

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**CONTEMPT PETITION NO.53 OF 2024
IN
WRIT PETITION NO.1081 OF 2021**

Shridhar P. Prabhu

... Petitioner

V/s

Sandeep Sangve

The Deputy Director of Education,

Mumbai Region and Others

....Respondents.

Mr. Arshad Shaikh, Senior Advocate with Mr. Kalpesh J. Nansi,
Advocates for the petitioner.

Mr. Abhay L. Patki, Additional Government Pleader for the State –
respondent nos. 1 and 2.

Ms. Manorama Mohanty with Ms. Malika Mondal i/b S.K. Srivastav &
Co., Advocates for respondent nos. 3 and 4.

**CORAM : A. S. CHANDURKAR &
M. M. SATHAYE, JJ.**

DATE : 24th FEBRUARY 2025

P.C. :

1] By this contempt petition, the petitioner alleges non-compliance of the directions issued by this Court in Writ Petition No.1081 of 2021 (*Sridhar P. Prabhu vs. Shri Vile Parle Kelwani Mandal & Ors.*) vide order dated 17/08/2022. He therefore seeks invocation of contempt jurisdiction.

2] In the aforesaid writ petition, the order dated 16/12/2020 passed by the Deputy Director of Education refusing to grant approval to the transfer of the petitioner came to be challenged. While setting aside

that order in Writ Petition No.1081 of 2021, this Court on 17/08/2022 observed in paragraphs 11 and 12 as under:-

“11. In light of the above, the impugned order is quashed and set aside. The Deputy Director of Education shall reconsider the proposal. It may consider the case as that of absorption, which is certainly permissible under Rule 25A so also Rule 26 of the MEPS Rules.”

“12. The Deputy Director of Education will only be required to consider whether the petitioner possesses the necessary qualification to the post and whether the petitioner is absorbed and the post is available. The proposal shall be decided on its own merits expeditiously preferably within three months. If the proposal is approved, the petitioner would be entitled to continuation of service.”

3] Mr. Arshad Shaikh, the learned Senior Advocate for the petitioner submits that in the light of the adjudication of the earlier writ petition, the only option available with the respondent was to approve the proposal in the matter of absorption of the petitioner. According to him, by passing an order dated 11/03/2024, the respondent has sought to re-open the said issue and reject the proposal. He therefore submits that this Court may invoke contempt jurisdiction.

4] Per contra, Mr. Abhay Patki, the learned Additional Government Pleader submits that proposal was considered on merits and after holding that the petitioner possesses necessary qualification and that the post in question was available has refused to approve the proposal. Assuming that such rejection was improper, same could be challenged independently but there was no case for invoking contempt jurisdiction.

5] We have perused the order passed in Writ Petition No.1081 of 2021 as well as the decision taken by the respondent on 11/03/2024 rejecting the proposal. In exercise of contempt jurisdiction, the correctness or otherwise of an order passed in compliance of directions issued in the Writ Petition cannot be gone into. We do not find that by refusing to grant such approval there has been wilful or deliberate breach or disobedience of the directions issued in the Writ Petition. We are therefore not inclined to invoke contempt jurisdiction.

Needless to state that correctness of the order dated 11/03/2024 is open to challenge by the petitioner if he is so advised. It is clarified that the observations made in this order would not come in the way of the petitioner if an independent challenge is raised to the order dated 11/03/2024 in appropriate proceedings.

6] The contempt petition is disposed of as not entertained.

(M. M. SATHAYE, J.)

(A. S. CHANDURKAR, J.)