

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

904 CONT. PETITION NO.712 OF 2019
IN WP/4556/2019

DATTA MARUTI DHANAVE
VERSUS
PRADEEP VYAS THE PRINCIPAL SECRETARY AND ANOTHER

...
Advocate for Petitioner : Mr.Wagh Shirinivas S.
AGP for Respondents State : Mr. S.G. Sangle
...

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

DATED : 3rd DECEMBER, 2019.

ORAL ORDER :

Heard learned counsel for the petitioner. The grievance raised in this petition is of non decision in an appeal presented before the State Government, in spite of the order of this Court. Our attention was invited to the order of this Court dated 30.4.2019 and more particularly, to paragraph No. 2, whereby this Court expected the hearing of the appeal and the decision, within the stipulated period of two months from the date of assigning of the appeal vide letter dated 12.3.2019.

2. The learned counsel for the petitioner further submitted that the hearing of the appeal was

scheduled on 30.7.2019 at 2.00 p.m. before the Hon'ble Minister of State. Notices were issued to the petitioner to that effect, are placed on record at page No. 33 to 34. Then the learned counsel submitted that though the matter was heard for considerable period, there was no decision on the appeal. As such, the petitioner has left no choice, but to approach this Court.

3. The learned AGP submitted before this Court that due to peculiar circumstances i.e. change in scenario, post the hearing of the appeal and due to the reason of the elections were declared, for some time, president's rule was operating in the State and recently, the new Ministry is formed under the leadership of the Chief Minister.

4. The learned AGP then submitted that the exercise of distribution of the respective portfolios are yet to take place, as such, it may not be

possible to assign the appeal to the Minister for hearing afresh.

5. On the backdrop of this fact situation, the learned counsel appearing for the petitioner, invited our attention to the recent orders passed by the learned Single Judge of this Court dated 14.11.2019. In nearly identical situation, the Division Bench of this Court thought it fit to direct the Secretary of the State to decide the appeal within stipulated period. The necessary reference to the orders of the Division Bench is made in paragraph 5 of the order of the Single Judge dated 14.11.2019.

6. We have gone through the order of the Id. Single Judge in Writ Petition No. 9930 of 2013 dated 28.3.2014, wherein again reference was made to the Division Bench order dated 28.1.2014 in Writ Petition No. 874 of 2014. It may be useful for our purpose to refer to the relevant observations reflected in the

order of the learned Single Judge dated 28.3.2014 and in paragraph No. 6 the Division Bench of this Court observed thus :

''We clarify that we have not expressed any opinion in relation to contentions and as far as merits of the appeal are concerned. This order and direction is passed because, we find that such appeals are pending before the State Government, and since they are not being disposed of expeditiously for want of availability of concerned Minister, it is fair, just and proper that they are not kept pending but be dealt with by the Secretary in the said Department''

7. The learned Single Judge, then issued certain directions to the Secretary and they formed part of Sub Clauses (A), (B), (C), (D) and (E) of paragraph No. 12 of the order.

8. We see no reason to adopt different view and accordingly, we dispose of the present Contempt Petition with directions to the Secretary of the Water Resource Department, Government of Maharashtra

as follows :

i) The appeal presented before the Hon'ble Minister, Water Resources Department, Government of Maharashtra, Mumbai, on 30.7.2019 be heard and decided as expeditiously as possible and preferably within six weeks.

ii) Concerned Secretary, after deciding an appeal, shall transmit the copy of the order of its decision to the litigating parties, as early as possible.

iii) The petitioner shall appear before the concerned Secretary on 11.12.2019 at 3.00 p.m. and no separate notice of hearing shall be issued to the parties.

iv) If the parties including the petitioner choose to remain absent, such absence shall be at their own risk and the petitioner will suffer the consequences flowing there from.

9. With these directions, the Contempt Petition is disposed of.

10. Authenticated copy of this order be supplied to the learned AGP.

(ANIL S. KILOR)
JUDGE

(PRASANNA B. VARALE)
JUDGE

mahajansb/