

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**CONTEMPT PETITION NO. 295 OF 2021**

**IN**

**WRIT PETITION NO.5900 OF 2015**

Madhukar S/o. Shri Warluji Uikey

.vs.

Shri Shyam Tagade and ors.

-----  
Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders.

-----  
Mr. S. P. Bhandarkar, Advocate for the petitioner  
Mr A. S. Fulzele, AGP for the respondent No.1

**CORAM : SUNIL B. SHUKRE AND**

**G. A. SANAP, JJ.**

**DATED : 04.07.2022**

Respondent No.3- Sidharth Gaikwad, the  
Divisional Deputy Commissioner, Nagpur and respondent  
No. 4 Babasaheb Deshmukh, the Assistant Commissioner,  
Nagpur are personally present before the Court.

2] Shri A. S. Fulzele, learned AGP on their behalf  
submits that the Judgment and Order of this Court dated  
19.12.2018 has now been complied with fully. In support, he  
tenders before the Court, the order dated 24.06.2022. It is  
taken on record and marked "A" for identification. He also  
submits that respondent No.3, by filing affidavit, has  
tendered unconditional apology to this Court.

3] We have gone through the affidavit of respondent

No.3. We are satisfied that his absence before the Court was not willful and he really wanted to attend this Court. It appears to us that on that day he perhaps misjudged the priorities, which one is supposed to give in the matter. But, for that, we need not reject the affidavit. We, therefore, accept the affidavit and also the apology tendered by him, unconditionally.

4] As regards the order dated 24.06.2022, it is seen that, now it fully complies with the Judgment and Order dated 19.12.2018, although belatedly.

5] Shri S. P. Bhandarkar, learned counsel for the petitioner, asserts that the respondent No. 4 was not allowed by this Court to deduct amount of Rs.1,00,000/-, already deposited with this Court, from the payment of arrears of salary of the petitioner and therefore, respondent No. 4 seems to have committed the contempt of this Court.

6] Though the delay occurred in the present case, we are of the view that the delay was primarily on the part of the State Government, which took its own time for releasing the requisite funds and therefore, for this purpose none of the respondents could be held responsible. As submitted by the learned AGP, this is also not the case wherein respondent No. 4 has taken his own time in sending the proposal to the State Government. Of course the proposal was sent in November 2019, but there is an explanation for

the delay caused in sending of the proposal. This explanation now orally submitted by respondent No. 3 and submitted before this Court by the learned AGP upon his verification for the same, shows that initially the Department was thinking of approaching the Apex Court to challenge the Judgment and Order of this Court, but later on, as the permission to file Special Leave Petition was not granted by the State Government, the Department decided to comply with the order and this is how the delay has been explained. We find the explanation to be reasonable and therefore, it is accepted.

7] Now, what remains is the absence of authority given to the respondent No. 4 for deducting the amount of Rs.1,00,000/- from the final bill of arrears of salary and about this we must say that in Judgment and Order in question, such authority was never given to respondent No. 4 and therefore, before deducting the said amount from the bill of arrears of salary, respondent No. 4 ought to have taken prior permission of this Court, especially when the petitioner had not withdrawn the amount of Rs.1,00,000/- deposited by respondents in this Court and this fact is within the knowledge of respondent No. 4. Yet, respondent No. 4 has acted in a manner which virtually borders upon breach of some of the directions issued by this Court.

8] Shri Fulzele, the learned Addl. G.P. appearing for respondent No. 4 submits that respondent No.4 ought not to

have adjusted the said amount from the final bill, but he further submits that the respondent No. 4 would not repeat this mistake in future.

9] Considering the fact that the mistake committed by respondent No. 4 may not have been intentional and may have been committed due to lack of proper understanding of the tenor and effect of judgment and order in question, we are willing to accept the explanation submitted on his behalf by the learned Addl. G.P. and it is accepted accordingly. Of course, in future he must not repeat such mistakes and he must act in such matters after seeking appropriate legal advice.

10] In view of above, we find that nothing remains in this contempt petition. The contempt action initiated against the respondent Nos. 3 and 4 is therefore dropped. Respondent Nos. 3 and 4 are discharged from this proceeding.

11] Leave to withdraw Rs.1,00,000/-, together with accrued interest, if any, already deposited with this Court by the State is granted to the petitioner.

The Contempt Petition is disposed of accordingly.  
No costs.

(G. A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Namrata