

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1791 OF 2021
IN CRIMINAL PIL NO.2/2020

RAVINDRA SOPANRAO JAGTAP
VERSUS
THE UNION OF INDIA AND OTHERS

Mr.R.N.Dhorde, Sr.Counsel h/f Mr.V.R.Dhorde, Advocate for the applicant.
Mr.A.G.Talhar, ASGI for Union of India,
Mr.D.R.Kale, Government Pleader for respondent Nos. 2 to 6.
Mr.G.K.Naik Thigle, Advocate for respondent Nos.11 and 12 in Cri.PIL
No.2/2020

(CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ)

DATE : AUGUST 25, 2021

PER COURT :

1. By this application, the applicant Mr.Ravindra Sopanrao Jagtap, Former District Collector, Beed has put forth his prayers at Clause A & B, which read as under :-

"A. Grant this application and recall the order dated 03.08.2021 passed by this Hon'ble Court in Criminal PIL No.2/2020 along with Contempt of Courts Act show cause notice dated 05.08.2021 and also expunge the observations made against the applicant in the said order dated 03.08.2021 and for that purpose issue necessary orders;

B. Pending the hearing and final disposal of this Criminal Application grant stay to the order dated 03.08.2021 passed by this Hon'ble Court in present Criminal PIL No.2/2020 and notice dated 05.08.2021 and for that purpose issue necessary orders;"

2. We have extensively heard the submissions of the learned Senior Advocate, representing the applicant, the learned Government Pleader on behalf of respondent Nos. 2 to 6, and Mr.Thigle, the learned Advocate on behalf of respondent Nos. 11 and 12, who are the petitioners in the PIL.

3. Mr.Dhorde has brought it to our notice that the applicant is extremely apologetic and has tendered an unconditional apology for having failed in responding to the orders of this Court dated 21/01/2021 and 16/06/2021. The Covid pandemic is cited as a cause for the tremendous burden of work on the shoulders of the District Collector since the priority was of containing the spread of the pandemic. He has placed the dates and events by way of synoptical notes to apprise us of the burden of his civic responsibility that he had in his capacity of being the District Collector. We are therefore reproducing the said notes verbatim hereunder :-

DATES AND EVENTS
STAGE - I

1.	Feb 2020	Beed District is under serious Covid situation and on 22.03.2020 lockdown was imposed and time to time action under Disaster Management Act is enforced and the Collector U/s 25 is head of the Disaster Management Committee. The Epidemic Diseases Act, 1897 has also invoked and the said different orders are passed from time to time.
2.	20.01.2021	This Respondent was posted as the Collector,

	(Pg-1204)	Beed and taken the charge.
3.	<u>17.02.2021</u> (Pg-1204)	The State government issued directions to all the Districts collectors and Municipal Commissioners about the Covid activities day to day. There is increase in Covid cases and be very very alert.
4.	(Pg-1206 to 1221) Feb-2021	The Collector, Beed issued direction to all the authorities in view of the Disaster Management Act. For the month of February 2021 namely to all the Chief Executive Officer, Chief Officer, Municipal Councils, CEO ZP and all other department.
5.	(Pg-1231-1234)	The chart of Covid cases in Beed District List of different Covid Care Center, from 1 to 60, Dedicated Covid Health Center DCHC in the 11 Tehsil of Beed District and Dedicated Covid Hospitals from serial No.99 to 145 all over Beed District.
6.	15.04.2021 (Pg-1235 to 1285)	The Deputy Collector Shri. Dharmkar List of Hospitals as head and a committee was appointed along with the other officers for distribution of Remedies as there was hue and cry.
7.	15.04.2021 (Pg-1286 to 1287)	Arrangement for supply of oxygen cylinder in Government hospitals in Beed and other hospitals in Beed District.
8.	26.04.2021 (Pg-1288)	The oxygen arrangement again in all hospitals.
9.	31.05.2021 (Pg-1290-1293)	Oxygen arrangement in various hospitals and the demand to Secretary, Medicine for oxygen from 12.04.2021 to 31.05.2021.
Order Under Act		
10.	20.02.2021 (Pg-1150 to 1154)	Direction to the Chief Executive Officer, Police Officers DSP, SDO, Deputy Chief Executive Officer, BDO and Chief Officer of Municipal and various department assigning them the Covid duties. (The M- most important about the effective implementation of SOP.)
11.	21.03.2021 (Pg-1155)	Covid duty assign to Deputy Collector Dharmkar, Committee member about the oxygen.

