



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

CONTEMPT PETITION NO.42 OF 2022
IN
WRIT PETITION NO. 1175 OF 2016 (D)

(Suresh s/o Namdeorao Pangul vs. Shri Vikas Chandra Rastogi and others)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr. Anand Parchure, Advocate for the petitioner.
Mr. D.V.Chavan, Government Pleader with Mr.H.R.Dhumal,
Assistant Government Pleader for respondent Nos.1 to 3.
Mr. V.K.Paliwal, Advocate for respondent Nos.4 and 5.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : JUNE 20, 2024

Speaking to minutes on the order dated 13/06/2024,
correction as submitted by the learned Government Pleader,
particularly in para 3 thereof is allowed. Para 3 reads thus :-

“3. The only explanation coming forth from the affidavit dated 12/06/2024 of Joint Director, Higher Education, Nagpur Division, Nagpur that he has filed after a lapse of period of more than two years a Special Leave Petition before the Hon’ble Apex Court. The fact remains that there was no interim order in operation in Special Leave Petition. Observation about which is reflected in the order dated 17/04/2024.”

2) Corrected order be uploaded.

CIVIL APPLICATION NO. 49 OF 2024

For the reasons stated in the application, we allow the application in terms of prayer clause (1), particularly as the prayer is also not objected by the learned counsel appearing for the petitioner.

CONTEMPT PETITION NO.42 OF 2022

The affidavit of Dr.Dhanraj Mane, respondent No.2 who was holding the charge of the post of Director of Higher Education upto 16/11/2022 is taken on record. The said Officer is not present in the Court. As such, the Court is handicapped in proceeding against the said Officer.

2) Issue bailable warrant in sum of Rs.10/- returnable on **15/07/2024**. We direct the Commissioner of Police, Pune to ensure the execution of bailable warrant on the said Officer.

3) The present contempt petition pertains to the non-compliance of the orders of this Court passed on 27/08/2021 and 14/09/2021 in Writ Petition No.1175/2016.

4) This Court after having realised that the services of the petitioner was absorbed on the post of Lecturer (Commerce) in respondent No.5 College, he is entitled for consequential service and retiral benefits within a period of three months.

5) We have already noted that in spite of the fact that the period of three months has expired, the order was neither complied nor an extension was sought from this Court.

6) The respondent rightly so approached the Apex Court by taking recourse to the remedy available to him, however, during the pendency of the Special Leave Petition (SLP) neither there was any interim relief in operation nor after the dismissal of the SLP, the order is complied forthwith. As the SLP appears to have been dismissed on 01/04/2024 and the amount of gratuity claim to have been released on 18/06/2024.

7) The fact remains that till this date the pension is not released. One of the reason cited in the affidavit appears to be that the respondent Nos.4 and 5 have not forwarded the papers to the office of respondent well within time.

8) The respondent No.5 is informed to have died. The respondent No.4 has neither filed reply in the matter nor is present in the Court, as such, we deem it appropriate to issue bailable warrant in sum of Rs.100/- in the name of respondent No.4 Mrs.Usha Kiran Thute and also the present Principal of respondent No.5 College, namely, Mr.B.M.Rajurkar, as the earlier orders passed in the present contempt proceedings were informed to have been communicated by learned counsel Mr.Paliwal to the said Officer, who is manning the post of Principal.

9) We further deem it appropriate to grant leave to amend so as to enable the addition of parties, namely, Dr.Shailendra Deolankar, in-charge Director of Education, Mr.Santhosh Chavan, Joint Director of Higher Education and Mr.B.M.Rajurkar, Principal.

10) Having perusal of the affidavits sworn by Joint Director of Education Nagpur, on 06/09/2022 and 12/06/2024, the following pleadings are worth referring to :-

“4. I state that, the judgment of which the disobedience is alleged by the petitioner, has been assailed by the State Government by preferring a Special Leave Petition on 1st September, 2022. The Special Leave Petition has been granted vide registration number SLP(Diary)No.27398/2022.

Hence the affidavit.”

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“3. It is submitted that on 03/04/2024 the answering respondent issued communication addressed to the Director, Higher Education, Maharashtra State, Pune seeking permission to comply with the aforesaid order dated 14/09/2021. In response to the aforesaid Communication dated 03/04/2024, the Director (Higher Education), Maharashtra State, Pune issued a communication to the Principal Secretary, High and Technical Education intimating therein that aforesaid Special Leave Petition is rejected and therefore requested to issue appropriate orders for the compliance of the aforesaid order dated 14/09/2021. A copy of communications dated 03/04/2024 and 15/04/2024 are annexed herewith Annexure R-1 and R-2 respectively.”

11) Dr.Shailendra Deolankar, in charge Director of Higher Education in his affidavit has narrated the events which led to the non-compliance of the orders.

12) The perusal of the same reflects that the things started moving only after April, 2024 and for last three years hardly there was any progress in the matter or steps taken by either of the respondents to report the compliance of the order of this court, whereby the directions were issued to release not only the pensionary benefits, but also gratuity.

13) The present incumbent Dr.Shailendra Deolankar has taken over the charge on 17/01/2022 of the post of Director of Higher Education, whereas Mr.Sanjay Thakre, earlier Joint Director remained in charge of the post from 04/02/2021 to 06/11/2023. After 06/11/2023 Mr.Santosh Chavan was put into charge of Joint Director of Higher Education, Nagpur. All these four Officers including respondent No.2 Dr.Dhanraj Mane prima facie were responsible for compliance of orders of this Court.

14) The affidavit referred to above, particularly, the reproduction hereinabove, from the affidavits depicts that the

these Officers in spite of there being specific time bound directions from the Court, have chosen to take shelter of the want of approval from the Secretary Higher Education for the purpose of releasing the pensionary benefits and the gratuity.

15) Such conduct can be viewed as challenging the Authority of the Court and also their intentions not to comply the orders of the Court. That being so, this Court is *prima facie* satisfied that the aforesaid Officers are liable to be proceeded under the Contempt of Courts Act. As such, we pass following order :-

1. Dr.Shailendra Deolankar, in charge Director of Higher Education, Mr.Sanjay Thakre, the then Joint Director of Higher Education, Nagpur and Mr.Santosh Chavan present Joint Director of Higher Education, Nagpur have conducted themselves in defiance of the directions issued by this Court in Writ Petition No.1175/2016 decided on 14/09/2021, as the time bound directions mentioned in para 10 are not complied in its true letter and spirit till this date. That being so, it is ordered that Charge under the Contempt of Courts Act is framed against all these three Officers, who are present in Court and waives service of notice.
2. The affidavit-in-response to the Charge framed by this Court is assured to be placed on record, within three weeks from today.
3. We further permit the Government Pleader to place on record the affidavit of Principal Secretary within aforesaid period.

4. Since delayed payment of pension and the gratuity also carries interest and an order to that effect is earlier passed by this Court, we deem it appropriate to direct these Officers to explain as to why the amount of interest payable to the petitioner shall not be deducted from their salaries with an adverse entry to that effect be made in their Service Record.
5. Similarly, we expect the response of respondent No.4 and newly added respondent i.e. present Principal of the College as regards the steps taken by them in the matter of reporting compliance of the order.
6. We make it clear that in case on the next date the respondent No.4 and newly added respondent Principal fails to submit response, the Court will constrain to issue non-bailable warrants.
7. Stand over to **18/07/2024**.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)