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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.257 OF 2022**

Head Master, Kauthali Vidyalaya, Kauthali	 Petitioner.
V/s	
State of Maharashtra, Mumbai and Others	 Respondents.

**WITH
CONTEMPT PETITION NO.258 OF 2022**

Head Master, Adv. Diliprao Sopal Vidyalaya	 Petitioner.
V/s	
State of Maharashtra, Mumbai and Others	 Respondents.

**WITH
CONTEMPT PETITION NO.259 OF 2022**

Head Master, Mungshi Vidyalaya, Mungshi	 Petitioner.
V/s	
State of Maharashtra, Mumbai and Others	 Respondents.

**WITH
CONTEMPT PETITION NO.260 OF 2022**

Head Master, Sharadchandra Vidyalaya, Bavi	 Petitioner.
V/s	
State of Maharashtra, Mumbai and Others	 Respondents.

**WITH
CONTEMPT PETITION NO.261 OF 2022**

Head Master, Kasari Vidyalaya, Kasari	 Petitioner.
V/s	
State of Maharashtra, Mumbai and Others	 Respondents.

**WITH
CONTEMPT PETITION NO.262 OF 2022**

Head Master, Shardadevi Prashala Vairag	 Petitioner.
V/s	
State of Maharashtra, Mumbai and Others	 Respondents.

Mr. Vishwasrao S. Deokar, Advocate for the petitioners in all the above contempt petitions.

Mr. V.M. Mali, AGP for the respondents-State in Contempt Petition No.257 of 2022.

Mr. P.P. Kakade, Addl. GP a/w Mr. S.B. Kalel, AGP for the respondents-State in Contempt Petition No.258 of 2022.

Mrs. M. P. Thakur, AGP for the respondents-State in Contempt Petition No.259 of 2022.

Mr. P.G. Sawant, AGP for the respondents-State in Contempt Petition No.260 of 2022.

Mrs.N.M. Mehra, AGP for the respondents-State in Contempt Petition No.261 of 2022.

Mr. A.K. Naik, AGP for the respondents-State in Contempt Petition No.262 of 2022.

**CORAM : SHREE CHANDRASHEKHAR &
MANJUSHA DESHPANDE, JJ.**

DATE : 5th August 2025

Per, Shree Chandrashekhar, J :

These contempt petitions have been filed with identical prayers. For the sake of brevity, prayers in Contempt Petition No. 257 of 2025 are reproduced hereinbelow:-

“a) Rule be issued and record and proceedings be called for;

b) That this Hon'ble Court be pleased to call Contemnors to prison for such a period, as this Hon'ble Court deems fit and proper for having committed habitual, deliberate and intentional breach of the orders dated 23.01.2003, 23.09.2003, 07.09.2006, 10.10.2006, 27.03.2012, 04.09.2013, and 21.04.2015 (Exh. A to F).

c) That this Hon'ble Court be pleased to impose such deterrent penalty on the Contemnors as this Hon'ble Court deems fit and proper for having committed habitual deliberate and intentional breach of the orders dated 23.01.2003, 23.09.2003, 07.09.2006, 10.10.2006, 27.03.2012, 04.09.2013, 08.10.2013 and 21.04.2015. (Exh. A to F).

d) That this Hon'ble Court be pleased to direct the Respondent to sanction the costs of the petition be provided;

e) any such and further order and/ or direction be given as the nature and circumstances of the case may require.”

