

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CONTEMPT PETITION NO. 135 OF 2012**

Thorbole Rajaram Vithoba

.....Petitioner.

Vs.

Hemant Vissanji & Ors.

.....Respondents.

Mr. Dilip Bodake for the Petitioner.

Mr. Prashant Chavan a/w Mr. Mukund Madekar and Ms. Reshma Nathani i/by Madekar & Co. for the Respondent Nos. 1 and 2.

Smt. M.S. Bane, AGP for the Respondent Nos. 3 and 4-State.

CORAM : A. S. GADKARI, J.**DATE : 16th SEPTEMBER, 2019.****P.C.:-**

By the present Petition, the Petitioner has alleged that, the Judgment and Order dated 14th December, 2011 passed by the learned Presiding Officer, Mumbai University and College Tribunal, Mumbai (for short, "*the College Tribunal*") in Appeal No. 8 of 2011 has not been complied with by the Respondent Nos. 1, 2 and 3 and rather it is a willful disobedience of the said Order. The record indicates that, the said Order dated 14th December, 2011 has been upheld by the Hon'ble Supreme Court.

2 At the outset, Mr. Chavan, the learned counsel for the Respondent Nos.1 and 2 submitted that, as per his instructions, the Respondent No. 1 expired on 16th August, 2019.

3 By the said Judgment and Order dated 14th December, 2011,
the College Tribunal in Clause No.2 therein has issued the following
directions:-

“2) *In the event of absorption as surplus for no
workload or otherwise as per the directions of Respondent
No.4, Joint Director of Higher Education, Appellant shall
be entitled for required relieving letter, salary certificate
and LPC and supporting documents from Respondent Nos.
1 & 2 and they shall duty bound to deliver the same which
are required and necessary for absorption, elsewhere.”*

4 Mr. Chavan, the learned counsel for the contesting Respondents
submitted that, the Respondent No.2 has filed a detailed affidavit dated 17th
March, 2017 placing on record the fact that, the said Respondents in fact
have forwarded all the documents to the Joint Director of Higher Education
i.e. Respondent No.3 herein, as the Principal of Kirti College, Dadar refused
to accept the said documents. That, the necessary documents incorporating
relevant entries have been accordingly forwarded to the Respondent No.3.
He submitted that, the Petitioner herein has been relieved from service on
21st August, 2013.

5 As the Respondents have complied with clause No.2 of the said
Order dated 14th December, 2011 passed by the College Tribunal, I am not
inclined to Admit the present Contempt Petition.

5 Mr. Bodke, the learned counsel for the Petitioner submitted that, though the Respondent Nos. 1 and 2 have issued relieving letter dated 21st August, 2013, it ought to have been issued from 29th April, 2014. He submitted that, the Petitioner joined and absorbed in service in another college i.e. Kirti College, Dadar on 30th April, 2014 and therefore in his service book, there is a gap of period from 21st August, 2013 to 29th April, 2014. Mr. Bodke, however, fairly conceded to the fact that, in the said interregnum, the Petitioner has received the due remuneration from the Respondent No.3.

 He submitted that, if a letter of relieving from service dated 29th April, 2014 is not issued in favour of the Petitioner by the concerned Respondents, at the fag-end of his service, there will be a gap in service from 21th August, 2013 to 29th April, 2014, which may create problems to the Petitioner for getting pensionary and/or retirement benefits.

6 In view thereof, the Petitioner is granted liberty to approach the Respondent No.3 for redressal of his grievance pertaining to the entry in his service book or change of date of relieving letter issued by the Respondent Nos. 1 and 2.

 If the Petitioner approaches the Respondent No.3 within a period of six weeks from today, for redressal of his grievance, the Respondent No.3 to consider it as per the provisions of law and if necessary, may hear the contesting Respondents herein before passing appropriate

Orders in that behalf.

6 Contempt Petition is accordingly disposed off, in the aforesaid terms.

(A.S. GADKARI, J.)