



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CONTEMPT PETITION NO.183/2024 IN WRIT PETITION NO.459/2019 (D)

Gokulsingh Jaysing Pardeshi .Vs. M. Muruganathan, Chief Executive Officer,
Zilla Parishad, Gondai and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. I. N. Choudhari, Advocate for petitioner.

CORAM : **ANIL L. PANSARE, J.**

DATE : **SEPTEMBER 26, 2024**

Heard.

2. The present petition is filed on the ground that the respondents – Chief Executive Officer and Education Officer (Primary) have committed contempt of the Court by willful disobedience of judgment and order dated 08.02.2024 passed by this Court in Writ Petition No.459/2019.

3. The petitioner is an Assistant Teacher with Zilla Parishad, Gondia. One Prabhakar Londhe was promoted as Head Master. The name of petitioner was not considered for promotion and, accordingly, the petitioner challenged the said promotion before this Court in the aforesaid writ petition. The Court set aside the order dated 19.04.2018 passed by Zilla Parishad, Gondia as also order dated 20.07.2018 passed by Additional Commissioner, Nagpur Division Nagpur in appeal. While doing so, the Court held that Prabhakar Londhe was wrongly promoted when the petitioner was qualified and eligible for promotion.

4. The counsel for the petitioner submits that despite aforesaid order, the Chief Executive Officer, Gondia has, on 03.05.2020, issued a letter to the petitioner calling upon his say on the report showing that if he is promoted, the teachers who are seniors to him, will suffer injustice and may result into further litigation.

5. According to the petitioner, issuance of letter by the Chief Executive Officer is nothing but judging the correctness or validity of the order passed by this Court, which amounts to contempt of the Court. In support, he has relied upon judgment passed by Coordinate Bench of Madras High Court in **Mottur Hajee Abdul Rahman and Co Vs. Deputy Commercial Tax Officer, Vaniyambadi, North Arcot Dt. And anr; AIR 1969 MADRAS 232**, wherein the Court held thus:

“5. I emphasis and it is worth emphasising that no officer of the Government, however high or exalted he may be, can take upon himself the responsibility of judging the correctness or validity of an order of any Court and if he honestly and bona fide in the discharge of his functions feels that the order is erroneous or requires any modification, the only remedy open to him is to approach that Court by way of review of modification or a higher Court by way of appeal or otherwise. Apart from that, it is not open to him to take upon himself the responsibility of judging the order and take any action contrary to or inconsistent with the same on the basis of his own judgment. If once an officer is permitted or allowed to do any such thing, that will mean the end of the very principle of rule of law on the basis of which the entire fabric of our democratic society has been constructed.”

6. I have gone through the judgment to find that the facts were altogether different. Following paragraph in the aforesaid judgment will not only disclose the facts but also background as to why contempt was issued:

“3. I have no doubt whatever that the notice dated 9th May, 1968, issued to the petitioner does constitute contempt of this Court. The interim order of stay issued by this Court clearly told the respondents that writ petitions had been filed challenging the validity of Item 7 of the Second Schedule to the Madras General Sales Tax Act of 1959, and on that basis they were required not to take any further assessment proceedings for the years 1967-68 and 1968-69 in respect of the petitioner, pending further orders on the petitions. As I extracted already the notice dated 9th May, 1968, categorically informed the petitioner that according to the provisions in force the petitioner was liable to tax on the transactions effected by him as registered dealer. It is conceded before me that the 'provisions in force' referred to in the said notice are the identical provisions whose validity has been challenged in the writ petitions before this Court and with respect to which alone stay order has been issued. Consequently, in issuing the notice dated 9th May, 1968, the respondents clearly contravened the orders of stay passed by this Court.”

7. Thus, in context with the aforesaid set of facts, the High Court held that no officer of Government can take upon himself the responsibility of judging the correctness or validity of an order of the Court.

8. Such is not the case here. Firstly, there is no order directing the Chief Executive Officer to promote the petitioner as Head Master and secondly the Chief Executive Officer has not

promoted any other teacher in contravention to the order passed by this Court.

9. It is worth mentioning here that this Court has not held that the petitioner is entitled for promotion. What has been held is that the petitioner was qualified and eligible for promotion qua Mr. Londhe. 'To be eligible' for promotion and 'to be entitled', are two different things.

10. The Chief Executive Officer has called upon the petitioner to submit his say on the consequence of his promotion by ignoring the other senior teachers. If the petitioner is of the view that the finding in the writ petition has some bearing on his promotion by superseding his seniors, he ought to have clarified such status by submitting his say. He, however, has approached this Court, that too under contempt jurisdiction which, on facts, appears to be without any substance.

11. The petition is accordingly dismissed.

(Anil L. Pansare, J.)