



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 500 OF 2014 IN
WRIT PETITION NO. 4656 OF 2013

Deepak S/o Tukaram Holsamudre
Age : 35, Occu : Nil,
R/o at Udgir,
Tq. Udgir, Dist. : Latur

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through its Secretary School and
Education Department,
Mantralaya – 400 032.
- 2] Lata Bapusaheb Patil
Age 60 Occu : Pensioner,
The Secretary,
Kai Bapusaheb Ekamberkar,
Sevabhavi Sanstha, Degloor Road,
Shastri Colony, Krishnakant Chowk,
Tq. Udgir, Dist. : Latur
- 3] Shri. Dr. Pandit Vidyasagar,
Vice Chancellor,
Swami Ramanand Teerth
Marathwada University,
Vishnupuri,
Tq. and Dist. Nanded
- 4] Smt Dr. Shaila Sarang,
The Joint Director of Education,
Nanded Region, Nanded,
Tq. and Dist. Nanded
- 5] Smt Sunita Dadge
Age 30 years, Occu : Nil,
R/o At Shastri Colony,
Degloor Road,
Tq. Udgir, Dist. Latur
- 6] Dr. Ajay Tengse,
Age Major, Occu : Service,
R/o Yashwant College,
Nanded,
Tq and Dist. Nanded

7] Dr S.M. Kendre,
Age Major, Occu. Service,
R/o Saint Gadgebaba Mahavidyalaya,
At Loha, Dist. Nanded

8] Shri Ramkisan Manjre,
Age Major, Occu Service,
R/o. At Shivaji Mahavidyalaya,
At Udgir, Dist. Latur

.. Respondents

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Advocate for petitioner : Ms. P.G. Sontakke h/f. Mr. G.K. Sontakke
AGP for the respondent – State : Mr. G.A. Kulkarni
Advocate for respondent no. 2 : Mr. V.D. Gunale
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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 23 FEBRUARY 2024

ORAL ORDER (MANGESH S. PATIL, J.) :

This is a proceeding under the Contempt of Courts Act.

2. Having been satisfied about the respondent no. 2 - Lata Bapusaheb Patil being *prima facie* guilty of contempt, the notice in Form No. I under Rule 9 of the Bombay High Court Contempt of Courts Rules framed under the Contempt of Courts Act, was served to her. She caused appearance. Charge was framed and explained to her. Her plea was recorded. She pleaded not guilty. She has filed two affidavits. We have heard both the sides finally.

3. The sum and substance of the charge is to the effect that in spite of being aware about the interim relief granted by this Court in the petitioner's writ petition no. 4656 of 2013 by order dated

24-06-2013 in terms of prayer clause (C) of the writ petition, which reads thus :

“C. Pending hearing and final disposal of this Writ Petition, the Respondents No. 2 to 5, may kindly be restrained to Appoint, to approve the post of lecturer in the subject of Sociology on substantial basis.”

The respondent no. 2 as a Secretary of the management has given appointment and issued an order in the name of the respondent no. 5 to the post of Lecturer in Sociology.

4. The facts are not disputed. The petitioner had already preferred appeal with an application for condonation of delay before the College Tribunal in July 2011 against the management for termination. While the interim relief was in operation in terms of prayer clause (C) which prevented the respondent no. 2 – Secretary, who was representing the management, from making any appointment to the post of Lecturer in Sociology, the process was undertaken and the appointment order was issued on 13-01-2014. Even the respondent no. 5 joined the duty on 18-01-2014.

5. Although it is a matter of record that subsequently, the writ petition was withdrawn in view of pendency of the appeal before the College Tribunal, *ex facie*, the respondent no. 2 had issued the appointment order while the interim relief was in operation. We have

no manner of doubt that the conduct of the respondent no. 2 is indeed contemptuous.

6. True it is that any dis-obedience will not constitute contempt, as has been observed and laid down in the matter of ***Ram Kishan Vs. Tarun Bajaj and others; (2014) SCC 204.*** There has to be some element of wilfulness in the conduct. When admittedly, the petitioner and the management have been at loggerheads for at least 3-4 years even before filing of the writ petition in the year 2013 and the respondent no. 2 had caused appearance in the writ petition on 15-07-2013, it cannot be said that she was oblivious of the interim relief operating against the management. Even if the recruitment process was already underway, even then the interim order directing not to make any appointment to the post of Lecturer in Sociology was granted with some purpose. In spite of being aware of such order and the dispute with the petitioner, the respondent no. 2 had issued the appointment order. It cannot be a matter of mere negligence or recklessness. The conduct demonstrates brazenness of respondent no. 2 to undermine the majesty of the Court.

7. Needless to state that she is the Secretary of the management must have been aware about the consequences. We, therefore, find no other reason but to conclude that the conduct of the respondent no. 2 was not only a mere dis-obedience of the order of the

Court but a wilful one, sufficient to demonstrate that it constitutes contempt of the Court. We, therefore, hold her guilty of the contempt.

8. We have heard both the sides on the point of quantum of punishment.

9. Considering the fact that the respondent no. 2 is a lady aged about 60 years and is physically challenged who had to be brought to the Court on a wheelchair, in our considered view, it would not be proper to impose punishment of imprisonment.

10. In the circumstances, we impose fine of Rs.2000/- (Rs. Two Thousand) as is stipulated in section 12 of the Contempt of Courts Act. She shall deposit the fine amount immediately, failing which she shall suffer simple civil imprisonment for a period of two days.

11. Contempt petition is disposed of.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/