

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

CONTEMPT PETITION NO. 81 OF 2023

Ajay Uddhav Narhe & Anr. ... Petitioners

Versus

Uttam Patil, Deputy Collector (Rehabilitation) & Ors. ... Respondents

WITH

CONTEMPT PETITION NO. 82 OF 2023

Dhananjay Baburao Sase ... Petitioner

Versus

Uttam Patil, Deputy Collector (Rehabilitation) & Ors. ... Respondents

WITH

CONTEMPT PETITION NO. 83 OF 2023

Prabhakar Gangram Gardare (Decd.) through LRs ... Petitioner
Balasaheb Prabhakar Gardare

Versus

Uttam Patil, Deputy Collector (Rehabilitation) & Ors. ... Respondents

WITH

CONTEMPT PETITION NO. 84 OF 2023

Usha Balu Thakar ... Petitioner

Versus

Uttam Patil, Deputy Collector (Rehabilitation) & Ors. ... Respondents

Mr. Sachin H. Deokar for Petitioner in CP/782/2022, CP/783/2022, CP(st)/32874/2022, CP/96/2023, CP/97/2023, CP/98/2023, CP/99/2023, CP/100/2023, CP/101/2023, CP/102/2023, CP/103/2023, CP/104/2023, CP/252/2023.

Mr. Nitin P. Deshpande a/w Ms. Kanchan Phatak for Petitioner in CP/81/2023, CP/82/2023, CP/83/2023, CP/84/2023, CP/281/2023, CP/282/2023, CP/283/2023.

Mr. Sumit V. Khaire for Petitioner in CP/241/2023.

Dr. Milind Sathe , Senior Advocate i/b Mr. Bhalchandra Shinde for Respondent No. 5 in CP/81/2023, CP/82/2023, CP/83/2023, CP/84/2023.

Mr. A. A. Kumbhakoni, Senior Advocate i/b Mr. Bhalchandra Shinde for Respondent Nos. 1 to 4 in CP/81/2023, CP/82/2023, CP/83/2023, CP/84/2023.

Mr. Ashish S. Gaikwad a/w Ms. Bhavana R. Khichi a/w Ms. Anjali Kolapkar for Respondent No. 3 in CP/782/2022, CP/783/2022, CP/96/2023, CP/97/2023, CP/98/2023, CP/99/2023, CP/100/2023, CP/101/2023, CP/102/2023, CP/103/2023, CP/104/2023, CP(ST)/32874/2022 a/w CP/252/2023.

Dr. Birendra B. Saraf, AG a/w Mr. P.P. Kakade, Government Pleader a/w Mr. A.I. Patel, Addl. G.P a/w Mr. R. S. Pawar, AGP for State in CP/81/2023, CP/82/2023, CP/83/2023, CP/84/2023.

Dr. Birendra B. Saraf, AG a/w Mr. P.P. Kakade, Government Pleader a/w Mr. A.I. Patel, Addl. G.P a/w Mr. R. S. Pawar, a/w Ms. P. N. Diwan, AGP for State in CP/782/2022, CP/783/2022, CP(st)/32874/2022, CP/96/2023, CP/97/2023, CP/98/2023, CP/99/2023, CP/100/2023, CP/101/2023, CP/102/2023, CP/103/2023, CP/104/2023, CP/252/2023.

Dr. Birendra B. Saraf, AG a/w Mr. P.P. Kakade, Government Pleader a/w Ms. P. N. Diwan, a/w Ms. P. J. Gavhane, AGP for State in CP/241/2023. Mr. P. P. Kakade, Government Pleader a/w Mr. A. I. Patel, Addl. G.P. a/w Mr. R. S. Pawar, AGP a/w Ms. P. N. Diwan, AGP for State in CP/281/2023, CP/282/2023, CP/283/2023.

**CORAM: G. S. KULKARNI &
JITENDRA JAIN, JJ.**

DATED : 6 September, 2023

P.C.

1. These Contempt proceedings are before us on the backdrop of our orders dated 31 August 2023, in which we had held the contemnors guilty of having committed contempt of the orders passed by this Court. We had also sentenced the contemnors to be detained in the civil prison for one

month. However, later on (at 03.00 p.m.) after the said orders were pronounced and before they were made available to the parties, an application was moved on behalf of the contemnors that the formal show cause notices were not received by the contemnors. Considering such plea as advanced on behalf of the contemnors by Dr. Sathe, learned Senior Counsel for the contemnors, we however observed that it was not possible to accept such contentions and more particularly for reasons which we had recorded in the order passed on the contempt proceedings, and even today which we continue to believe and maintain the same, in the facts and circumstances, as they stand today. Be that as it may, we had categorically observed that as such plea was being taken by the contemnors, although after final orders were passed on the contempt proceedings, we would not mind giving the contemnors another chance to respond to this contempt petition and justify their conduct in respect of each and every order passed by this Court, of which they were held to be guilty of disobedience. We, accordingly, granted an opportunity to the contemnors to place on record their respective affidavits, by adjourning the proceedings for today at 2.30 p.m. The relevant observations as contained in paragraphs 25 to 29 of our order dated 31 August 2023 are required to be noted, which read thus:-

