

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Contempt Petition No.209 of 2018
in
Writ Petition No.2210 of 2018 (P)

Maduri D/o Tulshiram Kirade @ Madhuri W/o Lakshmikant Ghawat
vs.

Aachi Goyal, Chief Executive Officer, Ratnagiri Zill Parishad, Ratnagiri

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri M.V. Bute, Advocate for the Petitioner.
Shri Majid Sheikh, Advocate for the Respondent/Contemtnor.

CORAM : SUNIL B. SHUKRE & S.M. MODAK, JJ.
DATE : 26th JUNE, 2019.

Heard the learned Counsel for the contempt petitioner and the learned Counsel for the respondent-contemtnor.

02] It is the contention of the petitioner that in spite of the *status quo* order passed by this Court on 27/04/2018 in Writ Petition No.2210/2018, the contemtnor issued termination order and terminated the services of the petitioner. During the earlier course of hearing, which occurred on 19/06/2019 in Writ Petition No.2210/2018, this Court had made an attempt to inquire in to the particular date on which the termination order was received by the petitioner.

At that time, the learned Counsel for the petitioner had vehemently submitted that the termination order was never served upon her and that she only learned that it was issued and sent to her by post. When we made further inquiry by putting queries to Shri Majid Sheikh, learned Counsel for Respondent no.3 in that petition, who is the contemptnor in the present petition, the learned Counsel informed this Court that before passing of the interim order, the termination order was issued and also served upon the petitioner. But, from the documents, which he had made available to this Court for perusal, he could not show that the termination order was really served upon the petitioner well before the date of 27/04/2018 and the result was that this Court expressed it's displeasure over the conduct of the learned Counsel for respondent No.3 in not properly placing the facts before this Court.

03] While all this was going on, the learned Counsel for the petitioner maintained silence probably in a meaningful way in order to derive some advantage for the petitioner. But, now it has been seen by us that copy of the termination order itself

has been filed by the petitioner on 12th April, 2018, when Writ Petition being No.2210/2018 came to be filed by the petitioner. This termination order was in possession and custody of the petitioner, and it is now clear, on the date on which the main petition being Writ Petition No.2210/2018 was filed, though learned Counsel for the petitioner explains that the copy of the order came in possession of the petitioner unofficially.

04] It does not matter, whether the custody of this document came to the petitioner by following the procedure or otherwise. The fact remains that the petitioner was in the knowledge that her services had been terminated and, therefore, as a good litigant and in order to prove her *bona fides* in the matter, a duty was enjoined upon her to disclose to this Court the fact that this termination order was forming the part of the petition, though it was not received by her officially or through proper channel and so would have left it to the Court, to decide as to whether or not, grant the *status quo* or interim relief. This fact, an essential one, was not pointed out by the petitioner to this Court and the result was that on 27/04/2018, the Bench presided over by different Judges, passed an

order of *status quo* in relation to employment of the petitioner. This order, we must say, was obtained by the petitioner by suppressing the material facts, bordering upon playing fraud upon the Court and, therefore, this petition, *prima facie*, deserves to be dismissed by imposing exemplary cost upon the petitioner.

05] We have granted hearing to Shri Bute, learned Counsel for the petitioner on the question as to why exemplary cost be not imposed upon the petitioner and the reply of the learned Counsel is that the petitioner could not be blamed for all this for the simple reason that the petitioner herself had filed copy of the termination order at the time of filing of the petition and if the petitioner had any ill-intention in her mind or was acting in a *mala fide* manner, the petitioner would have suppressed this order from the Court. As such, he submits that no costs, whatsoever, be imposed upon the petitioner. He also tenders his apology on behalf of the petitioner.

06] On the point of exemplary cost, the learned A.G.P. submits that an appropriate order in the matter

may be passed. The learned Counsel for respondent No.3 reiterates the same submission.

07] We are of the view that as the *status quo* order has been obtained without particularly pointing out the existence on record of the termination order, the mistake on the part of the petitioner could not be seen as a *bona fide* mistake pure and simple, but something done with a view to taking chance in the matter and, therefore, it would be necessary for us to impose cost upon the petitioner. About the exemplary nature of the cost, we are inclined to accept the submission of the learned Counsel for the petitioner to show leniency in the matter for the reason that the petitioner has herself filed on record copy of the termination order, which would lessen the effect of the misdeed of suppression of material fact committed by the petitioner.

08] In view of the above, we find that the contempt petition deserves to be dismissed with costs.

09] The contempt petition stands dismissed with cost of Rs.1,000/- (Rupees One Thousand Only) to be

deposited in the account of High Court Legal Services Sub-Committee, Nagpur within a period of two weeks from the date of the order.

**sandesh*

JUDGE

JUDGE