



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

983 CONTEMPT PETITION NO.106 OF 2026

SWAMI VIVEKANAND CHARITABLE TRUST, BABHALGAON THROUGH ITS
SECRETARY SMT. USHADEVI VYANKATRAO DESHMUKH

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. G.V. Mohekar, Advocate for petitioner

Mr. V.M. Kagne, AGP for respondent Nos.1 to 3

...

AND

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**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 26th MARCH, 2026

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

. Both the petitions have been filed contending that respondent Nos.1 to 3 have willfully, deliberately and intentionally floated / violated the Judgment and order dated 16.07.2012 in Writ Petition No.10950 of 2010 and Judgment and order dated 22.10.2012 in Writ Petition No.8901 of 2012 respectively. Both the petitions are filed by same Trust.

2 Heard learned Advocate for petitioner and learned AGP for respondents/State in both petitions.

3 The petitioner Trust intended to run two primary schools on non grant basis and, therefore, submitted the proposals. They have deposited the requisite fees with the Government and no decision was taken. After hearing all the parties, this Court had asked the authorities to take decision on those proposals, however, no decision has been yet taken. Hence, it is alleged that there is violation of respective orders.

4 Learned Advocate for petitioners submitted that in Contempt Petition No.107 of 2026 after the order was passed by this Court, the Deputy Director of Education by letter dated 21.09.2017 asked the petitioner to keep the record available for inspection and after inspecting the same respondent

No.2 had made positive recommendation to the Government by letter dated 14.07.2014. Thereafter by letter dated 21.04.2022 the State Government informed the petitioner and asked the petitioner to remain present for the hearing. The hearing lastly took place on 05.05.2022. The petitioner had given a letter dated 17.11.2022 to the concerned Hon'ble Minister for grant of permission, however, it has not been addressed. Therefore, it is the gross violation of the order. Further, in Contempt Petition No.106 of 2026 the petitioner had given reminders / applications on 11.07.2016, 05.10.2016 and 27.10.2016, however, no cognizance of those letters have also been taken. Respondent No.3 by communication dated 21.09.2017 had then inspected the record with the petitioner Trust. Respondent No.2 forwarded the proposal by letter dated 14.03.2018 to the Government and sought guidance. When there was no response, the petitioner institution issued letter dated 17.11.2022 to the Hon'ble State Minister to take decision on the proposal of petitioner; yet no decision has been taken.

5 After hearing learned Advocate for petitioners, when he was directed to satisfy the point of limitation in view of Section 20 of the Contempt of Courts Act, he submitted that petitioners were continuously representing and pursuing the authorities to obey the order passed by this Court. Therefore, it would be the continuous cause of action for the

petitioner and there is no question of bar of limitation.

6 Learned AGP submits that in the pleading itself the petitioners have contended that no action has been taken by respondents for a period of about 13 years. So lapse of 13 years is admitted to the petitioners. The proposal was to start the school. It cannot be said to be a continuous cause of action and mere representations / applications will not revive the period of limitation. He relies on the decision in **S. Tirupathi Rao vs. M. Lingamaiah and others** [(2024) 20 SCC 188], wherein the scope of continuing wrong / breach / offence has been explained.

7 The facts herein are clear. The orders those are allegedly violated are dated 16.07.2012 and 22.10.2012 respectively. Section 20 of the Contempt of Courts Act runs thus -

“20. **Limitation for actions for contempt.** - No court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.”

8 In **S. Tirupathi Rao** (supra) note has been taken of the vires of Section 20 of the Act upheld by the Division Benches of the High Court of Andhra Pradesh, Karnataka and Calcutta. Need has been stressed for taking

cognizance of the breach by the Courts at the earliest which was highlighted by the Joint Select Committee of the Parliament on Contempt of Court (Bhargava Committee) after examining the Report of Sanyal Committee on the question of limitation. Hon'ble Supreme Court has made following observations in paragraph 77 :

