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

***CONTEMPT PETITION NO. 2 OF 2022
IN
WRIT PETITION NO. 1311 OF 2013***

S.R. Dhivare

... Petitioner

V/s.

Nitin Bachhau and Ors.

... Respondents

Mr. Narendra Bandiwadekar i/b. Nazia S.A. Shaikh for the
Petitioner

Mr. N.C. Walimbe, AGP for the Respondent - State

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

***DATE : 08 FEBRUARY 2022
(Through Video Conferencing)***

P.C. :-

Heard the learned Counsel for the Petitioner.

2. The contempt alleged is of the order dated 16 July 2019. The Division Bench of this Court disposed of two Writ Petitions by this order that is Writ Petition Nos.1311 of 2013 and 11767 of 2012. The Writ Petition No.1311 of 2013 was filed by the present

Petitioner. The Division Bench noted that the Respondent No.4 therein that is Mr. Vijay Panditrao Patil and the Respondent No.5 – Mr. Sukdeo Krishna Sonawane were both claiming to be the President of the Trust conducting the education institute where the Petitioner worked. The Division Bench specifically placed the financial responsibility on Mr. Sukdev Sonawane. He was directed to pay dues of the salary to the Petitioner for the period from 14 September 2012 to 25 December 2016 and thereafter, he was permitted to make a representation to the Government for disbursal of the grant. The Division Bench passed the order after recording the finding that the personal liability so fixed because it was Mr. Sonawane who created the problem.

3. The grievance of the Petitioner is that the order dated 16 July 2019 is not complied with and monetary benefits have not been extended. Mr. Sukdeo Sonawane, who was fastened with the financial liability is not made Respondent, because, we are informed he is no more.

4. The reading of the order dated 16 July 2019 indicates that the financial liability was fastened on Mr. Sonawane and for the non-compliance he would have been the contemnor. The distinction between the writ jurisdiction and the contempt jurisdiction must be kept in mind. Since Mr. Sonawane is no more,

we cannot proceed in contempt jurisdiction against the other persons and decline to do so.

5. If the Petitioner contends that in the light of the fact that Mr. Sonawane has passed away the financial liability to pay the Petitioner must be borne by either the Trust or by some other person, this adjudication will have to be done in the writ jurisdiction. Therefore, the fact that we had declined to proceed further in the contempt jurisdiction does not mean that the Petitioner is precluded from asserting his rights in the writ jurisdiction in view of the subsequent developments that the order dated 16 July 2019 has become unworkable. If the Petitioner files a fresh petition, it will be determined as to who is liable to pay the Petitioner. We also clarify it is open to the Petitioner to argue that as regard the entitlement of the Petitioner to receive the amount, the issue stands closed in the light of the decision of 16 July 2019.

6. The Contempt Petition is accordingly disposed of.

AMIT BORKAR, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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