
(2023) 01 BOM CK 0019

In the Bombay High Court

Case No : Contempt Petition No.359 Of 2022 In Writ Petition No.502 Of 2021

Anita Kiran Chavan

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 04-01-2023

Acts Referred:

Contempt Of Courts Act, 1971 — Section 12

Citation : (2023) 01 BOM CK 0019

Hon'ble Judges : Sandipkumar C. More, J

Bench : Single Bench

Advocate : S. N. Kendre, A. A. Jagatkar

Final Decision : Dismissed

Judgement

Sandipkumar C. More, J

1. The petitioner, who is party-in-person, has fled this petition under Section 12 of Contempt of Court Act in respect of alleged contempt order dated 24/03/2022 in her earlier Writ Petition No.502 of 2021 thereby asking for various reliefs as prayed in this petition.

2. On perusal of the prayers of this contempt petition, it appears that the petitioner has claimed various reliefs namely monitory reliefs as claimed in prayer clause-B and penal actions to be taken against the present respondents / contemptners and others such as fling criminal prosecution against them and their termination from service and also recovery of salary for a certain period of one Mr. Dr. Shriniwas Sonwane.

3. The petitioner herself submits that the respondents / contemptners did not act as per the direction given by this court under order dated 24/03/2022 in Writ Petition No.502 of 2021 and therefore, they must be held in contempt.

4. On the contrary, the learned AGP on behalf of respondents-State strongly opposed the petition by fling an affdavit in reply dated 17/10/2022 and

submitted that the direction of this court under the aforesaid order dated 24/03/2022 is already fulfilled and therefore, there is no scope left for the petitioner to file such contempt petition. He also pointed out that due to certain contingencies the direction of this court was not complied within the stipulated period and he also submitted his apology on behalf of the respondents / contemptners for the same.

5. Heard rival submissions. Also perused entire documents on record.

6. It is extremely important to note that under the order dated 24/03/2022, this court had directed the Chief Executive Officer, Zilla Parishad, Aurangabad to decide the representation of present petitioner, if preferred on or before 30/04/2022, till 15/06/2022. The perusal of the aforesaid order indicates that the petitioner had challenged the order dated 12/02/2018 in the Writ Petition No.502 of 2021, which was delivered by Additional Divisional Commissioner, Aurangabad, whereby her punishment of termination from service was reduced to stoppage of one increment temporarily. This court under order dated 07/11/2019 did not find any fault in the order dated 12/02/2018 and therefore, dismissed the Writ Petition No.8185 of 2018 filed by present respondent No.3. Thus, it appears that the order dated 12/02/2018 delivered by the Additional Divisional Commissioner, Aurangabad remained as it is. It further appears that in Writ Petition No. 502 of 2021 while dismissing the same, this Court had passed direction to the Chief Executive Officer, Zilla Parishad as mentioned above since the present petitioner made grievance that she was not paid her salary for a period of 5 months and 6 days i.e. from 10/03/2015 till 16/08/2015. Thus, it appears that under the order dated 24/03/2022 there was direction to the Chief Executive Officer, Zilla Parishad only to decide representation of the petitioner on or before 15/06/2022, which was allowed to file on or before 30/04/2022.

7. The documents submitted by the petitioner as well as respondent No.4 Dr. Sudhakar Shelke annexed to the affidavit in reply, clearly indicate that the petitioner as per the order dated 24/03/2022 had submitted representation to respondent No.3 on 11/04/2022. Thereafter, respondent No.3 had called explanation from the concerned Medical Officer, PHC, Banoti, Taluka : Soygaon, District : Aurangabad. Thereafter, the said Medical Officer, submitted his explanation dated 04/08/2022 accompanied with all the necessary documents. It further appears that after considering the record submitted by the said Medical Officer, respondent No.3 came to the conclusion that the petitioner remained absent during the period from 09/03/2015 to 16/08/2015 i.e. for almost 159 days without any reason and therefore, rejected the claim of the petitioner in respect of her salary and allowances for that period. Further, it appears that respondent No.3 had passed the aforesaid order of such rejection on 17/08/2022.

8. It is significant to note that the only direction given by this court under order dated 24/03/2022 was to decide the representation of petitioner, if made, on or before 30/04/2022 till 15/06/2022. It is evident that there is delay in deciding the representation of the petitioner, which was supposed to be decided on or

before 15/06/2022. However, it is not the case that respondent No.3 did not decide the representation of the petitioner at all. Admittedly, there is delay in deciding such representation, but considering the fact that the concerned Medical Officer, PHC, Banoti had in fact submitted his explanation reply on 04/08/2022 accompanied by supportive documents, the aforesaid delay in deciding the representation of the petitioner is justified. Thus, the respondents can not be held in contempt under the present petition.

9. So far as claim of the petitioner for recovery of the salary and allowances during the period from 09/03/2015 to 16/08/2015 is concerned, the same has been rejected on merit by respondent No.3 and therefore, such claim is out side the purview of this contempt petition. So far as taking criminal and penal action against the respondents and others as claimed by the petitioner under the other prayers, is concerned, the same also does not fall under the scope of this contempt petition since there was only direction under the order dated 24/03/2022 to decide the representation of the petitioner within certain period. In view of the same, there is no substance in this contempt petition and hence, it stands dismissed.