



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

**CIVIL APPLICATION NO. 10207 OF 2022
IN
WRIT PETITION NO. 5192 OF 2021**

Bharat Sarva Seva Sangh
Through its Secretary
Prakash Prabhakar Jadhav .. Applicant

Versus

Anil Ashok Makare and others .. Respondents

Mr. P. S. Pawar, Advocate for the Applicant.
Mr. S. T. Shelke, Advocate for Respondent No. 1.
Mr. P. S. Patil, Addl. G. P. for Respondent Nos. 2 and 3.

**WITH
CIVIL APPLICATION NO. 2470 OF 2024
IN
WRIT PETITION NO. 5192 OF 2021**

Bharat Sarva Seva Sangh Trust,
Through its Secretary
Prakash Prabhakar Jadhav .. Applicant

Versus

Anil Ashok Makare and others .. Respondents

Mr. P. S. Pawar, Advocate for the Applicant.
Mr. S. T. Shelke, Advocate for Respondent No. 1.
Mr. P. S. Patil, Addl. G. P. for Respondent Nos. 2 and 3.

**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 29th FEBRUARY, 2024.

PER COURT :-

. Both these civil applications have been filed on behalf of respondent No. 2 in writ petition.

2. In Civil Application No. 10207/2022, the applicant – respondent No. 2 prays that the order passed by this Court on 12.04.2022 be recalled by which the applicant – respondent No. 2, after it was found out by this Court that, was not co-operating in the proceedings before the Court, imposed cost of Rs. 25,000/- (Rs. Twenty Five Thousand only).

3. Heard learned advocate for the applicant, learned advocate for respondent No. 1 and learned Addl. G. P. for respondent Nos. 2 and 3.

4. Perusal of the contents of this application i.e. Civil Application No. 10207/2022 would show that, it is the personal ground of the learned advocate representing applicant - respondent No. 2 as his father was ill. Unfortunately, his father has expired on 29.12.2021, however, it is to be noted that this Court had passed the impugned order on 12.04.2022 and the detailed order was passed. Therefore, we are not fully convinced with the reason, however, taking into consideration the facts some leniency can be given. Instead of the said order can be recalled, it can be modified and the applicant –

respondent No. 2 can be directed to deposit cost of Rs. 15,000/- (Rs. Fifteen Thousand only).

5. In respect of the Civil Application No. 2470/2024, the applicant – respondent No. 2 has prayed for cancellation of non bailable warrant issued against him by order dated 06.02.2024. Perusal of the order would show that all other facts were considered including the order passed by this Court on 12.04.2022 and thereafter, non compliance was taken into consideration. Even the last chance was granted to applicant - respondent No. 2 on 19.08.2022 and then on 06.02.2024 also. The learned advocate representing the applicant - respondent No. 2 was found absent. Now, the Secretary of respondent No. 2 is present before this Court. He undertakes to participate in the proceedings. In view of the same, non bailable warrant issued against the applicant - respondent No. 2 can be cancelled.

6. For the above said reason, following order is passed.

ORDER

I. The Civil Application No. 10207/2022 is hereby partly allowed. The order passed by this Court on 12.04.2022 to the extent of deposit of cost of Rs. 25,000/- (Rs. Twenty Five Thousand only) stands modified. Instead of amount of

Rs. 25,000/- (Rs. Twenty Five Thousand only) the applicant – respondent No. 2 is directed to deposit amount of Rs. 15,000/- (Rs. Fifteen Thousand only) immediately.

II. The Civil Application No. 2470/2024 stands allowed. The non bailable warrant issued against the applicant – respondent No. 2 by order dated 06.02.2024 stands cancelled.

7. Parties to act upon authenticated copy of this order.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

PS.B.