

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CONTEMPT PETITION NO. 204 OF 2022
IN WRIT PETITION NO. 3061 OF 2020**

Prashant Vishwambhar Chavan

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. R. K. Ashtekar, Advocate for the Petitioner.

Mr. S. G. Karlekar, AGP for Respondents-State.

**CORAM : RAVINDRA V. GHUGE &
 ANIL L. PANSARE, JJ.**

DATED : 19th JULY, 2022.

PER COURT:-

1. By this petition, the petitioner has specifically averred that the directions issued by this Court vide order dated 01.12.2021, have not been complied with. He specifically draws our attention to paragraph Nos. 8 and 9 of the said order which read as under :-

“8. In view of the above, this petition is allowed in terms of paragraph No. 25(B), which reads as under :-

“25(B) By issuing writ of certiorari or in the like nature the order passed by respondent Nos. 4 on 16.04.2019 and communicated on 11.10.2019 rejecting the approval of the petitioner may kindly be set aside and the respondent No. 4 be directed to grant approval in favour of the petitioner.”

As such, the approval to the appointment of the petitioner shall

be from the date of his appointment as there was a vacant post.

9. Respondent No. 5 is directed to calculate the difference of salary and forward such bills to the Education Officer/respondent No. 4, on or before 20/12/2021. The Education Officer shall scrutinize the said bills and shall sanction them in accordance with the rules, as expeditiously as possible and preferably on or before 05/01/2022. The mode of payment shall be as per the policy of the Government in vogue.”

2. It is undisputed that respondent No. 4 herein, who appears in the reproduced portion of the order hereinabove, was the Education Officer (Secondary)- Smt. Trupti Andhare till February 2022. Respondent No. 5 – Shri Nagesh Mapari, who is the present Education Officer (Secondary), has taken charge on 24.02.2020. As such, Smt. Andhare conducted a hearing on 30.12.2021 and did not pass an order till she went back to assume her regular charge of Deputy Education Officer in the same Zilla Parishad, Latur. As such, Smt. Andhare, despite conducting a hearing in the case of the petitioner and in the light of the order of this Court, did not pass an order.

3. In so far as, Shri Mapari is concerned, the petitioner addressed him vide communication dated 02.03.2022 which has the stamp of the inward department of the same date, once again praying for an expeditious decision. He has narrated his personal difficulties and the illness of his mother and prayed for the release of his arrears. He then

submitted a request reminder on 11.03.2022 to Shri Mapari. These requests fell on deaf ears and Shri Mapari did not initiate any action.

4. Vide order dated 19.04.2022, this Court has recorded in paragraph No. 4 with regard to the conduct of Shri Mapari as under :-

“4. In our prima facie view, the respondent no. 5 has willfully disobeyed the order passed by this Court on 01st December, 2021 and has no desire to comply with the order passed by this Court even today. Office is accordingly directed to issue show cause notice against the respondent No. 5 as to why proposed action of contempt under the provisions of Section 12 of the Contempt of Court Act, 1971 read with Article 215 of the Constitution of India shall not be taken against the respondent No. 5 for willful disobedience of the order dated 01.12.2021 passed by this Court. The respondent No. 5 is directed to remain present in this Court on the next date till his personal presence is dispensed with by this Court.”

5. Pursuant to the above, Shri Mapari, has filed an affidavit in reply dated 10.06.2022, interalia, setting forth the following statements :-

- (a) He tenders an unconditional apology.
- (b) He has issued an approval order dated 13.05.2022 and that amounts to compliance of the directions of this Court.
- (c) He denies that he has indulged in any breach of the order as alleged by the petitioner and the proceedings be drawn.

