



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CONT. PETITION NO. 652 OF 2022
IN WP/1218/2013
WITH
CIVIL APPLICATION NO. 3858 OF 2024
IN CP/652/2022**

**AMOL KAKASAHEB LEKURWALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH HONBLE ADVOCATE
GENERAL AND OTHERS**

...
Advocate for the Petitioner : Mr. Salunke Vasant Digambarrao
Government Pleader for Respondent/State : Mr. A.B. Girase
Advocate for Respondent Nos.3 and 4 : Mr. Kulkarni Mukul S.

...
**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 18.04.2024

PER COURT:

Learned Government Pleader, on instructions, submits that he is not pressing the application and submits that the Principal Secretary would remain personally present before this Court on Wednesday i.e. 24.04.2024.

2. This should, in the normal course, end the matter at this juncture to the extent of the civil application preferred by the Principal Secretary. However, the following circumstances would indicate the conduct of the Principal Secretary in misusing his office, that too to deliberately avoid physical presence before this Court pursuant to the

order passed on the last date. As we would demonstrate he has resorted to manipulation to circumvent the order of this Court, which in our considered view, is a separate matter of contempt apart from an inquiry into the forgery and abuse of the process of law.

3. This is a contempt proceeding, in which the present application has been filed, whereby, the respondent - State Government and the MPSC were directed to undertake reverification of the candidates who were selected and appointed pursuant to a recruitment process. It was directed that upon reverification, if it was found that some of the candidates appointed were not qualified or had used forged documents, directing steps to be taken against them. It was also directed that if upon reverification of the documents and the records the respondent authorities were to arrive at a conclusion that some of the candidates were not eligible for being appointed, to take appropriate steps against them. It was also directed that after such reverification process was over and if the MPSC/State Government could consider the petitioners or other candidates from the wait list of the said advertisement, for being appointed, depending upon or in conformity with the eligibility, qualification, category or reservation. For non-compliance of these directions, the contempt proceeding is being prosecuted.

4. We need not go through the entire history but it would suffice for the purpose to observe that by the order dated 08.04.2024, we had, for the reasons recorded therein, directed the Principal Secretary,

Medical Education Department to remain personally present today for receiving a formal notice under Rule 9 of the Rules framed by the Bombay High Court under the Contempt of Courts Act.

5. The present application, now being not pressed, has been filed by the Principal Secretary with an innocuous prayer seeking excuse from remaining present. However, we have every room to believe that he has been manipulating this to suit his purpose and the ulterior aim to avoid presence before the Court.

6. A copy of the circular purportedly issued by the Dean of the Government Dental College and Hospital, Nagpur is annexed to this application (Page No.14). The circular is regarding the visit of the Principal Secretary to the Hospital on 18.04.2024 at 11.00 am and directing all the staff members to remain present. A bare look at this page would indicate that there is apparent manipulation at two places, wherein, the first digit of the date has been masked before taking out a copy, firstly, in the date of the circular and secondly, in the date mentioned in the reference.

7. The learned advocate for the petitioner tenders across the bar coloured photocopy of the notice actually published on the notice board of which page No.14 is a photocopy. This notice is without the first digit of the dates being masked. The coloured photocopy is taken on record and marked 'X' for the purpose of identification. It is purportedly a circular dated 06/04/2024. It is stated to have been issued pursuant to

the mobile communication dated 16.04.2024 received from the Mantralaya Mumbai. If it is pursuant to the telephonic communication dated 16.04.2024 that the visit was arranged and the circular was issued, it could not have been bearing a date earlier thereto, that is of 06.04.2024.

8. The learned Government Pleader submits that page No.14 is a photocopy of the scanned document as was received from the Dean, Government Dental College and Hospital Nagpur. He points out this fact from the WhatsApp message of Smt. Vaishali Sule, Deputy Secretary of the Medical Education Department who is personally present in the Court.

9. We have personally gone through even the WhatsApp message appearing in the mobile phone, which according to us, clearly demonstrates the manipulation we have noticed after going through page No.14. Even in that message (scanned copy), even to a naked eye, masking of the first digit at both the places is apparent. This is evident even to a naked eye and should have been noticed by the Principal Secretary before filing this application and relying upon it. Apart from this apparent forgery and attempt to use the forged document, we have every reason to believe that being at the helm of the affairs having held a superior post, in all probability, he must have stage managed the entire episode, as an excuse for remaining present before this Court and is now being relied upon by the Principal Secretary.

10. We do not intend to go into the other details, however, the aforementioned facts and circumstances clearly demonstrate that the Principal Secretary is avoiding the Court and even stage managing the affairs to suit his purpose, which is an *ex facie* contempt of the directions of this Court and liable for the action contemplated under the Contempt of Courts Act, independent of the main contempt proceeding. He shall remain personally present on 24.04.2024 for receiving formal notice under Rule 9 of Chapter XXXIV (Form No. I) of the Bombay High Court Appellate Side Rules, 1960, framed under the Contempt of Courts Act, for this latest contempt.

11. Turning to the main contempt proceeding, the learned Government Pleader tenders across the bar affidavit-in-reply of the respondent No.2 the same Principal Secretary *inter alia* mentioning about having issued directions to the MPSC to send the names of the candidates for filling up 5 posts. A copy of correspondence address to the MPSC dated 12.04.2024 is annexed to the affidavit-in-reply.

12. The learned advocate Mr. Kulkarni for respondents No.3 and 4 seeks time to take instructions pursuant to this latest communication.

13. Stand over to 24.04.2024.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)