
(1997) 10 BOM CK 0028

In the Bombay High Court

Case No : Contempt Petition No. 217 of 1997 in Writ Petition No. 1353 of 1990
with Civil Application No. 4786 of 1997

Bahujan Samaj Prabodhan Shikshan Sanstha

APPELLANT

Vs

The State of Maharashtra and others

RESPONDENT

Date of Decision : 01-10-1997

Acts Referred:

Constitution of India, 1950 — Article 129, 142, 215
Contempt of Courts Act, 1971 — Section 2

Citation : (1998) 3 ALLMR 768 : (1998) 2 BomCR 474

Hon'ble Judges : V.K. Barde, J; R.G. Deshpande, J

Bench : Division Bench

Advocate : R.B. Salve, for the Appellant; S.S. Shinde, Asst. Govt. Pleader, for the Respondent

Judgement

R.G. Deshpande, J.—The petitioner - Bahujan Samaj Prabodhan Shikshan Sanstha, Kotul, has filed this Contempt Petition, alleging that the respondents have not complied with the directions given by the Supreme Court of India in SLP No. 12470/1991, vide order dated 6-9-1991 and also the order passed in C.A. No. 4699/1991 dated 25th November, 1991, arising out of the SLP No. 12470/1991 whereby, the Apex Court had maintained its earlier order dated 6-9-1991, which reads as under :---

"The derecognition of the petitioner's institution shall remain stayed until further order. We make it clear that the petitioner's institution shall enjoy all the privileges available to a recognised institution during the pendency of this case."

2. It is the case of the present petitioner in this Contempt Petition that in spite of there being specific directions of the Apex Court by the said two orders, the respondents have not complied with the same and in spite of various representations and repeated requests by the petitioner, the respondents did not pay heed to the same and even avoided to return back the record, which is alleged to have been seized from the institution. In short, according to the

petitioner, the orders and the directions of the Supreme Court are regarded with disdain, by the respondents.

3. Shri R.B. Salve, the learned Counsel for the petitioner, stated that it is a clear case of Contempt of Court and that the respondent Nos. 1 to 5 are liable to be expostulated and punished for the alleged contempt. The learned Counsel for the petitioner has specifically asked for their conviction as, according to him, it is a serious contempt committed by flaunting and disobeying the orders of the Supreme Court of India.

4. As against the above argument of the petitioner, the learned Assistant Government Pleader, Shri S.S. Shinde, for respondent Nos. 1 to 5, has raised a preliminary objection as regards the very maintainability of the present Contempt Petition. It is the contention of the learned Asst. Government Pleader that since the alleged contempt is of the Supreme Court of India, in accordance with the provisions of Article 215 of the Constitution of India, it would not be competent for this Court to take the cognizance of the alleged contempt of the Supreme Court of India. It is also his case that there is no provision under the Contempt of the Courts Act, 1971, which empowers the High Court to punish the contemnor for the contempt of the Supreme Court.

5. Shri Shinde, argued that in accordance with the provision of Article 215 of the Constitution of India, the High Court is a Court of record and the provision further provides that High Court shall have the powers of such Court including the power to punish for contempt of itself. The expression "itself" used in Article 215 is of much significance and cannot be said to include the contempt of the Supreme Court. Shri Shinde, argued that power of the High Court to punish for the contempt of the subordinate courts is derived by the High Court under the provisions of the Contempt of the Courts Act, 1971 and not under Article 215 of the Constitution of India.

6. It is further the contention of the learned Asst. Government Pleader that Article 129 of the Constitution of India makes it clear that the Supreme Court is also a Court of record and has power to punish for the contempt of "itself." However when the Supreme Court exercises the power under Article 129 to punish for the contempt of High Court, the same can be said to be with the aid of Article 142 of the Constitution. Thus, the sum and substance is that the High Court is not empowered under any of the provisions of the Act or of the Constitution, to punish the alleged contemnor for the contempt of the Supreme Court.

7. Shri Shinde, in support of his contention, has brought to our notice a judgment of the learned Single Judge of this Court, in the matter of Manubhai Pragji Vashi Vs. State of Maharashtra and others, . We have curiously gone through the said judgment and we feel that the approach of the learned, Judge, is the only possible one which could be taken in the matter of contempt of the Supreme Court, if it is challenged before the High Court.

8. Shri Shinde, in support of his contention, has also brought to our notice a judgment of the Division Bench of Andhra Pradesh High Court, in the matter of Advocate-General, Andhra Pradesh, Hyderabad Vs. V. Ramana Rao, . The view taken by their Lordships of the Andhra Pradesh High Court is also the same and the Single Judge of this Court while delivering his judgment relied thereon.

9. Having been satisfied with the basic objection raised by Shri S.S. Shinde, the learned Assistant Government Pleader for respondent Nos. 1 to 5, we are of the opinion that the present Contempt Petition would not lie before this Court. We, without slightest vacillation concur with the view taken by the learned Single Judge of this Court in the case cited above. We may observe that the petitioner is at liberty to avail the other remedy, if open to him, in accordance with law.

10. In view of the observations above, we have no hesitation in rejecting this Contempt Petition as not maintainable. The Contempt petition is rejected, in limine.

11. In view of the order passed on the main petition, no separate orders are required to be passed on Civil Application No. 4786/97, which is filed for amendment. That Application also stands disposed of.

12. Petition dismissed.