“25. We have pronounced the above order in the Open Court today in the first session. However, in the second session, Dr. Milind Sathe, learned senior counsel i/b. Mr. Bhalchandra Shinde, on instructions of the contemnors, is before the Court. A request as

made by Dr. Sathe is quite peculiar and possibly prima facie not justified from what we have observed in the foregoing paragraphs. A plea is now taken that the contemnors were never aware of the contempt proceedings and on a technical ground that the notices were not received by the contemnors. We are quite aghast at such approach being taken after the order is pronounced and when the order was about to be implemented. However, we are of the clear opinion that even if such a technical plea is taken, it should not defeat justice and certainly we would have a consideration of such issue, if at all any prejudice on such aspect is being caused to the contemnors. Dr. Sathe states that the Advocate instructing him would accept notice, although in our opinion, throughout the contemnors were not only aware of the contempt proceedings but had sufficient notice of the same, this more particularly, when in fact, today contemnor no. 5 has attempted to file affidavit through the Government Pleader. The Government Pleader throughout in his earlier appearances never made a grievance that the contemnors were not served with the notice of these petitions which are not only pending for quite sometime but several orders passed thereon. We however do not mind giving another chance to the contemnors to respond to these petitions and in regard to their contaminous conduct in respect of each and every order, which we have referred above. We do not mind hearing the contemnors even by such opportunity being provided to them by permitting them to file their respective affidavits which Dr. Sathe states, would be filed within one week from today.

26. *In view of such plea of Dr. Sathe, in the interest of justice, we stay our order sentencing the contemnors to civil imprisonment till the adjourned date of hearing.*

27. *We make it clear that we shall hear all the contemnors on the replies they may file on the adjourned date of hearing and shall proceed to pass further appropriate order on the present contempt proceedings.*

28. *Stand over to 6 September, 2023 at 2.30 p.m. (Part Heard)*
The contemnors shall remain present in the Court on the next date.

29. *We are informed that there are connected contempt petitions alleging breach of the very orders passed by the Court and subject matter of the present proceedings. Those petitions be independently listed along with the present proceedings, as it is stated that the fate of the said proceedings would be covered by the orders to be passed on the present proceedings."*

2. On the above conspectus, today the contemnors are before the Court with their respective affidavits placed on record.

3. At the outset, Dr. Birendra Saraf, learned Advocate General appearing for the State has submitted that there is no intention whatsoever on the part of the contemnors to justify their actions amounting to disobedience of the orders passed by this Court and subject matter of our detailed observations in the order dated 31 August, 2023. He submits that the contemnors tender their unconditional apology which is bonafide, heartfelt and full of penitence. He states that the contemnors would never repeat such conduct in discharge of their official duties. It is Dr. Saraf's submission that although earlier, the orders as passed by this Court were not complied, however now they stand fully complied, in view of the decision taken by the State Government on 29 August, 2023. It is hence his submission that the unconditional apology of the contemnors be accepted and the contempt proceedings be dropped.

4. Dr. Milind Sathe, learned Senior Counsel has tendered affidavit of contemnor No.5 dated 5 September, 2023. Dr. Sathe submits that contemnor No.5 has tendered an unconditional apology and without in any manner whatsoever justifying his conduct on disobedience of the orders passed by this Court. Dr. Sathe has also explained the circumstances

and the necessary steps taken by him to comply with the order dated 2 March, 2022 of which contempt was alleged in the contempt petition as set out in such affidavit. Insofar as the subsequent orders are concerned, contemnor No.5 has tendered his unconditional apology and has submitted that there can be no justification for such disobedience of which he has remorse, regret and apology. Such stand of contemnor No.5 is also confirmed by Dr. Sathe in his oral submissions. It is also stated that in the past in his official capacity, contemnor no. 5 has not been held guilty of contempt, although he may not be aware that as to in how many matters he was made a party in any contempt proceedings.

5. We have perused the affidavits which are filed by the contemnors.
6. We may observe that Dr. Saraf, learned Advocate General, has submitted before us that there can be no justification whatsoever for non-compliance of the orders by contemnor No. 5, who is a High Ranking Officer. His submission is that considering the position contemnor No.5 holds, it is requested that the Court takes a lenient view of the matter and the apology as submitted by contemnor No.5 on affidavit, be accepted which is a heartfelt apology of contemnor No.5. This is also the submission of Dr. Sathe.

7. Mr. Kumbhakoni, learned Senior Counsel, who appears for the other contemnors, has also joined Dr. Saraf and Dr. Sathe in requesting the Court to take a lenient view of the proceedings and to drop the present proceedings accepting an undertaking of the contemnors that henceforth they shall diligently abide by all orders of the Courts in discharge of their respective official obligations.

8. Mr. Deshpande, learned counsel for the petitioners would submit that although the petitioners were justified in moving the present contempt proceedings, he would join Dr. Saraf, Dr. Sathe and Mr. Kumbhakoni in making a request, to the Court, to drop the contempt proceedings.

9. It is on the backdrop of the above contentions as urged by the contemnors, what would fall for our consideration is whether in the facts and circumstances of the case, we need to drop the contempt proceedings. From what has been submitted before us by the learned senior counsel for the contemnors as also by Mr. Deshpande, all the contemnors have unanimously tendered their unconditional apology and without in any manner justifying their conduct, on such second chance / opportunity as made available to them, this coupled with their assurance before the Court that in future they shall be extremely careful and the orders of the Courts

at all material times would be complied and never disobeyed. Also considering the fact that the contemnors are Government officials and that their apology as tendered to the Court as informed to us is bonafide, heartfelt and real contrition, we accept such unconditional apology and the assurance as given by the contemnors, as an undertaking to the Court.

10. Accordingly, we propose not to proceed any further on the present proceedings. The Contempt proceedings would accordingly stand dropped and the matters closed. Consequently, the operative paragraphs (i) to (vi) as contained in paragraph 23 of the order dated 31 August 2023 stand recalled.

11. Disposed of in the above terms. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]