



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

CONTEMPT PETITION NO. 264 OF 2022
IN
CIVIL WRIT PETITION NO.3696 OF 2018

Mrs.Chitra Jagdish Mehar and ors.

-Vs-

Mr.Ranjit Singh Deol, Secretary of the Government of Maharashtra and anr.

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

Court's or Judge's Orders.

Mr.Anand Parchure counsel for the petitioners.

Mr.Anand Jaiswal senior Advocate with Ms. K.R.Deshpande, A.G.P for
respondent -State.

**CORAM SMT. ANUJA PRABHUDESSAI &
MRS. VRUSHALI V.JOSHI, JJ.**

DATE : 14th December, 2023.

1. The petitioners allege breach of order dated 28.04.2022, whereby this Court had directed the State of Maharashtra to forthwith pay to each of the petitioners Rs.75,000/-(rupees seventy-five thousand only) per month as an ad-hoc payment subject to the further orders, adjustment etc. commencing from 01.04.2022 on every 15th day of the month till further orders. The amount was directed to be credited directly into the accounts of the petitioners. The responsibility of ensuring compliance of the order was placed on respondent no.1 – Mr. Ranjit Singh Deol, Secretary, School Education and Sports Department, Mantralaya, Mumbai. In the event of any change, his successor was directed to ensure compliance of the order as to avoid any action in contempt jurisdiction of this Court.

2. Mr.Anand Jaiswal, learned Senior Counsel submits that during the pendency of this contempt petition directions contained in paragraph No.16 (1) of order dated 28.04.2022 have been complied with. Respondent No.1 Ranjit Singh Deol, Principal Secretary to the Government of Maharashtra, School Education and Sports Department, Mantralaya, Mumbai, has also filed an affidavit wherein a statement has been made that the salary (sic) of these special teachers, who have been terminated, has been released till the date of their termination. It is further stated that the salaries of the special teachers, whose termination orders are stayed by this Court, have been released and deposited in their respective bank accounts. A statement has also been made that salary of the petitioners/special teachers, who are working and whose services are not terminated will be released on every 15th day of subsequent month till the final disposal of the writ petition. He has tendered an unconditional apology for breach/non-compliance of the order.

3. The facts of the case unfold a very sorry state of affairs. The special teachers appointed to teach differently abled and special children under the scheme were compelled to approach the court with a grievance that they were not paid their salaries for more than four years. Despite directions and several opportunities, the Director of Education (Primary) did not release the salary as a consequence thereof this Court was compelled to direct to withhold his salary. This order was circumvented by

changing the Director and keeping the post vacant by placing another officer in-charge of the post. The following observations in para 11 of order dated 28.04.2022 reflects the conduct of the State Government and the same reads thus:-

“ Despite the above orders, no payment is forthcoming from the State Government. The callousness and insensitivity shown by the officers of the State Government is shocking and apart from defiance to the orders of this Court. Despite this Court directing that salary of Director (Primary) be withheld for not compliance of ht orders, nothing is done by the State Government except changing the Director (Primary) and keeping that post being occupied by In-charge to avoid the orders of the Court. None of these orders have been challenged by the State and are simply ignored”.

4. Considering the plight of the petitioners and their fight for survival, this Court, by way of interim measure, directed the State of Maharashtra to pay to the petitioner Rs.75,000/- per month as an ad-hoc payment. The respondents failed to comply with the order dated 20th April, 2022, despite the aforestated observations in paragraph 11 of the order, compelling the petitioners once again to approach this Court.

5. In ***E.T.Sunup vs. C.A.N.S.S. Employees Association and others***, reported at ***(2004) 8 SCC 683***, the Apex Court has observed that -

“It has become a tendency with the Government officers to somehow or the other

circumvent the order of the Court and try to take recourse to one justification or the other. This shows complete lack of grace in accepting the orders of the Court. This tendency of undermining the Court's order cannot be countenanced. This Court time and again has emphasized that in democracy, the role of the Court cannot be subservient to administrative fait. The executive and the Legislature has to work within Constitutional framework and the judiciary has been given a role of watch dog to keep the legislature and executive within check."

