal principle of law that the party, who approaches the Court claiming equities must show that he acted and took steps within the reasonable time for raising the grievance. The petitioner, who was taking time leisurely at every stage, and at the cost of repetition, we must mention that firstly five years period was taken to submit representation to the Corporation and then ten years period was taken to present the appeal before the Corporation, expecting the Authority to act with electrifying speed that too when he was charged for continuous absence in services and inspite of imposing penalties on two occasions could not mend his way. Not only this, but the petitioner also approached this Court with a submission that as the matter is pending before the State Government, the State Government is guilty of an act of disobedience of order of this Court that too knowing very well that there was an exchange of communication dated 18.04.2019 between the State Government and the Commissioner of the Corporation. A copy of the said communication is placed on record by the petitioner himself.

10. Considering all these facts, we are of clear opinion that

the present petition is merit-less and only inescapable conclusion, which can be drawn is that the petition deserves to be dismissed at threshold and the same is accordingly dismissed.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

SPT