

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 92 OF 2009

Sau. Sunita Laxman Kolhe. ... Petitioner.
V/s.
Arjunchandra Swarupchandra Chouhan,
Chairman, Nav Nirman Mandal & Ors. ... Respondents

WITH
CONTEMPT PETITION NO. 350 OF 2016

Smt Sunita Laxman Kolhe ... Petitioner
Vs
Nirmal Arjun Chavan, Chairman, Nav Nirman
Mandal and Ors. ... Respondents

Ms. Deepali Debrekar i/b. Adv. Mandar Limaye for the Petitioners.
Mr. V. M.Mali, AGP for the Respondent- State

CORAM : NITIN JAMDAR &
M. M. SATHAYE, JJ.

DATED : 28 MARCH, 2024

P.C.:

1. In Contempt Petition No. 350 of 2016, the contempt is alleged of the order dated 28 April, 2016 in Writ Petition No. 3111 of 2013. In Contempt Petition No. 92 of 2009, notice was issued to the Respondents on 9 September 2010, observing *prima facie* case is made out for the contempt and the Respondent Nos. 1 and 2 to personally remain present.

Notice has been served.

2. On 2 January 2020, Shantaram Patil office bearer of the Respondent-Institution was present and that the Court called upon the Education Authority, how they are going to deal with the Respondent-Management. Then, on 8 January 2020, in Contempt Petition No. 92 of 2009, the following order came to be passed.

"1. The 2nd January, 2020 order resulted in the Education Officer visiting the premises and ascertaining for himself the position, particularly with regard to the order passed by this Court which has been upheld in the Hon'ble Supreme Court of India.

2. The Management of the educational institution has been made aware of the consequences, including the enactment in the field. This enactment enables the State to intervene and takeover the management of an educational institution in the event the administration of the same is not being carried in public interest or in the interest of education. The phraseology of sub-section (1) of Section 3 of The Maharashtra Educational Institutions (Management) Act, 1976 would enable the authority to intervene and takeover the management of the institution and its properties. An Administrator can also be appointed.

3. If the Management before us, which is represented by an Advocate acting as Chairman, is interested in avoiding such consequences, it must show its bona fides to the Court. It is said that the Chairman, who is present in Court, is an Advocate enrolled with the Bar Council of Maharashtra and Goa. Mr. Nirmal Arjun Chouhan assures the Court that an affidavit will be filed, setting out the factual position till date and the compliance of the order passed by the School

Tribunal which has been upheld by this Court.

4. We place this matter, at the request of this Chairman and to enable him to file an affidavit, on 3-2-2020. It shall be listed under the caption "Urgent Admission"."

3. Thereafter, on 22 November 2022, the matter had to be adjourned because the office bearers were not present. It appears that the office bearers of the Respondent-Institute are intermittently appearing in these matters and on the last two occasions they have not appeared. On 27 February 2024, the following order came to be passed.

"1. The Contemnor in CP/350/2016 appearing in-person states that he is an Advocate and office bearer of the trust. He is not giving satisfactory answers to the queries of the Court as to how much, according to the Management, is the liability of the Management under the order passed by the School Tribunal, which is confirmed upto the Hon'ble Supreme Court. He states that he has not seen a case like this and he is not aware as to how to deal with such case. Prima facie, the answers are evasive.

2. The school as on today is functional. If this is the state of affairs of those who conduct the school, apart from the issue of contempt, the Director of Education shall look as to the competence of the Management as regards the option for de-recognition of the school.

3. Stand over to 11 March, 2024 for the Director of Education to respond to our query.

4. We give one more opportunity to the Contemnor, failing which this Court will proceed under the Contempt Jurisdiction."

4. Considering the conduct of the officer bearers, we had put the same query to the Education Authority as was done by the Division Bench in the order dated 2 January 2020. The position as has emerged before us cannot be countenanced. In spite of calling upon the Education Authority twice, no action seems to be taken against the Respondent-Management even though their defiance is clear. We direct the Deputy Director Education to proceed as per law against the Respondent-Management and report action taken by the next date.

5. Stand over to **12 June 2024**.

6. Issueailable warrant to secure the presence of the Respondent Nos. 1 and 2 for Rs.25,000/- on the date to be served through local police station. If they do not appear, the Court will proceed in their absence to frame charge and rule on it.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)