2. In the year 2003, several writ petitions were filed by the Head Master(s) of different schools situated within the district of Solapur viz. Writ Petition No.5975 of 2002 by the Head Master, Kauthali Vidyalaya, Kauthali; Writ Petition No. 465 of 2003 by the Head Master, Diliprao Sopal Vidyalaya, Surdi; Writ Petition No.466 of 2003 by the Head Master of Sharadchandra Vidyalaya, Bavi; Writ Petition No.5933 of 2002 by the Secretary, Mungshi Vidyalaya, Mungshi; Writ Petition No.5831 of 2002 by the Head Master Shardadevi Prashala Vairag; Writ Petition No.5901 of 2002 by the Head Master, Kasari Vidyalaya, Kasari. All these writ petitions were disposed of by separate orders passed on 23rd January 2003 with a direction to the respondents to take appropriate decision regarding the prayers made by the petitioner(s) keeping in mind the Resolution dated 28th June 1994. The writ Court further directed that such decision shall be taken preferably within three months from the date of passing of the said order. Aggrieved by the inaction on part of the respondent-Authorities who did not take a decision to grant sanction/approval for one additional post of Senior Clerk, the schools approached the writ Court by filing Writ Petition Nos. 3662 of 2006, 3651 of 2006, 3652 of 2006, 4837 of 2005, 3653 of 2006, 3654 of 2006. Those writ petitions again came to be disposed of by separate orders passed on 10th October 2006 permitting the petitioner(s) to approach the respondent-Authorities who were directed to pass an order within four months after granting an opportunity of hearing to the petitioner(s) and other persons who were likely to be affected by the decision taken thereon. About six years thereafter, the petitioner(s) laid contempt petitions alleging wilful violation of the order dated 23rd January 2003 and subsequent orders passed by the writ Court. In the proceedings of the said contempt petitions, a stand was taken by the respondent-Authorities that the demand for sanction/approval of one additional post of Senior Clerk cannot be accepted in view of the Resolution dated 23rd October 2013 which superseded the previous Government Resolution issued on 28th June 1994. Notwithstanding the restrictions under Government Resolution dated 23rd October 2013, the petitioner(s) and other schools came before this Court in Writ Petition Nos.5999 of 2014, 2969 of

2015, 2970 of 2015, 2971 of 2015, 2972 of 2015, 2973 of 2015, 6070 of 2014, 6071 of 2014, 6072 of 2014 and 6073 of 2014. These writ petitions were also disposed of without adjudicating the demand made by the petitioners. However, the prayers at clauses (b) and (c) were granted by the writ Court observing that there was no justification whatsoever for denying the demand made by the petitioners. Just to indicate, these writ petitions were disposed of without taking an affidavit-in-reply from the respondents.

3. Mr. Vishwasrao Deokar, the learned counsel for the petitioner(s) in this batch of contempt petitions referred to series of orders passed by this Court in particular order dated 17th January 2024 by which an opportunity was granted to the respondents to comply with the order passed by the writ Court, if not already complied. The learned counsel for the petitioner(s) has also taken us through the order passed in Writ Petition No.5999 of 2014 and connected matters which were disposed of by an order dated 21st April 2015 in terms of the prayer clauses (b) and (c). In the affidavit-in-reply filed in Contempt Petition No.261 of 2022, following stand has been taken by the respondents :

“9. I say that, as per the orders passed by the Deputy Director of Education, communication was made to the Petitioner Institute to forward the fresh proposal in accordance with law. In spite of this clear directions, the Petitioner Institute has not challenged the order passed by the Deputy Director of Education dated 14.11.2007.

10. I say that, the order passed by this Hon'ble Court on 10.10.2006 in Writ Petition No. 3662 of 2016 and alongwith other petitions, was fully complied with by the Respondent and an order passed by the Deputy Director of Education on dated 14.11.2007.

11. I say that, in spite of the order, the Petitioner has again filed Contempt Petition No. 253/2012 in Writ Petition No.3662/2006, Contempt Petition No. 254/2012 in Writ Petition No.3652/2005, Contempt Petition No. 255/2012 in Writ Petition No.3651/2006, Contempt Petition No. 256/2012 in Writ Petition No.3654/2006 and Contempt Petition No. 257/2012 in Writ Petition No. 3653/2006.

12. I say that, in the above mentioned Contempt Petition, this Hon'ble Court vide its order dated 27.03.2012 to issue notice

to the Respondents under Rule 9(1) of Contempt of Courts. Accordingly, the then Additional Chief Secretary, School Education and Sports Department filed an affidavit dated 02.05.2013 placing on record the efforts taken by the Respondents to comply the orders passed by this Hon'ble Court. I say that, this Contempt Petition came up for hearing on 04.09.2013, when Their Lordships have passed an order observed that "Let such an impression be not given in the present case and we are sure that the final authority will now take a decision and before the next date i.e. 07.10.2017". I say that, this Contempt Petition was listed for hearing on 07.10.2013. When this Hon'ble Court has directed the Secretary, School Education and Sports Department to immediately present before this Hon'ble Court on 08.10.2013 personally."