6. In ***Maninderjit Singh Bitta .vs. Union of India***, reported at **(2012) 1 SCC 273**, the Apex Court while deprecating the practice of delay in compliance of the order of the Court, has observed thus :

"26. It is also of some relevance to note that disobedience of Court orders by positive or active contribution or non-obedience by passive or dormant conduct leads to the same result. Disobedience of the orders of the Court strikes at the very root of the rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. If the judiciary is to perform its duty and functions effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the Courts have to be respected and protected at all costs ...

27. It is where the State and its instrumentalities have failed to discharge its statutory functions or have acted adversely to

the larger public interest that the Courts are called upon to interfere in exercise of their extraordinary jurisdiction to ensure maintenance of the rule of law. These are the cases which have impact in rem or on larger section of the society and not in personam simplicitor. Courts are called upon to exercise jurisdiction with twin objects in mind. Firstly, to punish the persons who have disobeyed or not carried out the orders of the Court i.e. for their past conduct. Secondly, to pass such orders, including imprisonment and use the contempt jurisdiction as a tool for compliance with its order sin future ...

28. xxx

29. Lethargy, ignorance, official delays and absence of motivation can hardly be offered as any defence in an action for contempt. Inordinate delay in complying with the orders of the Courts has also received judicial criticism. It is inappropriate for the parties concerned to keep the execution of the Court's orders in abeyance for an inordinate period. Inaction or even dormant behaviour by the officers in the highest echelons in the hierarchy of the Government in complying with the directions/orders of this Court certainly amounts to disobedience. Inordinate delay of years in complying with the orders of the Court or in complying with the directed stipulations within the prescribed time, has been viewed by this Court seriously and held to be the contempt of Court, as it undermines the dignity of the Court. Reference in this regard can be made to Meniyeri Madhavan .vs. Inspector of Police, 1993 Supp (2) SCC 501 and Anil Ratan Sarkar .vs. Hirak Ghosh, (2002) 4 SCC 21. Even a lackadaisical

attitude, which itself may not be deliberate or willful, have not been held to be a sufficient ground of defence in a contempt proceeding. Obviously, the purpose is to ensure compliance with the orders of the Court at the earliest and within stipulated period.”

7. There is no gainsaying that the contemptuous act interferes with administration of justice and impinges upon the dignity of the institution. Hence, the State and its instrumentalities, who are responsible in complying with or executing the orders of the Court, cannot disregard their duties or defy the orders of the Court, for such inaction or defiance, leaves deep impact on access to justice.

8. In the instant case, this Court by an order dated 12.10.2022, while issuing notice before admission, gave an opportunity to the respondents to comply with the directions and to continue the compliance till final disposal of the petition with further directions to respondent Nos.1 and 2 to release the amounts latest by 20.10.2022. The time to make the payment was further extended time and again despite which the respondents adopted every mode of delaying tactics, which necessitated issuance of non-bailable warrants against respondent Nos.1 and 2. It is only thereafter, that steps were taken to get the amount sanctioned, and an affidavit, tendering unconditional apology for the delay in complying with the order came to be filed.

9. As noted above, in order to ensure payment of

salary to the petitioners, this Court had directed that the salary payable to the respondent no.3 – The Director (Primary), Pune shall not be released till the salary of the petitioners was paid. In order to circumvent this order, the State Government changed the Director (Primary) by placing some other person in-charge of the post. There cannot be more blatant violation of order of the Court than that committed by the State and its instrumentalities. Such conduct needs to be deprecated. Learned Senior Advocate states that an affidavit tendering unconditional apology in this regard will be filed within a period of one week.

10. We record our serious concern and disapproval of the conduct of the respondent in defying the directions of the Court. However, considering that the respondents have tendered unconditional apology and have complied with the order dated 28.04.2022, though belatedly with further undertaking to continue making the payment, we are inclined to accept the apology as well as the statement made by the respondents and drop the contempt proceedings. The respondents are, however, put to notice that any breach of the statement or undertaking given to the Court shall be construed as aggravated form of contempt.

11. Under the circumstances, the contempt proceedings are dropped. Consequently, the presence of respondent Nos.1 and 2 is dispensed with. The order directing withholding of salary of respondent no.3 –

Director (Primary), Pune is recalled.

JUDGE

JUDGE