12.	01.04.2021 (Pg-1156)	Appointment of two Deputy collectors Dharmkar and Aghav Patil and Dr. Pigle as the co-ordinator relating to contact tracing and home isolation.
13.	17.04.2021 (Pg-1158)	Again assigning duties of Deputy Collector Dharmkar and other officer regarding making the Civil hospitals management.
14.	21.03.2021 (Pg-1160)	To all Tehsildar and SDO Covid duties in rural and municipal areas effectively and forming the different groups of the officers for implementation of the same.
15.	21.03.2021 (Pg-1161)	Disaster Management Act officers assign the duties of the Covid care Center at different places.
16.	27.03.2021 (Pg-1163)	The Naib Tahsildar of different places assigned the work of Covid Care Center in Beed District.
17.	01.04.2021 (Pg-1165)	Assistant Commissioner Drugs and Medicine, Beed is directed to keep the oxygen supplies constant and without any difficulty.
18.	01.04.2021 (Pg-1147 to 1169)	Different Deputy Collector and different officer are assigned the work District Hospitals Beed Covid ward RDC and other officer and assigned the work of government, private hospital management.
19.	01.04.2021 (Pg-1171)	The Assistant Commissioner, Social Welfare, Beed was assigned the work of RTPCR and RAT check management.
20.	01.04.2021 (Pg-1173)	RDC and others assign the work of demand the availability of oxygen etc.
21.	01.04.2021 (Pg-1175)	Deputy Collector (Administration) assigned the work of vaccination of age group 45 to 60.
22.	01.04.2021 (Pg-1177)	Additional CEO ZP, Beed is directed to collect information of active cases etc. and load it on portal.
23.	19.04.2021 20.04.2021 28.04.2021 30.04.2021 02.05.2021 <u>19.05.2021</u> (P-1178-	All the officers are assigned the duties in view of the Disaster Management Act.

	1190)	
24.	05.04.2021 (Pg-1191)	Various Tahsildars are assigned the duties about Covid situation.
25.		Thus various officers of ZP Beed, of Panchayat Samiti Beed, the Village Development Officer (Gramsevak) in all the Village Panchayats were assign the duties of Covid from whom information is received.
26.	02. Feb 2021 (Pg-1319 to 1324)	The State Election Commission directed to hold the election including direction of voter list etc. of various municipals, and public bodies.
27.		Thus the hands of Collector were full with the Covid work as is head of the District Disaster Management Committee. In the meantime there were directions also State Election Commission to hold election of different public bodies. Government duties of different officer. By the government order dated 21.04.2021, 30.05.2021 staff present in the office was 50% till April and in May it was 15%.

STAGE - II

28.	21.01.2021 (Pg-1134)	Order passed by this Hon'ble Court.
29.	27.01.2021 (Pg-1117)	Letter of Government Pleader Aurangabad to Commissioner, Aurangabad informing order.
30.	28.01.2021 (Pg-1117)	Received by Commissioner Office, Aurangabad.
31.	01.02.2021 (Pg-1117)	Deputy Commissioner (EGS) Aurangabad received order passed by this Hon'ble Court along with letter of GP.
32.	15.02.2021 (Pg-1124)	The Deputy Collector Office received the email from Dy. Commissioner (EGS) Aurangabad and the Legal Cell Department download the same and forwarded to Dy. Collector (EGS).
33.	18.02.2021 (Pg-1123)	The same was wrongly received by clerk of (Acquition) EGS Department.
34.	23.02.2021 (Pg-1132)	Inward of Collector Office received by registered post the copy of order dated

		21.01.2021 passed by this Hon'ble Court.
35.	26.02.2021 (Pg-1123)	On receiving the order by concerned person the noting was made to the effect that the said letter should be sent to account branch EGS as it is related to EGS.
36.	26.02.2021 (Pg-1139)	Noting prepared by the Accounts Officer.
37.	05.03.2021	Said noting placed before the Naib Tahsildar, Shri Pawale and he noted and confirmed.
38.	05.03.2021	The said note was placed before the Deputy Collector (EGS) and he signed it and approved it.
39.	08.03.2021	Place before the Collector who held meeting and directed to constitute a Committee for compliance of order passed by this Hon'ble Court.
40.	09.03.2021 (Pg-1149)	Committee formed.
<u>STAGE-III Availability of Officers</u>		
41.	19.11.2020 (Pg-1143)	Smt. Thakur was transferred on the post of Dy. Collector (EGS), Beed.
42.	29.01.2021 (Pg-1145)	Deputy Collector (EGS) Smt. Thakur retired on 31.01.2021 and For administrative reasons additional charge was handed over to Shri. Raut RDC.
43.	23.02.2021 (Pg-1145)	The charge (EGS) was handed over from Shri Raut to Shri. Dharmkar of the posts of Dy. Collector (EGS).
44.	01.03.2021 to 09.03.2021 (Pg-1146)	Shri Dharmkar went to leave as his parents were suffering from Covid-19.
45.	(Pg-1147 to 1148)	Medical report of parents of Shri. Dharamkar.
46.	02.03.2021 (Pg-1146)	Additional charge (EGS) was given to Deputy Collector Shri Prakash Aghav Patil.
47.	21.03.2021 (Pg-1197)	Shri. Giri Deputy CEO, head of the Committee suffered from Covid-19 and went on leave 22.03.2021 to 08.04.2021 (His Covid Report)