4. Under clause (b) of section 2 of the Contempt of Courts Act, 1971, the expression "civil contempt" has been defined to mean wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a Court. The learned counsel for the petitioner(s) submits that in the previous proceedings before this Court the Chief Secretary and other higher authorities of the State Government were called in the Court and they had assured the Court that they would comply the order passed by the writ Court/contempt Court. However, as we glanced through the orders passed in previous proceedings and take a note of the stand taken by the respondents, the Education Officer or Deputy Director or, for that matter, the Director of Education had no power to create new post in terms of Government Resolution dated 23rd October 2013. Therefore, we have formed an opinion that mere allegation of disobedience of the order passed by this Court, if any, is not sufficient to continue with these contempt petitions. There is no written undertaking filed by the respondents in the previous proceedings before this Court, the breach of which could have been alleged in these contempt petitions. Furthermore, we find that a batch of contempt petitions under Contempt Petition No.257 of 2022 and connected petitions came to be dismissed holding that there was no wilful and intentional disobedience of the order passed by this Court. The contempt Court held as under :

“On hearing the learned counsel for the parties and on a perusal of the affidavit-in-reply filed on behalf of the respondents from time to time it appears that an action cannot be taken against the respondents under the provisions of the Contempt of Courts Act, 1971 for willfully disobeying the orders of this Court in the writ petitions filed in the year 2002, contempt petitions filed in the year 2003 and the writ petitions filed in the year 2006. As soon as the writ petitions filed in the year 2006 were decided, the petitioners were heard and the Deputy Director of Education conveyed the decision to the petitioners. Thereafter, the matter was placed before the High Power Committee as the same could have decided the applications for sanctioning the posts of the non-teaching staff. It appears that the matter was pending before the two departments of the Government and since the same had huge financial implications, a decision was taken in the matter and the Government Resolution dated 23.10.2013 was brought into effect. In the aforesaid background, the respondents cannot be held to be guilty of willful disobedience of the orders passed by this Court on the ground that the Government Resolution dated 28.6.1994 was not considered while taking the decision in the matter. In view of subsequent development, i.e. the issuance of the Government Resolution dated 23.10.2013 it would not be possible for this Court to direct the respondents in the contempt petitions to take a decision on the applications of the petitioners on the basis of the Government Resolution dated 28.6.1994. Though we find that there was some delay on the part of the respondents in taking an action in furtherance of the orders passed by this Court from time to time, it cannot be said that the said inaction or delay was intentional and deliberate. The respondents can not be held guilty for contempt unless it is established that the respondents have deliberately and willfully disobeyed the orders of this Court. We do not find any material to show that there was willful and deliberate disobedience of the orders. In the absence of willful or deliberate disobedience, the contempt petitions cannot be proceeded further.

In view of the aforesaid, the contempt petitions are disposed of with no order as to costs. The notice stands discharged.”

5. The proceedings which were started by the petitioners in the year 2003 cannot continue for another two decades on one pretext or the other. In that context, the respondents have taken a specific stand that the petitioners have abused the process of the Court in filing series of contempt petitions. The Court is required to act with great circumspection as far as possible and in unclear case the Court should not proceed in the matter. In *“Baradakanta Mishra vs The Registrar of Orissa High Court & Anr”*, 1974 (1) SCC 374 the Hon’ble Supreme Court emphasized that contempt jurisdiction should be exercised with scrupulous care and only when the case is clear and beyond reasonable doubt.

6. In view thereof, Contempt Petition Nos.257 of 2022, 258 of 2022, 259 of 2022, 260 of 2022, 261 of 2022 and 262 of 2022 are dismissed.

[MANJUSHA DESHPANDE, J.]

[SHREE CHANDRASHEKHAR, J.]