



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

CONTEMPT PETITION NO. 302 OF 2022

(Gajanan Bhanayya Bitpalliwar Vs. Tukaram s/o Lachmaji Tore & Anr.)

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

Court's or Judge's orders.

Mr. S.M. Bahirwar, Counsel for the petitioner.
Mr. A.A. Dhawas, Counsel for respondent no.1.

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CORAM : ANIL L. PANSARE, J.
JANUARY 6, 2025

On 13/7/2023, following order was
passed :

*“List the matter on 20/07/2023, by which
time the respondent shall calculate the
backwages as per the judgment dated
30.06.2022 and deposit the same in this
Court.”*

2] The petitioner has filed this petition stating that order dated 30/6/2022 passed by this Court in Writ Petition No. 1027/2013 with connected writ petition, has been not complied with. This Court has, by the aforesaid order, directed the respondent – Society/employer to pay 100% backwages to the petitioner from 27/4/1993 till 28/6/2016. According to the petitioner, this order has been not complied with.

3] May be that the aforesaid order is not complied by the respondent – Society, however, the petitioner failed to point out that the respondent – Society has willfully disobeyed the order. There is nothing in the

petition to indicate that the respondent – Society has willfully disobeyed the order. Merely a statement is made that in spite of sending legal notice and communication, the respondent – Society has not complied the aforesaid order.

4] The Hon'ble Supreme Court in the case of *Chaduranga Kanthraj URS and Another Vs. P. Ravi Kumar and Others* [2024 SCC OnLine SC 3681] has laid down the essential ingredients to invoke contempt jurisdiction, which read thus :

“1.1 to 1.9

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 v. George Ravishekeran 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."

5] As could be seen, before punishing a contemnor, it will have to be established that disobedience of the order is willful. 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, bonafide 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.

6] To my mind, the petitioner herein is using weapon of contempt to get the order executed. As stated above, there is nothing in the petition to indicate that the respondent – Society has willfully disobeyed the order.

7] That being so, there is no merit in the petition. The petition is dismissed.

8] The learned Counsel for respondent no.1 is, however, seeking permission to deposit the amount of backwages with the Registry in terms of order dated 13/7/2023.

9] Permission is granted. The amount be deposited forthwith.

10] Once the amount is deposited, the petitioner is at liberty to withdraw the same.

(ANIL L. PANSARE, J.)

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