



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

**CONTEMPT PETITION NO. 959 OF 2024
IN
WRIT PETITION NO. 12627 OF 2022**

Kazi Education and Social Welfare Society
Through its Secretary,
Md. Kalimoddin Md. Moinoddin
Age:- 43 years, Occ : Secretary,
Kadrabad Plot, Parbhani, Tq. & Dist. Parbhani.

..PETITIONER

-VERSUS-

1. Shri Vijay Waghmare
Age : Major, Occu : Secretary,
Department of Social Justice and Special
Assistance, Mantralaya, Mumbai.
2. Shri. Vikas Chandra Rastogi
Age : Major, Occu : Secretary of
Higher and Technical Education
Department, Mantralaya, Mumbai.

..RESPONDENTS

...
Advocate for petitioner : Mr. S. V. Deshmukh
AGP for Respondent- State : Mr.A.M. Phule

...
**CORAM : SMT. VIBHA KANKANWADI AND
ROHIT W.JOSHI, JJ.**

DATED : 28 NOVEMBER, 2024.

JUDGMENT (PER R.W. JOSHI, J.) :

. The present contempt petition is filed alleging willful and deliberate non-compliance of the order dated 15.12.2022 passed by this Court in Writ Petition No. 12627 of 2022.

2. The petitioner is a public trust, which is functioning in the

field of education. The petitioner intended to start a college for studies in social work, which would impart education to students for pursuing courses of Bachelor of Social Work and Masters of Social Work. The petitioner had submitted an application for starting college to the Department of Social Justice and Special Assistance of the Government of Maharashtra in the month of April, 2022. The petitioner submits that all the concerned authorities had given positive recommendation for granting permission to the petitioner to start the college. However, the respondent in the writ petition did not decide the application as consequence of which the petitioner was constrained to file a petition, being Writ Petition No. 12627/2022 seeking writ of mandamus directing the respondent in the writ petition to take decision on the proposal of the petitioner for starting the said college. The said petition came to be decided vide order dated 15.12.2022, whereby directions were issued to the respondent – State to take appropriate decision on the proposal submitted by the petitioner on or before 31.01.2023.

3. The petitioner contends that the respondent in the writ petition has not taken any decision in the matter, as directed by this Court vide order dated 15.12.2022. It will be pertinent to mention here that initially, the State of Maharashtra was arrayed as respondent in the contempt petition through the Secretary in the Department of

Social Justice and Special Assistance. However, vide Government Resolution dated 29.02.2024, the subject, "Social Work Colleges (BSW/MSW courses)" has been transferred to the Department of Higher and Technical Education. In view of the aforesaid, the Secretaries in the Department of Social Justice and Special Assistance and Higher and Technical Education have been arrayed as respondent Nos.1 and 2 respectively in the present contempt petition.

4. As stated above, the present petition is filed in view of non-compliance of the order dated 15.12.2022 passed by this Court, in as much as, no decision is taken on the proposal of the petitioner on or before 31.01.2023 i.e. the time fixed by this Court for taking the said decision.

5. The present contempt petition is filed on 14.10.2024. The cause of action for filing the present contempt petition arose on 01.02.2023 i.e. on the day falling 31.01.2023 on or before which appropriate decision was required to be taken. Section 20 of the Contempt of Courts Act, 1971 prescribes limitation of one year for filing of the contempt petition. The limitation prescribed by Section 20 is also applicable to the contempt petitions entertained in exercise of powers under Article 215 of the Constitution of India. Legal position in this regard is settled by catena of judgments of the Hon'ble Supreme Court, the latest being, in the matter of **S. Tirupathi Rao Vs. M.**

Lingamaiah and others reported in **AIR Online 2024 SC 509**. The Hon'ble Supreme Court has reiterated unequivocal term that period of one year of limitation prescribed under Section 20 shall also apply to a contempt petition filed under Article 215 of the Constitution of India. The aspect of continuing cause of action is also dealt with in the said judgement.