48.	01.04.2021 (Pg-231)	The Deputy Collector (EGS) informed the GP officer about action is being taken as per the order, however the period of action is long and since due to other work and lockdown more time will be required therefore four weeks time for submitting the compliance and affidavit be requested.
<u>STAGE - IV</u>		
49.	12.06.2021 (Pg-193)	The Collector Beed prepared an affidavit compliance and submitted information on point 7(a)-7(b) as per the order of this Hon'ble Court and requested for the time of one month to submit reply on remaining points however it appears that the said affidavit was tendered on date of hearing 12.06.2021.
50.	(Pg-195)	Requested for the time of one month to submit reply on remaining point.
51.	16.06.2021 (Pg-1361)	The matter was placed before this Hon'ble Court and this Hon'ble Court passed an order that the Collector should take the steps, ensuring that the enquiry should be taken to its logical conclusion by submitting the reports of the Committee and should take further steps and the same was adjourned to 30.06.2021.
52.	25.06.2021 (Pg-1326 to 1331)	The inquiry Committee submitted the report some points. The Collector submitted an affidavit indicating as to when the order have been received by him (P-194) and tendering an apology for not submitting the report within time and not to initiate contempt proceedings and for remaining action steps are being taken.
53.	28.06.2021 (Pg-1332 to 1339)	The inquiry Committee submitted the report on point No.7F,7H,7J,7K and 7L which were remaining.
54.	30.06.2021 Pg-1345 (Pg-239 to 1090)	The same is submitted to this Hon'ble Court along with the affidavit before this Hon'ble Court.
55.	01.07.2021	Though the affidavit was shown on 30.06.2021 it appears that the same was submitted to this Hon'ble Court on 03.08.2021 (thus the

		compliance of the order of the Hon'ble Court
<u>STAGE - V</u>		
56.	02.07.2021 (Pg-1355 to 1360)	The Collector informed the Chief Executive Officer ZP Beed to make an inquiry about the deficiencies and submit the compliance report within one week ? Similar letter sent to all Tahsildars, Agricultural Officers, Forest Officers etc. and copy was sent to GP Office, Aurangabad.
57.	03.08.2021 (Pg-1367)	This Hon'ble Court passed order making certain observations and directed of transferred of Collector, Beed and also issued show cause notice for contempt.
58.	05.08.2021 (Pg-1377)	The contempt notice is issued to this Respondent.
59.	06.08.2021 (Pg-1379)	Committee submitted the report recommending to take action of registration of offences, Departmental Enquiry and recovery of monies etc.
60.	06.08.2021 (Pg-1383 to 1384)	The Collector Beed passed an order directing Chief Executive Office, ZP Beed and various other departments to take criminal action, Departmental Enquiry, and recovery of money.
61.	11.08.2021 (Pg-1385 to 1387)	The CEO Beed issued notices and action as per the report and the news items are published.
62.	12.08.2021	The another Collector Shri. Sharma has been transferred in place of Respondent and Respondent handed over the charge. Respondent filed present application for recalling of the order dated 03.08.2021 and for expunging the remarks and also Respondent sought circulation on Application for recalling.
63.	13.08.2021	This Respondent filed present application for recalling of the order dated 03.08.2021 and for expunging the remarks and also Respondent sought circulation on Application for recalling.
64.	18.08.2021	The matter was on board and this Hon'ble Court passed order and adjourned the matter on 20.09.2021 noting that the new Collector has

		taken charge and the applicant has filed an application for recalling.
65.	20.08.2021	This Hon'ble Court granted circulation on 25.08.2021.
66.	24.08.2021	This Respondent filed reply to the show cause notice issued by this Hon'ble Court.

