

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CONTEMPT PETITION NO. 7 OF 2023
IN
WRIT PETITION NO. 3983 OF 2022

Shr.Shankar Rajaram Mulik and others. ... Petitioners.

V/s.

The State of Maharashtra and another. ... Respondents.

Ms.Rekha Musale for the Petitioners.

Mr.K.S.Thorat, 'B' Panel Counsel for Respondent No.1

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CORAM : NITIN JAMDAR, AND
M.M. SATHAYE, JJ.

DATE : 2 May 2024.

P.C. :

Heard the learned counsel for the parties.

2. By this contempt petition the Petitioner is making grievance that the Smt.Prabhavati Kolekar, Education Officer (Secondary), Zilla Parishad, Satara has committed contempt of the order of this Court. The Petitioner had filed Writ Petition No.3983/2022 which was disposed of by the order dated 10 August 2022 in respect of approval to the Petitioner's appointment. By this order the Division Bench allowed the petition and directed Respondent No.2 to grant approval after confirming the fact that of Petitioner's transfer to 100% grant-in-aid post and this exercise was

to be done in a period of four months. The Division Bench noted that this order was passed to grant approval because approval was already granted and all other aspects were considered. Four months' period expired in September 2022. No application for extension was made. The order was simply ignored and not complied with. The Contempt Petition was accordingly filed on 9 December 2022. On 9 January 2023, notice came to be issued to Respondent No.2. Notice was served. Nothing stopped the Respondent- Education Officer at least upon receipt of notice to pass an appropriate order. Since nothing was done, the following order came to be passed on 12 April 2024:

“ On 10 June 2022, Writ Petition was disposed of with the following direction:

“The Education Officer, after confirming that the Petitioners are transferred to 100% grant-in-aid post, shall grant approval to the transfer of the Petitioners on 100% grant-in-aid post from the date of their transfer. Such exercise shall be done expeditiously and preferably within four months. All consequences shall follow.”

2. Since this was not complied with, the Contempt Petition was filed on 9 December 2022. On 9 January 2023, notice was issued to the Respondent/Contemnor. Thereafter, the matter appeared on board on 9 January 2024 when it was adjourned to 31 January 2024 to enable the Respondents to take remedial steps if order is already not passed.

3. Today the learned AGP states that Respondent No.2- Education Officer is present in the Court. He states that proposal is forwarded to the Deputy Director. The learned AGP is not able to inform us the date on which the proposal was forwarded and why it was necessary in the first place to forward the proposal and what was the content of the proposal. The officer who is present in the Court has not brought the concerned file to inform the Court about the steps taken.

Respondent No.2 has appeared in the Court pursuant to the notice issued. Respondent No.2 is facing contempt proceeding. It was expected of the Respondent No.2 to bring necessary file before this Court to demonstrate steps taken especially when no reply is filed. No explanation is forthcoming.

4. Issue notice to Respondent No.2 as to why action under Article 215 of the Constitution of India and the Contempt of Courts Act, 1971 should not be taken against Respondent No.2. Notice is made returnable on 2 May 2024. The copy of this order initiating contempt proceeding be sent to the Director of Education for the purpose of keeping the same in the record.

3. The learned AGP submits that Respondent No.2 is present in the Court and has tendered an apology. He states that the order is now complied with. According to the Petitioner, the order is not fully complied with. Even otherwise, compliance of the order does not mean that the proceedings in contempt jurisdiction should be dropped automatically. The order of the Court has to be complied with, if not challenged and that by itself is not a defence particularly at the stage when the order is complied with. It is only after we had passed the order on 12 April 2024 issuing notice and only when Respondent No.2 realized that the action in person may be taken that the order is complied with, fully or partly. No valid reason is put forth. It is now sought to be contended stating that the Respondent- Management was to make compliance regarding the proposal. Even the communication addressed by Respondent No.2 to the Respondent- Management is after the notice was issued in the contempt petition.

4. We are coming across various such contempt petitions against the Education Officers wherein orders are not complied with and only when contempt action is initiated that the orders are complied with. Indiscipline on the part of the Education Officers has reached such proportion that the State Government has acknowledged this fact and has issued Government Resolution on 28 February 2024 issuing instructions at the regional level as well as at the department level to take action in the court case within the prescribed period and to avoid delay in the court case. It is stated therein that care should be taken that no contempt petition is filed against the government under any circumstances. Proper action should be taken following the Court's order and government policy within the specified time limit set by the Court and instructions should be issued to the regional system to promptly inform the court. It is also stated that strict vigilance should be maintained to ensure that unnecessary contempt petitions are not filed. Yet, we find no progress. All that we see before us is complete defiance of the order of this Court with no justifiable reasons. In these circumstances, we find that Respondent No.2- Smt.Prabhavati Kolekar has committed contempt of the order passed by this Court on 10 June 2022.

5. As regards the punishment to be imposed, we direct that Respondent No.2 shall deposit an amount of Rs.30,000/- with the Registry of this Court. The amount be deposited within a period of four weeks. In view of the harassment suffered by the Petitioner, we permit the Petitioner to withdraw the said amount.

6. Copy of this order holding Respondent No.2 guilty of the contempt be forwarded to the Secretary, Education Department to be placed in the service record of Respondent No.2- Smt.Prabhavati Kolekar.

7. Contempt petition is accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)