



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

CONTEMPT PETITION NO.224/2023

Ashok Harichandra Satpute .Vs. Vaishali Jamdar, Dy Director of Education, Nagpur
and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. D. Chande, Advocate for petitioner.

CORAM : ANIL L. PANSARE, J.

DATE : 27.09.2023

On 30.08.2023, following order was passed:

*“None present for the respondent no. 5
though served.*

*Contempt petition has been filed on the
ground that respondent no. 5 has willfully
disobeyed order dated 8-7-2022 passed by the
learned Presiding Officer, School Tribunal,
Nagpur. Order of School Tribunal has been
challenged before this Court in Writ Petition
4794/2022. The petitioner has received notice
after filing contempt petition. Despite said fact,
there are no averments by way of amendment,
that the order of which willful disobedience is
claimed has been challenged.*

*Further the contempt petition has been
filed on 10-8-2022 i.e. about in a month of
passing order. The operative part of the order
indicates that the respondent no. 5 shall pay back
wages to the petitioner from July, 2019. The time
to pay back wages is not stipulated. The
petitioner to satisfy that failure of the respondent
no. 5 to pay back wages within one month would
amount to willful disobedience of the order. The
petitioner would further satisfy that pending*

challenge to the impugned order, the contempt petition is maintainable. Stand over to 6-9-2023.”

2. Learned counsel for the petitioner, by relying upon the judgment in the case of **Dr. H. Phunindre Singh and ors. Vs. K.K. Sethi and anr.** reported in **1998 (8) SCC 640**, submits that despite the writ petition having been filed challenging order dated 08.07.2022, passed by learned Presiding Officer, School Tribunal, Nagpur, since this Court has not granted stay, the contempt petition is maintainable.

3. To my mind, the maintainability of contempt petition and the initiation of the contempt proceedings are two different things. As stated in the order dated 08.09.2023, within one month of passing order dated 08.07.2023, the petitioner has come up with a case that the respondent no.5 has willfully disobeyed the said order. In other words, the order, of which willful disobedience has been pleaded, is so pleaded without giving reasonable time to comply the order. The question, therefore, is whether in the facts and circumstances of the case, the petitioner could have initiated the contempt proceedings within such a short span of time. To understand the same, the operative part of the order dated 08.07.2022 will be relevant, which reads thus:

“ORDER

1. *Appeal is allowed.*
2. *Termination order 22/08/2017 is hereby quashed and set aside.*

3. *Respondent No.1, 2 and 5 are hereby directed to reinstate the appellant on his original post.*
4. *Respondent no.2 pay the back-wages of appellant from July 2019.*
5. *No order as to cost.*
6. *Pronounced in open Court.”*

3. As could be seen, the School Tribunal has directed the respondent nos. 1, 2 and 5 to reinstate the appellant on his original post and the respondent no.2 has been directed to pay back wages to the petitioner from July, 2019. There is nothing in the order to indicate that this order has to be complied within stipulated time. It is well settled that when the time is not stipulated, the Court will expect compliance of the order within a reasonable time. In the present case, there is nothing to indicate that the reasonable time should be 30 days. That apart, there is absolutely nothing to arrive at a prima facie conclusion that the respondents have willfully disobeyed the order. The petitioner ought to be mindful to the fact that there is difference between non compliance of order and willful disobedience of the order. The petitioner ought to have waited for some more time and gather information before blaming the respondents of willful disobedience of the order.

4. Learned counsel for the petitioner states that respondent no.5 has not responded to the notice issued by this Court. This issue cannot lead to the inference that the respondent no.5 has willfully disobeyed the

order passed by the School Tribunal. The submission, therefore, is of no relevance. If the respondent no.5 has not appeared after receiving notice of the Court, the consequence is to proceed ex parte against the respondent no.5 and if, prima facie case is found, to seek his presence, in accordance with the provisions of law, including the Criminal Procedure Code, 1973. However, merely because respondent no.5 has not responded to the notice will not lead to the inference that he is habitual of contempt or has willfully not responded to the order passed by the tribunal or the court.

5. Having said so, the only inference that could be drawn is that the petitioner has made an attempt to adopt arm twisting tactics against the respondents. This would be certainly an abuse of process of law and, therefore, the contempt petition is dismissed with exemplary costs of Rs.10,000/-.

(Anil L. Pansare, J.)