

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 9 OF 2021
IN WP/7047/2020

Ulhas Sakharam Barve and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

...
Mr. K. N. Shermale, Advocate for petitioners
Mrs. M. A. Deshpande, A.G.P. for respondent - State
...

CORAM : SUNIL P. DESHMUKH AND
ABHAY AHUJA, JJ.

DATE : 4th MARCH, 2021

PER COURT :-

This contempt petition is taken out by original petitioners referring to breach occurring in passing order by respondent no. 4 – authorized inquiry officer on 20th November, 2020.

2. This court, under order dated 21st October, 2020 had allowed proceedings to be proceeded with and had also simultaneously directed the authorities to refrain from taking final decision till next date. It had further been observed that petitioners had undertaken not to create third party interest over their property and in view of the same, show cause notice for attachment was not to take effect.

3. Learned counsel for the petitioners submits that respondents, particularly, respondents no. 3 and 4 were represented and, thus, they had knowledge about the order passed by this court. According to petitioners, this order had been brought to the notice of respondent no. 3 - deputy registrar, co-operative societies under a communication on 3rd November, 2020, and despite this, respondent no. 4 - authorized inquiry officer continued unfazed further, prepared enquiry report and passed order dated 20th November, 2020.

4. According to him, aforesaid is in flagrant breach of order passed by this court on 21st October, 2020 and, as such, contempt is clear and the authorities shall be proceeded with in accordance with the relevant provisions of Contempt of Courts Act. He contends that the officers are educated persons, and having regard to observations of supreme court in its decision in the case of *All Bengal Excise Licensees' Association Versus Raghendra Singh and others*, reported in (2007) 11 SCC 374, urges to hold them guilty of willful disobedience, deliberate act of contempt of order dated 21st October, 2020 and as in that case, taking strict view, punish them appropriately.

5. Mrs. M. A. Deshpande, learned Additional Government Pleader appearing for respondents no. 3 and 4, at the outset, submits that

respondents no. 3 and 4 are present in the court in due deference to the expression in the earlier order and once again tender unconditional apology in addition to already tendered apology in their reply. She submits that in making report dated 20th November, 2020, the officer had no intention to disobey the order, however, the order had not been properly appreciated and under mistaken assumption, the matter/inquiry report had been prepared. She further submits that, as soon as the mistake had been realized the proceedings based on the inquiry report have been stayed and the same would emerge from the noting in the process sheet dated 28th December, 2020. She further refers that respondent no. 4 has also stayed the proceeding of attachment pursuant to order dated 26-10-2020, as would seen from the order dated 02-12-2020 annexed to the affidavit-in-reply. It is being referred to that, the lapses occurred under misconception and the same have not at all been deliberate and are unintentional. Until final decision in writ petition, no further action would be taken. She submits that the authorities had never been intending to, even for a moment, undermine the authority of the court and its order. They are sincerely apologetic and would be careful hereafter.

6. The decision relied on, on behalf of the petitioners is in a context of facts different from the factual matrix in the present matter.

7. Having regard to aforesaid, we accept the apology tendered by respondents no. 3 and 4 and expect and consider, it would be better that the authorities would be cautious and careful in respect of orders passed by the court.

8. Contempt proceedings stand dropped.

(ABHAY AHUJA)
JUDGE

(SUNIL P. DESHMUKH)
JUDGE

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