

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6024 OF 2015

Free Trade Unions Multipurpose Projects
Trust, Mumbai

Petitioner

versus

The State of Maharashtra

Respondent

Mr.Arshad Shaikh I/by Gautam Yadav for petitioner.

Ms.S.S.Bhende, AGP, for Respondent-State.

Mr.Kiran R. Mehta for respondent no.2 in person.

CORAM : A.A.SAYED AND
PRAKASH D. NAIK, JJ.

DATE : 12th July 2019

PC :

1. The challenge in this Petition is to the letter dated 16th February 2015 passed by learned Advocate General under Section 15 of Contempt of Courts Act, 1971 declining to grant consent to the Petitioner for taking action under the Contempt of Courts Act, 1971 against the Respondent no.2. The letter dated 16th February 2015 of the learned Advocate General is in response to the letter dated 6th February 2015 of the Petitioner seeking permission u/s 15(1)(b) of the Contempt of Courts Act, 1971 for action in contempt against the Respondent no.2. The letter dated 16th February 2015 of the learned Advocate General reads as follows :

“1. This is with reference to your application dated 6th February, 2015 by which you have sought my consent under Section 15(1)(b) of the Contempt of Courts Act, 1971.

2. *The contempt alleged of appears to be of the statements made by the proposed Respondent in the application filed before the learned Charity Commissioner. The statements which are alleged to be contemptuous are re-produced as under :*

Paragraph (3)-Page (7) of the Application :

“But unfortunately the said report was submitted (after a considerable lapse of time) i.e. on 6/1/2012 to safeguard the mala fide interest of the Trustees who were often seen visiting the office of the said officer, after final hearing was over.”

Paragraph (VII)-Page (16) of the Application :

“Thus it can be seen that the present report is totally biased, managed, dictated and one sided favouring the Trustee’s wrong acts and is in violation of BPT Act, 1950.”

3. *Though I have my own reservations whether the statements would per-se amount to contempt, I decline to go into the issue in view of Section 15(2) of the Contempt of Courts Act. Section 15(2) of the Contempt of Courts Act provides that in the case of any criminal contempt of a subordinate Court, the High Court may take action on a reference made to it by the subordinate Court. In view of Section 15(2) of the Contempt of Courts Act, and considering allegations, which pertain to the subordinate Court, it would be appropriate that an application is before the learned subordinate Court seeking a reference. In view of the above, I regret, I decline to grant consent in the instant case.*

4. *I hereby return the papers filed with your application.”*

2. From the aforesaid letter it is seen that the learned Advocate General had his own reservations whether the statements made by

the Respondent no.2 would per se amount to contempt. In any event, the learned Advocate General has left it to the Assistant Charity Commissioner to make an application seeking reference to the High Court. It is noticed that the alleged contemptuous statements were made sometime in the year 2012 whereas present Petition has been filed in the year 2015. In our view, this is not a fit case to exercise the extraordinary writ jurisdiction of this Court to interfere with the discretion exercised by the learned Advocate General or initiate suo-moto contempt action. The Writ Petition is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(A.A.SAYED, J.)

MST