

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 761 OF 2022

Abhiyantriki Mahavidyalaya Rajpatrik Adhyapak
/Adhikari Sangh College of Engineering Campus,
Pune. ... Petitioner.

Versus

Shri Vijay Ratotsgi and Others. ... Respondents.

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Mr. Yatin Malvankar, Advocate for the Petitioner.

Mr. V.M. Mali, AGP for the Respondent/State.

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**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ.**

DATE : December 6, 2022.

P. C. : (Per Sharmila U. Deshmukh, J):

1. The contempt jurisdiction has been invoked by the Petitioner alleging contempt by the Respondents of the order dated 28th February, 2019 passed by this Court in Writ Petition No.3919 of 2015, Writ Petition No.3592 of 2015 and Writ Petition (St.)No.34785 of 2018. Writ Petition No.3919 of 2015 was instituted by the College of Engineering, Pune, challenging the decision of the State of Maharashtra, disapproving the appointment effected by it in respect of 54 candidates on the post of lecturer. Writ Petition (St.) No. 34785 of 2018 was filed by the lecturers whose services were sought to be discontinued by the decision of State of Maharashtra. Writ Petition No.3592 of 2015 was filed by Abhiyantriki Mahavidyalaya Rajpatrik

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Adhyapak/Adhikari Sangh, which is the Petitioner in the present Contempt Petition, seeking a direction to the College of Engineering, Pune, to implement the decision taken by the State Government removing 54 persons as recommended in the inquiry. By an order of 23rd January, 2015, the Director of Technical Education, Mumbai, had held illegal appointments of 54 candidates out of 71 candidates for the period commencing from 2007-08, to 2010-11, which was the subject matter of the aforesaid three writ petitions. This Court by judgment dated 28th February, 2019, held that the appointments effected were *void-ab-initio*, and dismissed Writ Petition No.3919 of 2015 and Writ Petition (St.) No.34785 of 2015.

2. Against the judgment of 28th February, 2019, five Special Leave Petitions came to be filed before the Apex Court i.e. Special Leave Petition (C) Nos.11130 of 2019, 11722 of 2019, 12670 of 2019, 14037 of 2019 and 14131 of 2019. In Special Leave Petition No.11130 of 2019, which was filed by the some of the aggrieved Petitioners, the Apex Court by order dated 7th May, 2019, directed the *status quo* as on date to be maintained by the parties.

3. The order of *status quo* was also directed by the Apex Court in Special Leave Petition (C) No.11722 of 2019, which was filed by only one Petitioner. As far as other three Special Leave Petitions are concerned, no interim order has been passed by the Apex Court. The proceedings before the Apex Court are pending and the order of *status quo* passed by the Apex Court has been continued until further order.

4. The Petitioners in Writ Petition No.3592 of 2015 have supported the order of the State Government, terming illegal appointment of 54 candidates and has also filed Special Leave Petition (C) No.42994 of 2019 before the Apex Court.

5. Heard the learned counsel for the parties.

6. Learned counsel for the Petitioner submits that all the Petitioners in Writ Petitions before this Court are not the parties to the Special Leave Petitions pending before the Apex Court and in respect of two special leave petitions, which has been filed by 10 of the employees, an order of *status quo* has been granted and it is only these employees whose services are protected by the Apex Court. He further contends that as regards the employees who have not approached the Apex Court and the employees, who after approaching the Apex Court by way of special leave petitions have failed to obtain an order of *status quo* in their favour, the appointments cannot be said to be covered by the order of *status quo* passed by Apex Court. He contends that the Respondents were therefore required to take action against such of the employees who have failed to obtain protective orders from the Apex Court and the non compliance amounts to contempt of the judgment of this Court dated 28th February, 2019. It is his contention that rather than taking action against those employees, one of such employee has in fact being appointed as a Vice-Chancellor of the College of Engineering, Pune.

7. We have heard the learned counsel for the Petitioner. We

are *prima facie* not satisfied that the Petitioner has made out a case of contempt for the reasons set out hereinafter and hence notices have not been issued to the Respondents.

8. What was under challenge before this Court in the Writ Petitions was a composite order of 23rd January, 2015 passed by the Director of Technical Education, Mumbai, rendering illegal appointments of 54 candidates, which is now the subject matter before Apex Court.

9. Section 2(b) of Contempt of Courts Act, 1971 defines civil contempt as wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court. From the facts of the case, we do not find any wilful disobedience to the judgment of this Court. The validity of the appointment of 54 lecturers is subjudice before the Apex Court, which has directed *status quo* to be maintained. The officials of the concerned departments of State of Maharashtra considering the pendency of the matter before the Apex Court, have exercised restraint which cannot be termed as wilful disobedience. By this Petition, the Petitioner calls upon this Court to interpret the order of *status quo* passed by the Apex Court and render a finding that the order of *status quo* does not extend the protection to the employees who are not parties before the Apex Court or have failed to obtain order in their respective petitions. A consideration of the Petitioner's submission will entail an enquiry into the order of *status quo* which is not the scope of contempt jurisdiction.

10. We find that after holding that the appointments are *void-ab-initio*, this Court by order dated 28th February, 2019, have not issued any further directions in the matter. As far as the submission of the learned counsel for the Petitioner that one of the Petitioner before this Court, who has not even preferred special leave petition has been appointed as Vice-Chancellor, the breach, if any, will be of the order of *status quo* passed by the Apex Court and which will be considered by the Apex Court, if so placed before the Apex Court.

11. Considering the aforesaid, we find that no *prima facie* case of contempt made out by the Petitioner.

12. Contempt Petition is accordingly dismissed.

[Sharmila U. Deshmukh, J.]

[Nitin W. Sambre, J.]