

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

CONTEMPT PETITION NO.86/2023 IN WRIT PETITION NO.421/2023(D)

Dinesh J.Khonde

vs.

Smt.Abha Shukla, PrincipalSecretary (Energy), Industry, Energy and Labour Department,
Mantralaya, Mumbai.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Anand Jaiswal, Senior Advocate a/b Shri Shriram Palshikar, Advocate for
petitioner.
Shri M.G.Bhangde, Senior Advocate a/b Ms N. P. Mehta, Assistant Government
Pleader for respondent.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 3rd JULY, 2023

Heard.

2. The petitioner alleges wilful disobedience of the directions issued by this Court in Writ Petition No. 421 of 2023 decided on 02.02.2023.

3. The order dated 16.09.2022 passed by the Maharashtra Administrative Tribunal, Nagpur in Civil Application No. 369 of 2022 as filed in Original Application No.26 of 2019 was the subject matter of challenge by the State of Maharashtra in Writ Petition No. 421 of 2023. By the judgment dated 02.02.2023 the order dated 16.09.2022 by which the present petitioner was given additional charge of the post of 'Chief Electrical Inspector' till the regular order of promotion was issued came to be set aside. It was clarified that the parties would be governed by the order dated 23.04.2020 by which additional charge of the post of 'Chief Electrical Inspector' was given to the petitioner until further orders.

4. Shri Anand Jaiswal, learned Senior Advocate for the petitioner submits that immediately after Writ Petition No. 421 of 2023 was decided, the Ministry of Industry, Energy and Labour relieved the petitioner of the additional charge and handed over the same to the Chief Engineer (Electrical), Public Works Department, Mumbai. Since this Court had clarified that the parties would be governed by the order dated 23.04.2020 until further orders, it was clear that in absence of any order passed by the Tribunal the petitioner could not have been divested of the additional charge. By issuing the order dated 03.02.2023, the respondent had wilfully disobeyed the directions as issued which amounted committing contempt of the said order. It was thus prayed that appropriate action for such disobedience ought to be initiated.

5. Shri M.G.Bhangde, learned Senior Advocate for the respondent on the other hand submitted that the matter was left to the wisdom of the Industry, Energy and Labour Department to consider whether additional charge should be continued with the petitioner. Referring to the observations in paragraph 8 of the said judgment that it was for the Department to consider whether such *ad hoc* arrangement was required to be continued or not, the Department divested the petitioner of the additional charge and handed over the same to another officer. The petitioner had challenged the order dated 03.02.2023 independently by approaching the Tribunal. There was no wilful breach of the judgment dated 02.02.2023.

6. Having heard the learned Senior Advocates, we find that there is no basis to hold that there has been any wilful disobedience of the judgment dated 02.02.2023. By the order dated 23.04.2020 additional charge of the post of 'Chief Electrical Inspector' was handed over to the petitioner and this arrangement was until further orders. It was in that context that this Court had clarified in the judgment dated 02.02.2023

that the parties would continue to be governed by the said order dated 23.04.2020 until further orders. The Department was thus not precluded from passing any fresh order in the matter of grant of additional charge to the petitioner. By the order dated 03.02.2023, the said additional charge has been given to another officer and that order has been subjected to a separate challenge before the Tribunal.

7. In these facts and especially in the light of what has been observed in paragraph 8 of the judgment dated 02.02.2023, we do not find that any case of wilful disobedience of the clarification made in paragraph 9 of the said judgment has been made out. We are therefore not inclined to invoke contempt jurisdiction. The Contempt Petition is dismissed.

However, it is clarified that the Tribunal shall decide the challenge to the order dated 03.02.2023 preferred by the petitioner on its own merits without being influenced by this order.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.