

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 434 OF 2020

Dnyaneshwar s/o Asaram Sarowar ... **Petitioner**
Age 56 Years, Occu: Service
R/o Laxmi Colony, Gangapur,
Tq. Gangapur, Dist. Aurangabad

VERSUS

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| 1. | The State of Maharashtra,
Through the Additional Commissioner,
Aurangabad Division, Aurangabad. | | |
| 2. | Dr. Mangesh Gondawale , IAS
Chief Executive Officer,
Zilla Parishad, Aurangabad | ... | Respondents |

Mr D. R. Irale-Patil , Advocate for the petitioner
Mr Y. G. Gujrathi, AGP for respondent No. 1/State
Mr Prashant P. Nangre, Advocate for respondent No.2.

CORAM : SHRIKANT D. KULKARNI, J.

Reserved on : 7th July, 2021

Pronounced on : 8th July, 2021

ORDER

1. It is a motion for contempt moved by the petitioner by taking aid of section 12 of The Contempt of Courts Act, 1971.
2. Heard Mr D. R. Irale-Patil, learned Advocate for the petitioner, Mr Y. G. Gujrathi, learned A.G.P. for respondent No. 1/State and Mr. Prashant P. Nangre, learned Advocate for respondent No.2/Chief Executive Officer, Zilla Parishad, Aurangabad.

3. The petitioner is a Village Development Officer. He was in the zone of promotion for the post of Extension Officer (VP). There were five posts earmarked for open category. The promotional committee selected only three Village Development Officers from the open category and not considered the name of the present petitioner without assigning any reason. Service record of the petitioner is without any stigma.

4. The petitioner, therefore, challenged the promotional order dated 17.11.2017 by way of Appeal No. DB/117/2017 before the Additional Divisional Commissioner, Aurangabad. The Additional Divisional Commissioner, Aurangabad pleased to allow the appeal partly and directed respondent No.2 to take decision within four months by calling meeting of the promotional committee.

5. Mr. Irale-Patil, the learned Advocate for the petitioner submitted that inspite of assurance, no meeting of promotional committee was called, though the petitioner made request for time and again. Further, Mr. Irale-Patil invited my attention to the copy of the order passed by this Court in Writ Petition No. 14349/2019 dated 27th November, 2019. Mr. Irale-Patil submitted that respondent No.2 has not taken decision within four months from the date of appearance of the party and thereby committed breach of the order

of this Court as well as breach of the order passed by the Additional Divisional Commissioner, Aurangabad. Mr. Irale-Patil also invited my attention to the decision rendered by the Additional Divisional Commissioner, Aurangabad regarding eligibility and suitability of the petitioner for promotional post of Extension Officer. Mr. Irale-Patil submitted that the order passed by this Court in Writ Petition No. 14349/2019 dated 27th November, 2019 is not complied with. Reply affidavit filed by respondent No.2 regarding delay in taking decision due to Covid-19 Pandemic is not convincing. Respondent No.2 has now taken decision in the meeting of promotional committee to not to promote the petitioner on the post of Extension Officer by giving reason of new seniority list. The decision is not taken in view of order passed by the Appellate Authority.

6. Mr. Prashant Nangre, the learned Advocate appearing for respondent No.2 submitted that due to Covid-19 Pandemic, the Government of Maharashtra has put certain restrictions. All the Government offices are required to work with 50% staff. As such, the decision could not be taken as directed by the Division Bench of this Court as well as Additional Divisional Commissioner, Aurangabad within four months. The learned Advocate submitted that respondent No.2 has communicated to the petitioner, vide letter dated 21.09.2020, that work of updating seniority list as per the

Government Resolution dated 31.03.2017 is going on and after finalizing the seniority list, the promotional committee would convene the meeting. Mr. Nangre, the learned Advocate submitted that final seniority list came to be published on 08.10.2020. The meeting of the promotional committee was held on 28.01.2021 and the decision in respect of promotion of the petitioner has been taken on 28.01.2021. The learned Advocate Mr. Nangre submitted that the order passed by the Appellate Authority is complied on 08.02.2021.