6. Mr. S. V. Deshmukh, learned Advocate for the petitioner as also Mr. A.M. Phule, learned A.G.P. representing the respondents rely on the said judgment. Whereas, the learned A.G.P. contends that the contempt petition is barred by limitation since it is filed beyond a period of one year from the date fixed for deciding the application, the learned counsel for the petitioner would contend that failure to take decision on the proposal for starting a new college is continuing cause of action, and therefore, the contempt petition cannot be said to be filed beyond the period of limitation.

7. Having heard the respective parties, we find ourselves unable to agree with the contentions of the petitioner that the present case is one of continuing cause of action. Perusal of the order passed by this Court in writ petition No.12627/2022 will demonstrate that a writ was issued to the respondent in the petition to take decision on the proposal submitted by the petitioner. Such a decision would be taken only once and not repeatedly. We are, therefore, of the view that the

wrong committed by the respondents in not deciding the application is not continuing wrong but a single act of non-compliance of the order which was complete as on 31.01.2023 i.e. last date fixed by this Court for taking decision in the matter. Failure to take decision in the matter is a wrong committed by the respondents, which was complete in all respects as on 31.01.2023.

8. At this stage, we may briefly refer to the facts of the case in the matter of **S. Tirupathi Rao (supra)**. In the said case, directions were issued to the Revenue Authority to carry out mutation. Although, time frame was not fixed for compliance of the order, time limit was prescribed under the relevant statutory Rules. Mutation entry was not carried out within the period stipulated under the Rules. In this backdrop, the contempt petition was filed and contention was raised that failure to carry out mutation is continuing wrong, which offers a continuing cause of action for filing contempt petition. In this backdrop, the Hon'ble Supreme Court had considered the issue of limitation in the aforesaid judgment. The Hon'ble Supreme Court has referred to its earlier decision in the matter of **Balkrishna Savalram Pujari Vs. Shree Dnyaneshwar Maharaj Sansthan** reported in **AIR 1959 SC 798**. Referring to the said judgment extensively, the Hon'ble Supreme Court has expressed that if the wrongful act causes an injury which is complete, there is no continuing wrong even though the damage

resulting from such wrongful act may continue. Further referring to the judgment in the matter of ***Ram Janmabhumi Temple Vs. Suresh Das*** reported in **2020(91) SCC 1**, it is held that a continuing wrong arises in cases where an obligation is imposed by law or agreement to continue to perform an act or to desist to perform it. A continuing wrong contemplates breach of continuing duty or breach of a continuing obligation.

9. Reverting to the facts of the present case, the petitioner made an application for starting a new college. The State Government is competent authority for granting such permission. Such permission can be granted or rejected once. Once an appropriate decision is taken on a proposal for starting a new college, the said decision would not be revisited over and over again, unless of course, there is a fresh application. To put it in other words, one application for starting a college would be decided only once and for all and not repeatedly. The obligation or duty to decide the application for permission to start a college is therefore not a continuing obligation or continuing duty. In terms of order passed by this Court, the said decision had to be taken on or before 31.01.2023. Failure to comply with the order and take decision on the application, therefore, gave rise to cause of action on 01.02.2023. This cause of action cannot be said to be continuing cause of action because the decision on the application would

obviously be taken only once and not repeatedly. We are, therefore, of the opinion that the present case is not a case of continuing cause of action as contended by the petitioner.

10. We are fortified in the view that we have taken by the judgment of ***S. Tirupathi Rao (supra)***, in which the Hon'ble Supreme Court has held that failure to comply with a direction to carry out mutation entry does not offer continuing cause of action and a contempt petition filed beyond the period of one year from the due date will have to be dismissed as barred by limitation.

11. In view of the law laid down in the aforesaid judgment of the Hon'ble Supreme Court, we are of considered opinion that the present petition ought to have been filed within period of one year from 01.02.2023. The petition is filed on 14.10.2024, which is beyond the prescribed period of limitation of one year as fixed by Section 20 of the Contempt of Courts Act, 1971. The petition is therefore liable to be dismissed as barred by limitation. We therefore pass the following order- :-

ORDER

(i) The contempt petition is dismissed.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE