



172-2022

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

CONTEMPT PETITION NO. 172 OF 2022

(Mr. Ajay Keshavrao Charde Vs. Dhanraj Lahanuji Rewatkar, The Secretary & Ors.)

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

Court's or Judge's orders.

Mr. P.P. Thakare, Counsel for the petitioner.
Mr. P.A. Abhyankar, Counsel for respondent no.1.
Ms P.C. Bawankule, A.G.P. for respondent no.4/State.

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CORAM : ANIL L. PANSARE, J.
FEBRUARY 11, 2025

On previous date, following order was
passed :

“The parties shall go through the judgment of the Supreme Court in Chaduranga Kanthraj Urs and anr. Vs. P. Ravi Kumar and Ors., [Contempt Petition (Civil) No. 688/2021 decided on 10.12.2024], wherein preface of contempt has been spelt out, which reads thus:

“PREFACE:

1.10 In order to punish a contemnor, it has to be established that disobedience of the order is 'wilful'. It means knowingly-intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. It would exclude casual, accidental, bonafide or unintentional acts or genuine inability and would also not include involuntary or negligent actions. The deliberate conduct of a person means that he knows what he is doing and intends to do the same. It is too well settled that if two interpretations are possible, and if the action is not contumacious, a contempt proceeding would not be maintainable.

1.11 The weapon of contempt will not be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. The paramount consideration is given to maintain court's dignity and majesty of law. In Sudhir Vasudeva Vs. George

*Ravishekeran*¹ this Court has observed that a Court exercising jurisdiction under the Contempt of Courts Act, 1971 must not travel beyond the four corners of the orders in relation to which contempt has been alleged. That the Court hearing a contempt petition ought to restrict the scope of its enquiry to such directions which are explicit in the judgment or orders of which contempt has been alleged.

1.12 The civil contempt would mean a wilful disobedience of a decision of this Court. What would be relevant is the "wilful disobedience". Hence, knowledge of having acted in disregard to an order is *sine qua non* for being proceeded with if there is a deliberate, conscience and intentional act then the jurisdiction can be clutched."

2. As could be seen, before punishing a contemnor, it will have to be established that disobedience of the order is wilful. Disobedience would mean an act done intentionally-knowingly, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. The Court held that the act would not include casual, accidental, bona fide or unintentional act or genuine inability and would also not include involuntary or negligent actions. The Court further held that deliberate conduct of a person means that he knows what he is doing and intends to do the same. Accordingly, it is held that knowledge of having acted in disregard to an order is *sine qua non* for being proceeded with, if there is a deliberate, conscience and intentional act. The Court further held that weapon of contempt will not be used for execution of decree or implementation of an order for which alternative remedy in law is provided for.

3. The petitioner shall, therefore, satisfy that in the given set of facts, where the School Tribunal has passed consequential order of failure of management to pay back-wages, the contempt petition is maintainable.

4. List in the week commencing from 10.02.2025."

2] In response, the petitioner's Counsel, instead of satisfying the Court as to how contempt is maintainable, has filed an affidavit stating therein details of bank account, which, according to the petitioner, have been not disclosed by the respondent – Management. The petitioner's Counsel goes on to state that there are personal properties of the trustees of the respondent – Society.

3] Thus, the entire focus of the affidavit, nay the petition, is on recovery of backwages. Thus, the petitioner is using contempt jurisdiction as a weapon for execution/ implementation of order passed by the School Tribunal. The School Tribunal was pleased to pass following order :

“ORDER

- 1. Appeal is allowed.*
- 2. The otherwise termination of the appellant dated 26/06/2015 is hereby quashed and set aside vide Section 11(2) of the MEPS Act.*
- 3. The respondent management is hereby directed to reinstate the appellant with continuity in service along with full back wages as per Rules, within 30 days from the date of this order vide Section 11(2)(a) of the MEPS Act.*
- 4. The Government of Maharashtra is recommended vide Section 11(3) of the MEPS Act, 1977 that if the respondents failed to comply with the above order the emoluments to be paid to the appellant till he reinstated in service shall be deducted from the grant due and payable or that may become due and payable in future to the Management and it be paid to appellant directly.*
- 5. No order as to costs.*
- 6. Dictated on computer and pronounced in open Court.”*

4] Thus, the respondent – Management was directed to reinstate the petitioner with continuity in service along with full backwages as per Rules within 30 days from the date of order and upon failure to comply order, a recommendation was made to the Government of Maharashtra to deduct from the grants due and payable to the Society and pay emoluments to the petitioner.

5] According to the Management, they are not in a position to pay backwages. The learned Counsel for respondent no.1 and the learned A.G.P. submit that the grant as and when made available is being paid to the petitioner.

6] In the circumstances, appropriate remedy, to my mind, is to approach the School Tribunal under Section 13 of the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 1977, either for execution of order or for criminal prosecution or both, which is, in fact, the efficacious remedy available to the petitioner.

7] The petition is accordingly dismissed.

(ANIL L. PANSARE, J.)

Sumit