4. It calls for no debate that we have issued an order dated 21/01/2021 calling for thorough investigation and a report on the points formulated by us. We had granted 8 weeks time to the District Collector and we had made the matter returnable on 06/04/2021. Even on 06/04/2021, We do not find any response from the District Collector and yet considering the request made by the learned Government Pleader, we extended the time till 16/06/2021 thereby granting almost 10 more weeks to the applicant to act in pursuance of our order dated 21/01/2021. On 16/06/2021, when we found that there was a lukewarm response from the District Collector to our orders, this Court (Coram : Dipankar Datta, CJ and Ravindra V.Ghuge, J.) had passed an order recording a prima facie view that, "*the incumbent Collector has exhibited an extreme lack of solitude for the rule of law and conducted himself in a manner not befitting the responsible office he holds. Having regard to his conduct, the matter needs to be dealt with appropriately under the Contempt of Courts Act, 1971 (hereafter "the Act", for short). However, before we draw up proceeding by issuance of Rule Nisi under the Act against the incumbent Collector, we*

wish to grant him one further opportunity to explain his conduct. Within 10 (ten) days from this date, the incumbent Collector shall file an affidavit and explain to the satisfaction of this Court why it should desist from initiating proceedings against him under the Act."

5. The learned Advocate for the applicant submits that since the applicant has tendered an unconditional apology and has indicated that he was neck-deep in the Covid-19 Pandemic Containment Measures, this Court, if convinced, may recall the show cause notice issued to the applicant.

6. Having noticed the dates and sequence of events put forth by the applicant, which have been reproduced hereinabove, we feel that the applicant may not have deliberately avoided entering an affidavit in the manner in which he was expected to file, within a particular time-frame. It appears that he may not have been alert or in a position of passing on instructions so as to bring it to the notice of the Court that he was genuinely in need of some more time. As the record revealed that he was not responding, we were compelled to pass an order on 03/08/2021 after giving him numerous opportunities. Yet, taking a lenient view of his conduct and the submissions put forth which are reproduced above, we are recalling the directions given in paragraph No.11 of our dated 03/08/2021 and as such, we hereby accept his apology and close the issue as regards

the proceedings under the Contempt of Courts Act.

7. The learned Senior Advocate has then drawn our attention to our observations set out in paragraph Nos. 5 and 7 of the order dated 03/08/2021. He submits on the basis of the voluminous record and the synoptical notes tendered that though the Marathi meaning of the sentence typed by the applicant which is reproduced in paragraph No.5, may lead to a meaning as understood by this Court, the applicant never intended to issue directions to any person to prepare documents in order to carry out a cover up operation.

8. We have patiently considered the strenuous submissions of the learned Senior Advocate and in so far as the meaning drawn by us as is reflected in paragraph No.5 of the order, we do not find that we have committed any error in understanding the Marathi sentence. We, however, accept the statement of the applicant that the said sentence may have been inadvertently drafted or may not have been happily constructed and that he would have never issued any directions to any person to resort to a cover up operation.

9. The learned Senior Advocate has then drawn our attention to paragraph No.7 of the order dated 03/08/2021 and prays that the said conclusion/observation may be expunged. He points out that there have

been instances when offences were registered even in 2015, 2016, 2017 and 2018. He has joined as the District Collector, Beed in 20/01/2021 and as such, pursuant to the order of this Court dated 21/01/2021, it was for the first time that he realized the magnitude of the illegalities that may have occurred in the MNREGA funds. Mr.Dhorde further submits that the applicant has never ever been blamed by any Court for disobeying any order, and he assures that he would never ever think of doing so and does not intend to do so. It is only that time was spent in causing enquiry and collecting paper book and instead of approaching this Court personally to make out a ground for extension of a time, he relied upon his Deputys' since he was involved in the pandemic.

10. In view of the above, in so far as the contents of paragraph No.5 are concerned, we would add that we accept the statement of the applicant that he had never thought or intended to give directions to any authority to prepare documents so as to resort to a cover up operation.

11. Consequentially, the sentence "the District Collector, much to our disappointment and contrary to our order, advised his Officers to put the papers in proper places and submit compliance reports" and "He has defied our directions with impunity", stand expunged. Nevertheless, the fact situation before us is that owing to his conduct as noted earlier and in the previous orders, we have lost confidence in him. As the applicant has now

been transferred from Beed and another Officer has been appointed as the District Collector, Beed, no further orders are necessary.

12. As such, this civil application is disposed off.

13. Since we are informed by the learned Senior Advocate that the applicant, after being transferred from Beed, has not been posted anywhere, we deem it appropriate to record that the State Government can proceed to post the applicant at any place as per the decision of the Government.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)