

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 227 OF 2021

Nilaya Foundation ... Petitioner.
V/s.
The State of Maharashtra & Others ... Respondents.

Mr. Surel S. Shah, for the Petitioner.
Smt. P.J. Gavhane, AGP, for the Respondents-State.
Mr. Shankar S. Deshmukh, with Mr. R.V. Karkande for Respondent
No. 3.

**CORAM : NITIN JAMDAR AND
AMIT BORKAR, JJ.**

**DATE : 11 JANUARY 2022.
(Through Video Conferencing)**

P.C. :

By this Contempt Petition, the Petitioner is seeking relief against Respondent No. 1 for having committed a breach of Judgment and Order dated 22 July 2021 passed by this Court in Writ Petition No. 3132 of 2021.

2. The Petitioner had filed Writ Petition No. 3132 of 2021 challenging the Letter of Intent dated 15 April 2021 in favour of Respondent No. 3. By order dated 22 July 2021, this Court restrained Respondent Nos. 1 and 2 from granting final approval in favour of Respondent No. 3. It is stated that though Respondent

Nos. 1 and 2 were aware of the order restraining them from giving final approval in favour of Respondent No. 3, Respondent No. 1 granted final approval in favour of Respondent No. 3 by order dated 31 August 2021.

3. There is no dispute that order dated 22 July 2021 passed by this Court restraining Respondent Nos. 1 and 2 from granting final approval in favour of Respondent No. 3 was in force when the order of final approval was passed in favour of Respondent No. 3. However, on careful perusal of the order dated 31 August 2021, it appears that the order of granting final approval has been passed in favour of 57 institutions. The circumstances of the case would have been different if the order of grant of final approval had been passed only in favour of Respondent No. 3.

4. The learned Advocate for the Respondent – State submitted that the order dated 31 August 2021 was a combined order passed concerning 57 colleges spread over the entire State of Maharashtra, and they need to issue their orders to start the courses in time. She submitted that due to oversight the order remained to be communicated. She further submitted that this Court considered the writ petition filed by the Petitioner on merits and held that the Petitioner is not eligible for opening a new college for the academic year 2011-2022.

5. The Court, while considering the issue as to whether the

alleged Contemnor should be punished for having not complied with the directions of the Court, has to consider all the facts and circumstances of the case. Before the alleged Contemnor is punished for non-compliance with the directions of the Court, the Court must not only be satisfied with the disobedience of any Judgment and Order. Still, it should also be satisfied that such disobedience is willful and intentional.

6. As we cannot rule out the possibility of oversight in the communication of the order to Respondent No. 1, we are satisfied in the facts and circumstances of the present case that there is no willful disobedience on the part of the Respondents in complying with the directions given by this Court on 22 July 2021. In this background, it is not possible to hold that the Respondents have committed contempt of the order of this Court passed on 22 July 2021.

7. Accordingly, the Contempt Petition is dismissed.

(AMIT BORKAR, J.)

(NITIN JAMDAR, J.)