

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 11184 OF 2022
IN WRIT PETITION NO. 8836 OF 2021

THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS
VERSUS
RAJENDRA TAYAPPA SHEWALE AND OTHERS

...
AGP for Applicants : Mr. S.G. Sangle
Advocate for Respondents : Mr. S.B. Deshpande
....

CORAM : RAVINDRA V. GHUGE
& S.G. DIGE, JJ.
DATE : 29th July, 2022

ORDER :

1. By this application, the applicants have put forth prayer clause 'B' as under :

“B) That by allowing present civil application, the order dated 02.05.2022 passed by the Hon’ble Court in Writ Petition No.8836 of 2021 to the extent of direction given in para No.4 “The District Collector would also initiate strict disciplinary action against respondent No.6, for having not acted upon the communication dated 01.03.2021 for almost 14 months” may kindly be recalled.”

2. This civil application will have to be treated as a

review application since the applicants seek review of the directions set out in paragraph No.4 of the order dated 2nd May, 2022.

3. Paragraph No. 4 of the order under review reads thus :

“The District Collector would also initiate strict disciplinary action against respondent No.6, for having not acted upon the communication dated 01.03.2021 for almost 14 months. He shall report compliance within 90 days, to this Court.”

4. The applicants submit that, though the record reveals that, in fourteen (14) months the Tahsildar was not able to ensure removal of the encroachment, he has issued a communication to the Municipal Council, Ambad that the encroachment will have to be removed. He was under the impression that, it was the bounden duty of the Municipal Council to remove the encroachment. Therefore, he developed an impression that, the Municipal Council would initiate action as permissible in law. He, however, concedes that, he had committed a mistake

that, he has not submitted a report to the Sub-Divisional Officer, Jalna pursuant to his order dated 01.03.2021. He has tendered an unconditional apology and hence, he further sets out reasons in paragraph Nos.5 and 8 in support of his request that, he has not intentionally delayed action against encroachment.

5. The learned A.G.P. submits, on instructions, that applicant No.4 has learnt a lesson and he undertakes to comply with the directions of the Court in all cases. He is willing to pay costs as may be directed by this Court and prays for one opportunity for improvement since he has not committed any such act in the past.

6. The learned advocate - Mr. Deshpande who represented the petitioner, submits that, on the one hand, public servants must learn a lesson that, they have to act diligently and that the citizens and the common man should not be harassed by their inaction. After noticing regret repentance on the part of applicant No. 4 - Mr. Vidyacharan Kawadkar, Mr. Deshpande - learned

advocate on the other hand, graciously agrees that, the concerned officer be penalized and amount be donated to the Government Medical College and Hospital, Aurangabad and Government Cancer Hospital, Aurangabad.

7. The learned A.G.P. submits, on instructions, from applicant No.4 - Mr. Vidyacharan Kawadkar that he is ready to deposit Rs.15,000/- in the Government Medical College and Hospital, Aurangabad and Rs.15,000/- in the Government Cancer Hospital, Aurangabad on or before 30th August, 2022.

8. In view of the above, this Civil Application cum Review Application, is partly allowed.

9. Paragraph No.4 of the order of this Court shall stand recalled. We now direct that, the concerned Tahsildar Mr. Vidyacharan Kawadkar shall donate an amount of Rs.15,000/- to the Government Medical College and Hospital, Aurangabad and the Government Cancer Hospital, Aurangabad, each, on or before 30th August,

2022 and submit the receipts with the learned Registrar (Judicial) of this Court within two weeks thereafter.

(S.G.DIGE, J.)

(RAVINDRA V. GHUGE, J.)