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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CONTEMPT PETITION NO. 476 OF 2021

Tulsiram Maruti Gheghadmal ..Petitioner
VS.
Mr. Aziz Shaikh and ors. ..Respondents

Mr. Samarth Moray i/b Ms. Shivani Shinde Moray, for
petitioner.
Mr. Suresh M. Kamble, for Respondent No. 1.
Mr. S.D. Rayrikar, AGP for Respondent No. 3 – State.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 23, 2022

P.C. :

1. Heard learned counsel for the petitioner. The petitioner alleges breach of the order dated 27/06/2016 passed by this Court. By such order, this Court had taken on record the consent terms tendered by the parties duly signed. This Court recorded the statements and undertakings contained therein and accepted the same. The petition was disposed of in view of the consent terms. The order dated 27/06/2016 reads thus:

"1. Learned Counsel for the parties tender consent terms duly signed by the parties through their authorised representatives and also their respective Advocates. Learned Counsel for the Petitioners requests the Court to take the consent terms on record and seeks to withdraw the Petition. The consent terms are taken on record marked "X" for identification. The statements and undertakings contained therein are accepted. The petition is dismissed as withdrawn. No order as to costs.

2. In view of the dismissal of the Petition in view the consent terms, the Civil Applications do not survive and the same are also disposed of.

3. This order is passed in the presence of authorised representatives of the parties."

2. The Corporation did not comply with the consent terms and it was so noted in the subsequent order dated 25/03/2019 passed by this Court. In the civil application filed, this Court passed an order dated 25/03/2019 and observed in paragraph 6 as under :

"6. Ulhasnagar Municipal Corporation shall implement the consent order passed by this Court on 27 June 2016. Learned Counsel for the Applicants seeks four week's time to comply with the directions of the court. It is pertinent to note that the Corporation has already been in breach; there is a pending contempt petition filed by some of the safai kamgars against the corporation. Without prejudice to the contentions of the parties in these pending matters, in keeping with the original directions passed by this court on 8 March 2019, time for compliance is extended by further period of two weeks from today."

3. The Corporation did not comply with the order even during the extended period. It is pertinent to note that this Court had specifically observed that the Corporation was already in breach, nonetheless, extended the time to comply with the order within a period of two weeks from 25/03/2019. Even thereafter, the consent terms were not complied with.

4. An affidavit in reply has been filed on behalf of the respondents no. 1 and 2. In the affidavit, it is stated that on 11/03/2019, the Corporation had issued an advertisement consisting of the seniority list of 305 safai kamgars in two newspapers. The gist of the affidavit in reply is that it took some time for the process to complete. The process was ultimately completed on 21/06/2021. Aggrieved by the illegal manner in which the process was carried out according to the petitioner, the petitioner and other concerned employees have already filed Writ Petition Stamp No. 19290 of 2022 in this Court challenging the process and the same is pending.

5. So far as the present contempt petition is concerned,

the Corporation has failed to take timely step in compliance with the order passed by this Court. Learned counsel for the contempt petitioner is well justified in contending that respondents are in breach of the orders passed by this Court. By filing an affidavit in reply, the respondents have pointed out that the order has now been complied with. Respondent no. 2 in the affidavit in reply has tendered an unconditional apology for the breach and even learned counsel for the respondent no.2 submits that he has been instructed to reiterate the stand taken in the affidavit in reply. Taking an overall view of the matter, though I do find some merit in the contention of the learned counsel for the petitioner, it does not appear that the breach is deliberate or wilful. I do not propose to proceed further in the light of the affidavit in reply filed by respondents. The unconditional apology is accepted.

6. Notice issued in the contempt petition is discharged.
7. Contempt Petition is disposed of.

(M. S. KARNIK, J.)