“77. Therefore, it would be correct to state that the court's power when dealing with the question of contempt, in a sense, is discretionary. It cannot be gainsaid that even in cases where disobedience of the order of the court is not disputed, the court may also accept a defence, if raised, of impossibility to comply with an order and come to the conclusion that since it is impossible to enforce its order, action to punish may not be initiated. That apart, refusal may be justified by grave concerns of public policy. Much would depend on the facts and circumstances of the case, the nature of the contempt under enquiry, etc., which would enable the court to exercise its discretion either way. However, to demonstrate his *bona fide*, the contemnor ought to bring any valid defence for his disability to comply with the court's direction to its notice without wasting any time. Whatever be the position before it, nothing stands in the way of the high court from passing an order to ensure that nothing impedes the course of justice.”

Further, it has been observed that -

78. Reverting to the point of limitation, even in case of a petition disclosing facts constituting contempt, which is civil in nature, the petitioner cannot choose a time convenient to him to approach the Court. The statute refers to a specific time limit of one year from the date of alleged contempt for proceedings to be initiated; meaning thereby, as laid down in Pallav Sheth (*supra*), that the action should be brought within a year, and not beyond, irrespective of when the proceedings to punish for contempt are actually initiated by the high court.

79. An action for contempt - though instituted through a petition or an application – is essentially in the nature of original proceedings, as held by this Court in *High Court of Judicature at Allahabad v. Raj Kishore Yadav*; a fortiori, a prayer for condonation of delay in presenting the petition/application alleging contempt would not be maintainable. The express negative phraseology used in section 20 of the Act, as a legislative injunction, places a fetter on the court's power to initiate proceedings for contempt unless the petition/application is presented within the time-frame stipulated therein. However, since section 20 also uses the expression "date on which the contempt is alleged to be committed" as the starting point of the period of one year to be counted for reckoning whether the petition/application has been presented within the stipulated period, the high courts ought to be wary of crafty and skillful drafting of petitions/applications to overcome the delay in presentation thereof."

The caveat of continuing wrong / breach / offence has been explained and a caution has been given to the Courts while assessing as to whether the bar can be exempted under the teeth of continuing wrong. It has been further observed that -

"If the bogey of "continuing wrong/breach/offence" is mechanically accepted whenever it is advanced as a ground for claiming exemption, an applicant may knock the doors of the Court any time suiting his convenience. If an action for contempt is brought belatedly, say any time after the initial period of limitation and years after the date of first breach, it is the prestige of the court that would seem to become a casualty during the period the breach continues. Once the dignity of the court is lowered in the eyes of the public by non-compliance of its order, it would be farcical to suddenly initiate proceedings after long gap of time. Not only would the delay militate against the legislative intent of inserting section 20 in the Act (a

provision not found in the predecessor statutes of the Act) rendering the section a dead letter, the damage caused to the majesty of the court could be rendered irreparable. It is, therefore, the essence of justice that in a case of proved civil contempt, the contemnor is suitably dealt with, including imposition of punishment, and direction as well is issued to bridge the breach.”

9 We may also rely upon our own Judgment (to which SMT. JUSTICE VIBHA KANKANWADI was party) in **Mohammed Abdul Rahman s/o Mohammed Abdul Habib vs. The State of Maharashtra and others** in Contempt Petition No.935 of 2024 in Writ Petition No.9394 of 2015 decided on 29.11.2024 and relying upon **S. Tirupathi Rao** (supra) we had observed that if the petitioner intends to overcome the delay take shelter of the cause being a continuing wrong offering continuous cause of action it should be specifically pleaded and properly explained. And further observation is that Hon’ble Supreme Court deprecated entertaining of stale claims of contempt.

10 Therefore, taking into consideration the principles laid down in this decision to assess the point of limitation, here, in the present case, it can be seen that after the order was passed except the communication there is nothing. The said communication is also not periodical and after much gap of 2-3 years. Even if we take that lastly the State Government had given letter dated 21.04.2022 in Contempt Petition No.107 of 2026 for the period of limitation; yet the present petition has been filed on 04.09.2023 that is

also beyond the period of one year and, therefore, both the matters are devoid of merits and beyond the period of limitation. Hence, both contempt petitions stand **dismissed**.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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