

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 356 OF 2021
IN
WRIT PETITION NO. 4060 OF 2015

Jagannath Dyandeo Gaikwad

...Petitioner

Versus

State Of Maharashtra And Ors.

...Respondents

Mr. Kalpesh U. Patil, for Petitioner.

Ms. Nisha Mehra, AGP for Respondent Nos.1 to 5.

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**CORAM: NITIN JAMDAR &
M.M. SATHAYE, JJ.**

DATE : 30 APRIL 2024

P.C.:

. The Petitioner has filed this contempt petition making a grievance that the order dated 10 June 2016 is not complied with by the Respondents. The petition came up on board on various occasions and it was adjourned on 21 February 2024, when the Court noted that despite two communications from the office of Accountant General calling upon the Education Officer to submit the proposal, yet no action was taken and therefore, it was noted that apart from being in breach of the order of the Court, Respondent No.5 has also not acted as per the communications of the office of the Accountant General. Since the matter falls under section 10 of the Maharashtra Government Servants Regulation of Transfers and

Prevention of Delay in Discharge of Official Duties Act, 2005 (for short “the Act of 2005”), attention of the Director of Education was drawn to said section 10 of the Act of 2005. It is after this order was passed that now an affidavit is tendered by Director of Education on 29 April 2024. Attention was drawn to Section 10 of the Act 2005, which reads thus:

10. Disciplinary action .- (1) Every Government servant shall be bound to discharge his official duties and the official work assigned or pertaining to him most diligently and as expeditiously as feasible :

Provided that, normally no file shall remain pending with any Government servant in the Department or office for more than seven working days :

Provided further that, immediate and urgent files shall be disposed of as per the urgency of the matter, as expeditiously as possible, and preferably the immediate file in one day or next day morning and the urgent file in four days :

Provided also that, in respect of the files not required to be referred to any other Department, the concerned Department shall take the decision and necessary action in the matter within forty-five days and in respect of files required to be referred to any other Department, decision and necessary action shall be taken within three months.

(2) Any willful or intentional delay or negligence in the discharge of official duties or in carrying out the official work assigned or pertaining to such Government servant shall amount to dereliction of

official duties and shall make such Government servant liable for appropriate disciplinary action under the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 or any other relevant disciplinary rules applicable to such employee.

(3) The concerned competent authority on noticing or being brought to its notice any such dereliction of duties on the part of any Government servant, after satisfying itself about such dereliction on the part of such Government servant shall, take appropriate disciplinary action against such defaulting Government servant under the relevant disciplinary rules including taking entry relating to such dereliction of duty in the Annual Confidential Report of such Government servant.”

2. In reply affidavit dated 29 April 2024, the Director of Education has noted that there has been breach of the order of the Court and also breach of section 10 of the Act of 2005 and Rule 10 of Maharashtra Civil Services Discipline and Appeal Rules, 1979. He has stated as under.

*“5. I say that, this Respondent has issued a Show Cause Notice via a Memo dated 26.04.2024 to Shri Devidas Kullal, the Respondent No.5, who is in contempt, who has been instructed to submit a disclosure to the government. Subsequently, further action is being taken at the government level. Hereto annexed and marked as **Exhibit – A** is a copy of the said Show Cause Notice dated 26.04.2024.*

6. I further say that, now vide Letter dated 26.4.2024, the Government has sanctioned the interest arrears. The present Education Officer has

*compiled the same vide letter dated 29.4.2024. Hereto annexed and marked as **Exhibit – B** is a copy of the said Letter dated 29.04.2024, thereby disbursing the amount to the Petitioner.*

3. The show cause notice issued to Respondent No.5 invoking section 10 of the Act 2005 is placed on record calling for explanation of the Respondent No. 5. We place the responsibility of taking this action to its logical end on the Director of Education who would proceed as per law.

4. As regards the contempt petition, the amount of interest has been deposited. The learned counsel for the Petitioner states that the amount of interest is calculated only upto 2016 and it should be till date. According to us, now the order has substantially been complied with. Reason given for calculating interest upto 2016 is that it is the date on which pension has started. If the Petitioner is so desirous, the Petitioner can challenge this decision. However, in contempt jurisdiction, this defence cannot be considered as deliberately false. Hence, contempt petition is accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)