

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.351 OF 2018

Ramdas Janardarn Patil

...Petitioner

Vs.

Shri S. D. Sonawane, The Education
Officer(Secondary) and Ors.

...Respondents

Mr. I. M. Khairdi for the Petitioner.

Mr. Ashutosh Kumbhakoni, Advocate General with Smt. Pratibha
Gavhane, AGP for the Respondent-State.

CORAM : NITIN JAMDAR &
AMIT BORKAR, JJ.

DATED : 10 JANUARY 2022.
(Through Video Conferencing)

P. C. :

Heard learned counsel for the parties.

2. By order dated 20 November 2019, Rule has been issued in
this contempt petition.

3. The contempt alleged is of the order dated 18 December
2017 in Writ Petition No.9585 of 2016. Petition was filed to direct

Respondent No.3 to recall the order dated 14 January 2016 whereby the Petitioner who was working as attendant in the school meant for physically challenged and whose unit was derecognized, was without work. While disposing of the Writ Petition, the Division Bench of this court directed in paragraph 9 as under-

9. It is stated on oral instructions that such schools are not functioning or not available for employing the petitioner in Solapur, Pune and Ahmednagar Districts of the State of Maharashtra. The petitioner is residing at Tirhegaon, Solapur. Surely, the petitioner cannot travel the whole State for being employed again and because of a wrongful and illegal act of the State Government by which he is rendered jobless. Hence, we direct the petitioner should be absorbed in any school in the remaining Districts of the Western Maharashtra only. He should not be made to travel beyond Western Maharashtra. Such orders in this case be passed as expeditiously as possible and within a period of two weeks from the date of receipt of a copy of this order. The writ Petition is disposed of with these directions as the main controversy is covered by the Division Bench judgment rendered at Aurangabad. Needless to clarify that the petitioner will be entitled to arrears of salary and necessary directions be issued in that behalf as well within a period of four weeks from the date of receipt of a copy of this order by the other statutory authorities."

4. Since the order was not complied with, Contempt Petition was filed. In Contempt Petition the Education Officer (Secondary), Zilla Parishad, Solapur has filed reply affidavit wherein he has stated as under:

"10. I say that, the statement in the said Writ Petition was made for the absorption of the Petitioner in Chandrabhagabai Yelgulwar Prashala, Solapur on bonafide impression that the said school is having the handicapped unit but was not the case. I thereafter made my sincere efforts for the purpose of complying the order of this Hon'ble Court even on 13/2/2019 I requested the Education Officer (Secondary), Solapur to see as to how the order of this Hon'ble Court can be complied with. A copy of the said lettet dated 13/2/2019 is annexed and marked as Exhibit-4.

11. I say that , as far as my information, the policy decision requires to be taken for the purpose of absorption of similarly situated employees by the State and endeavour is required to be made to comply the directions of this Hon'ble Court as well as the order of the Hon'ble Division Bench at Aurangabad. I say that, since in Solapur District the handicapped unit is not available then in such circumstances if the Petitioner is ready to go another nearby District to Solapur, the proposal can be sent to the State of Maharashtra for approval purpose for the purpose of absorption of the Petitioner in the handicapped unit.

12. I respectfully say that, there is no wilful disobedience on my part of the order passed by this Hon'ble Court and I hereby again tender my unconditional apology for not complying the order of this Hon'ble Court for the reasons stated herein above and accordingly appropriate order in the interest of justice may kindly be passed."

(emphasis supplied)

5. Considering the scope of contempt jurisdiction, we have to examine whether the stand taken is to overread the orders of the Court and to undermine the authority. It is not that every non compliance

would automatically result in proceedings under the contempt jurisdiction imposing punishment without understanding the reason for non compliance. The Education Officer has referred to general policy of the Central Government and therefore it cannot be said that inaction by the Education Officer as contemplated is to undermine the authority.

6. However, we do note that the Education Officer has made statement (reproduced earlier) that if the Petitioner is ready to go to other districts the proposal can be sent to the State. The learned counsel for the Petitioner submits that the Petitioner is ready for the same. For that purpose the Petitioner will attend the office of the Education Officer, Secondary, Zilla Parishad, Solapur within two weeks so that further process can be undertaken.

7. Contempt petition is disposed of. Notice issued stands discharged.

(AMIT BORKAR, J.)

(NITIN JAMDAR, J.)