

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8307 OF 2018

Monika Sunil Shinde	}	Petitioner
versus		
State of Maharashtra	}	
and Ors.	}	Respondents

Mr.R.K.Mendadkar with Ms.Priyanka
Shaw for the petitioner.

Mr.S.B.Kalel-AGP for State.

**CORAM :- S. C. DHARMADHIKARI &
M. S. KARNIK, JJ.
DATE :- FEBRUARY 5, 2019**

P.C. :-

1. In this matter, we found that despite this court directing action being taken against the members of the scrutiny committee exercising quasi judicial powers, the State Government is retracting its steps. Despite clear orders and directions of this court, no disciplinary action was taken. It is unfortunate that when misconduct on the face of it is committed by the quasi judicial authorities, that it is left to this court to take the necessary action. In this case, we find that the default being continuous and the defiance being open, has left this court with no alternative, but to strip the concerned officials of their powers. This court had directed removal of the concerned members.

2. In these circumstances, we are shocked and surprised that no disciplinary action was taken despite the directions of this court. When the matter was placed for compliance on 21st January, 2019, we passed the following order:-

“. Despite our scathing attack and serious criticism of the state of affairs in the Scrutiny Committees and particularly of Nashik Scrutiny Committee, we had directed disciplinary action to be taken against some of the members. We had directed that inquiry proceedings be initiated and completed within 3 months from the date of communication of the judgment of this Court dated 01/08/2018.

2. Admittedly that has not been done.

3. Learned AGP shri Kalel concedes that till date, not even a show cause notice has been issued to the defaulting members, far from holding an inquiry.

4. On such state of affairs, we would have been justified in issuing notice of contempt, but Shri Kalel says that the same need not be issued today and the issuance be deferred till the next date.

5. He says that within 2 weeks, he will get back to the Court with necessary instructions, including whether the show cause notice has been issued and when inquiry would be concluded.

6. At his request, we post this matter on 04/02/2019 which shall be listed under the same caption.”

3. When this matter was placed before us yesterday, we were further surprised that the superiors in hierarchy of the officers concerned were not interested in taking any action. They had not issued a memorandum/charge-sheet, despite this court giving them a time frame to conclude the inquiry. We were told by Mr.Kalel-AGP that the charge-sheet has been issued.

4. With this inordinate delay, we were inclined to initiate contempt proceedings, but Mr.Kalel has filed an affidavit today of the Deputy Secretary, Tribal Development Department, Government of Maharashtra. In paras 2, 6, 7 and 8, the deponent status thus:-

“2. I tender unconditional apology for the delay in initiating the Disciplinary Proceedings. I say that in future I will take care for compliance of the order of this Hon'ble Court and/or Apex Court.

6. I say and submit that Government has initiated disciplinary action against these three officers namely Shri Dashrath Krishnaji Panmad, then Joint commissioner, Smt.Jagruti Kumare, then Deputy Director and Smt.Ahirrao, then Senior Research Officer from Scheduled Tribe Certificate Scrutiny Committee, Nashik. I say that memorandum regarding disciplinary proceeding has been prepared and put up for sanction of higher competent authorities as per rules MCSR (Discipline and conduct) 1979.

7. I say and submit that vide Government circular dated 4th March, 2017 by General Administration Department, to initiate disciplinary action against the officers working on pay scale of Rs.15600-39100 and grade pay Rs.7600 and above, approval is required from General Administration Department and State Government. Accordingly General Administration Department has given approval to Memorandum regarding disciplinary proceeding on 1st February, 2019 and same has been sanctioned by State Government.

8. I say and submit that Government has sanctioned the same on 02/02/2019 and we have issued Memorandum to the concerned officers immediately on 02/02/2019. The explanation against the charges has been called from concerned officers within 10 days as per memorandum. Here to annexed and marked as **ANNEXURE Exh-R-2** is the copy of the Memorandum.”

5. Thus, the Government has initiated the disciplinary proceedings as per the orders of this court and undertaken to

conclude them expeditiously. Since there is an unconditional apology and that the undertaking is given to conclude such proceedings within three months from today, we drop any action in contempt. We accept these statements in the affidavit as undertakings given to this court. However, we direct that the inquiry shall proceed on its own merits and in accordance with law uninfluenced by what is stated by Mr.Subbarao Shinde, Deputy Secretary, Tribal Development Department in this affidavit tendered today. He seems to be suggesting that it is only one member who was working from 10th October, 2016 as the Member Secretary of the Scheduled Tribe Certificate Scrutiny Committee, Nashik, who deserves to be penalised and the other two were drafted into this scrutiny committee as a part of special drive.

6. We do not think that tenure of a person as a quasi judicial officer has any relevance. Even if a person presides over the scrutiny committee for a brief period, he has no authority to ignore and brush aside the binding judgments of this court and the Hon'ble Supreme Court. Defying them and bringing the State Government into disrepute and causing it embarrassment before the highest court in the State ought to be looked as a misconduct. It is a conduct unbecoming of a public official. Therefore,

irrespective of this stand reflected from this affidavit, the inquiry officer and disciplinary authority shall proceed to take such action as is permissible in law against the concerned officials to whom the memorandum/charge-sheet has been issued.

7. With all this, we accept the compliance with our directions and close the matter.

(M.S.KARNIK, J.)

(S.C.DHARMADHIKARI, J.)