7. Mr. Nangre, the learned Advocate for respondent No.2 further invited my attention that the petitioner has also moved an appeal before the Hon'ble State Minister, Rural Development Department, Maharashtra State, challenging the order dated 03.04.2020 passed by respondent No.1/Additional Divisional Commissioner, Aurangabad Division, Aurangabad and simultaneously filed this Contempt petition. He submitted that respondent No.2 has not committed any breach of the order of this Court or the order of the Additional Divisional Commissioner, Aurangabad Division, Aurangabad. The order has been complied with. The contempt petition needs to be disposed of.

8. It is undisputed position that feeling aggrieved by the promotion order passed by respondent No.2 dated 17.11.2017, the

petitioner has preferred Appeal No.DB/117/2017 before the Additional Divisional Commissioner, Aurangabad. The Additional Divisional Commissioner, Aurangabad, vide its order dated 03.04.2020, pleased to allow the appeal of the petitioner partly and directed respondent No.2/the Chief Executive Officer, Zilla Parishad, Aurangabad to call for the meeting of the Promotional Committee and take a decision afresh regarding promotion of the appellant/petitioner after giving an opportunity of being heard and considering the Government Resolution within four months.

9. No one would dispute that at the relevant point of time, there were restrictions imposed by the Government of Maharashtra due to Covid-19 Pandemic. Even today, there are restrictions. The Government offices are functioning with 50% strength. Respondent No.2 has given explanation about the delay in not taking decision within four months in its reply affidavit at para No.3. It is evident that respondent No.2 could not take decision afresh within four months due to Covid-19 Pandemic. It is further evident that respondent No.2 has prepared fresh seniority list of the Village Development Officers for their promotion as Extension Officer. The final seniority list was published on 08.10.2020. The meeting of the promotional committee was held on 28.01.2021. The promotional committee has taken its decision in respect of promotion of the

petitioner on 28.01.2021. The promotional committee has considered the candidature of the petitioner for promotional post of Extension Officer. Though the petitioner was eligible and suitable for the promotional post of Extension Officer, he was much below in the seniority list, at Serial No.58. The Committee has taken decision regarding promotion as per seniority and as per the Government Resolution regarding promotion issued by the Rural Development Department.

10. The Division Bench of this Court, while disposing Writ Petition No. 13349/2019, under order dated 27th November, 2019, was pleased to issue directions to the Appellate Authority to take decision on its own merits regarding promotion of the petitioner to the post of Extension Officer, in accordance with law, preferably within four months from the date of appearance of the petitioner. Accordingly, the Appellate Authority/the Additional Divisional Commissioner has disposed of the appeal vide order dated 03.04.2020 and complied the order of this Court. Further, it is evident that as per the decision rendered by the Additional Divisional Commissioner, Aurangabad in the Appeal, respondent No.2/Chief Executive Officer, Zilla Parishad, Aurangabad has taken decision afresh. The delay to that effect appears to be not intentional. The delay was occasioned due to Covid-19 Pandemic. Now, the decision about the promotion of the

petitioner has been taken by the promotional committee and the order of the Appellate Authority has been complied on 08.02.2021 as is evident from the documents produced by respondent No.2 at Exhibit R-2(page 49). There was no intentional disobedience. The order has been complied in letter and spirit by respondent No.2.

11. The petitioner has already raised grievance for denial of his promotion by preferring an appeal before the Hon'ble State Minister, Rural Development Department, Mumbai. He may prosecute his appeal as per law regarding his promotion. It has no bearing with this petition.

12. Having regard to the above reasons and discussion, no case is made out for initiating contempt proceedings against the Chief Executive Officer, Zilla Parishad, Aurangabad/respondent No.2. With this, I conclude and proceed to pass following order:

ORDER

The Contempt Petition moved by the petitioner under section 12 of The Contempt of Courts Act, 1971 stands purged.

(SHRIKANT D. KULKARNI, J.)

JPC