6. We have perused the order dated 13.05.2022 and it is apparent

that the same is restricted only to granting a stipend of Rs. 2500/- (Rs. Two Thousand Five Hundred only) per month to the petitioner from 01.08.2019 for a period of three years as a Lab Assistant on compassionate basis. In this backdrop, we have once again perused the order of this Court, wherein he was directed to grant approval to the petitioner from the date of his appointment and calculate the difference of salary. Needless to state, as the management did not forward the bills, Shri Mapari was not called upon to clear the said bills. The petitioner joined the post of Laboratory Assistant in the Academic year 2014-2015 and there were two sanctioned posts of Laboratory Assistant as per the affidavit in reply filed by the Headmaster in the writ petition proceedings. There was no reason for Shri Mapari to refuse approval from the date of his joining which is recorded as 15.06.2015.

7. The conduct of Shri Mapari comes under a cloud in view of the specific affidavit filed by the petitioner setting out certain grave issues in paragraph Nos. 4 and 5, which read as under :

“4. The petitioner says that, he has several time requested the respondent No. 5 to grant the approval from the date of appointment i.e. 15.06.2015 and pay the salary since the date of appointment. But, the respondent No. 5 has granted approval on 13.05.2022 from the date of 01.08.2019 on probation for 3 years. Considering this facts it is clear that, the respondent No. 5 has not complied the order passed by this Hon’ble High Court.

5. The petitioner says that, the clerk in the office of Education Officer and Clerk in the School has orally intimated that, you should meet the education officer then your request will be considered for grant of approval and payment of arrears of salary since 15.06.2015, if it not so then the approval will be granted from 2019. The petitioner has not meet the education officer therefore they have granted approval from 01.08.2019. Thereafter, the respondent No. 5 is pressurizing the petitioner to withdraw the contempt because you have granted approval since 01.08.2019. The petitioner has refused to withdraw the contempt because the approval has not granted from the date of appointment. Therefore till today they have not paid the arrears of salary and regular salary to the petitioner.”

8. Today, Shri Mapari has corrected himself and has issued a corrected order dated 18.07.2022, which is taken on record and marked as “X-1” for identification.

9. In the above backdrop, it is obvious that much could be said about the conduct of Shri Mapari. We therefore, granted a pass over to the learned A.G.P to take instructions as to whether we should proceed to award punishment to Shri Mapari within the provisions of the Contempt of Courts Act, 1971 or whether we should show any leniency and transfer him out of the Marathwada region for some duration. The learned A.G.P submits after due deliberations that Shri Mapari tenders an apology and while accepting a transfer outside the Marathwada region, prays for further leniency.

10. In these circumstances, we are showing further leniency towards Shri Mapari and we direct the Secretary, School Education Department, Mantralaya, Mumbai to transfer Shri Mapari out of the Marathwada region with effect from 01.08.2022 for a single tenure/term of three years. If there are no further complaints against him or if his name doesn't appear in any further contempt proceedings, the Secretary, School Education Department may consider bringing him back into the present region, with effect from 01.08.2025 or thereafter.

11. In so far as, the conduct of respondent No. 4 – Smt. Trupti Andhare is concerned, we direct the Chief Executive Officer, Zilla Parishad, Latur to issue a show cause notice to Smt. Andhare and call for an explanation as to why she has not complied with the directions of this Court after conducting a hearing on 30.12.2021 and not passing an order till 24.02.2022, when she resumed her original position of Deputy Education Officer. Reply to such show cause notice should be solicited within fifteen (15) days and if the Chief Executive Officer, Zilla Parishad is not satisfied with the reply, he shall proceed to initiate disciplinary action and make an entry in the service book of respondent No. 4, accordingly.

12. The Chief Executive Officer, Zilla Parishad shall submit a compliance report to this Court, before the second week of September, 2022.

13. The Education Officer - Shri Mapari who will be in-charge till 31.07.2022, considering our above order, shall forthwith direct the management to submit the proposal for permanent approval after completion of three years of service of the petitioner with effect from 15.06.2015 and thereafter pass an order of granting permanent approval. If this does not occur prior to 31.07.2022, the succeeding Education Officer shall do so, on or before 20.08.2022.

14. Pending bills of difference of salary of the petitioner, if any, shall also be cleared on or before 15.10.2022. The petitioner is satisfied.

15. This petition is therefore, disposed off in the above terms.

(ANIL L. PANSARE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

PS.B.