

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 485 of 2022**

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BALDEVBHAI SARTANBHAI DESAI
Versus
STATE OF GUJARAT & 1 other(s)

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Appearance:

MR VAIBHAV A VYAS(2896) for the Petitioner(s) No. 1
for the Respondent(s) No. 1,2

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CORAM: HONOURABLE MR. JUSTICE BIREN VAISHNAV

Date : 18/01/2022

ORAL ORDER

1. Heard Mr. Vaibhav Vyas, learned advocate for the petitioner.
2. Under challenge in this petition is the communication dated 23.08.2021 passed by the respondent no. 1 – State (Secretary, Economic Affairs) by which the petitioner’s representation for upgradation of ACRs from the years 2002-03 to 2009-10 from ‘good’ to ‘outstanding’ has been rejected.
3. The litigation has a chequered history. Aggrieved by the communication of assessment as ‘good’ in his ACRs, the petitioner was constrained to approach this court by filing SCA No. 7354 of 2013. By an order dated 23.10.2018 passed therein, the court issued certain directions directing the appellate authority to reconsider and rehear the appeal of the petitioner in context of the decision of the Apex Court referred to therein. Pursuant to that direction, the respondents on 28.02.2019 passed an order rejecting the representation of the petitioner on the ground that there was no provision in the rules to modify the adverse remarks.

3.1 Aggrieved by that decision, the petitioner approached this court by filing SCA No. 7463 of 2019. By an order of 29.04.2019, the petition was dismissed. Aggrieved by the said order, an appeal was filing before this court and the Division Bench in the appeal being LPA No. 1154 of 2019 by an order dated 19.02.2020 allowed the appeal quashing the order of the learned Single Judge with a direction to decide the grievance of the appellant – petitioner herein afresh. By an order dated 29.08.2020 the petitioner’s representation met the same fate of dismissal again.

3.2 That was a subject matter of challenge by way of a contempt petition being MCA No. 574 of 2020 wherein this court issued direction to decide the representation in light of the Division Bench order in the appeal. By an order of 29.01.2021, it appears that again the State reiterated its stand ignoring the directions of the Division Bench. Prompted again, the petitioner approached this court by filing MCA No. 138 of 2021 wherein the court prima facie observed that the order was in contempt of the directions of this court and therefore the court observed that it would proceed with the matter after considering the reply to the show-cause notice as apparently prima facie case of disobedience is made out. The contempt was disposed of on 27.07.2021 as the author of the impugned order who joined by way of virtual hearing assured the court that a fresh order will be passed in strict compliance of the Division Bench order.

4. Perusal of the impugned order indicates the blatant disrespect for the directions issued by this court from time to time.

5. Notice returnable on 17.02.2022. The author of the order impugned shall in personal affidavit explain and show cause as to why action for contempt under the Contempt of Courts Act be not initiated

against him.

6. Pending this notice, it shall however be open to the respondent – author of the impugned order, to reconsider the issue afresh in compliance of the directions issued from time to time and take a fresh look at the issue. If that is done, he shall be exempted from filing an affidavit.

Direct service is permitted today.

DIVYA

(BIREN VAISHNAV, J)