



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 81 OF 2023

Ajay Uddhav Narhe & Anr. ... Petitioners

Versus

Uttam Patil, Deputy Collector (Rehabilitation) & Ors. ... Respondents

WITH

CONTEMPT PETITION NO. 82 OF 2023

Dhananjay Baburao Sase ... Petitioner

Versus

Uttam Patil, Deputy Collector (Rehabilitation) & Ors. ... Respondents

WITH

CONTEMPT PETITION NO. 83 OF 2023

Prabhakar Gangram Gardare (Decd.) through LRs ... Petitioner
Balasaheb Prabhakar Gardare

Versus

Uttam Patil, Deputy Collector (Rehabilitation) & Ors. ... Respondents

WITH

CONTEMPT PETITION NO. 84 OF 2023

Usha Balu Thakar ... Petitioner

Versus

Uttam Patil, Deputy Collector (Rehabilitation) & Ors. ... Respondents

Mr. Nitin P. Deshpande a/w. Ms. Kanchan Phatak for the petitioners in all the contempt petitions.

Mr. P.P. Kakade,, Government Pleader a/w. Mr. A.I. Patel, Addl. GP,
Mr. Rajan S. Pawar, AGP for the State.

Dr. Milind Sathe i/b. Mr. Bhalchandra Shinde for the contemnors.

CORAM: G. S. KULKARNI &
JITENDRA JAIN, JJ.

DATED: 31 August, 2023

P.C.

1. These Contempt petitions, in our opinion, set out a pathetic state of affairs in regard to not only the contemnors not complying with several orders passed by this Court but also their approach of absolute disregard to an extent of considering the orders of the Court to be absolutely inconsequential. It appears that they have no respect to the rule of law as also to the esteem and majesty of this Court and to its binding orders, as the contemnors with impunity have breached several time-bound directions in the orders passed by a co-ordinate Bench of this Court.

2. The unfortunate saga giving rise to these Contempt Petitions has arisen from the order dated 2 March, 2022 passed by the co-ordinate Bench of this Court (Mr. Justice R.D. Dhanuka (as His Lordship then was) and Mr. Justice S.M. Modak), which pertains to the directions interalia in regard to deletion of mutation entries of reservations of lands belonging to the petitioners, who were project affected persons and several other directions. It is most pertinent that the order was passed after hearing contemnor no. 5, who was then the Secretary of Disaster Management Relief and Rehabilitation, as clear from the observations made by the Court in paragraph 4 of the said order. To appreciate the nature of the orders and the compliances as expected from the contemnors, we need to note the Court's order dated 2 March, 2022:

"1. The matters are mentioned. Not on board. Taken on board by consent

of the parties.

2. *This batch of petitions have been on board from time to time inter-alia praying for an order and direction against the respondents to delete the mutation entries of reservation for the project affected persons from the other rights column of the 7/12 extract of their lands described in the prayers of the petitions and for other reliefs. The petitioners have placed reliance on the judgment of this Court including the judgment delivered on 17th February, 2020 in Writ Petition No.1578 of 2020 in which this Court after adverting to the order passed on 28th January, 2020 in Writ Petition No.10552 of 2019 have directed the respondents to delete the entries of reservation of the 7/12 extracts from other rights columns of 7/12 extract of the subject land within four months from the date of the said order. This Court made it clear that the said order shall not in any manner preclude the State Government from acquiring the subject lands in future for rehabilitation of project affected persons, after deletion of the entries as directed.*

3. *During the pendency of these petitions, the State Government issued Government Resolution dated 18th January, 2022 and 11th February, 2022 declaring certain norms for deletion of these entries subject to certain conditions prescribed therein.*

4. *These matters were argued at length before this Court by the learned counsel for the parties on 16th February, 2022 when Mr.Assin Gupta, Secretary of Disaster Management Relief & Rehabilitation, was also present. After hearing the parties and Mr.Assin Gupta, this Court made various suggestions to both the parties in each of the petitions. Mr.Assin Gupta also made various suggestions about the modalities that can be adopted by this Court to minimize inconvenience caused to the petitioners. The matters were directed to be placed on board today.*

5. *After hearing the parties including the State Government, the parties have agreed as under :-*

a). *The State Government will complete the process of allotting the lands of the petitioners whose lands are declared in benefit zone for allotment and yet to be allotted to the project affected persons. The State Government has agreed that the process would be completed within six months from today, without fail.*

b). *It is agreed by and between the parties that if the allotment of land is not issued to the project affected persons for allotment of the lands falling under benefit zone, which are the subject matter of these petitions, the mutation entries effected in the 7/12 extracts towards reservation for project affected persons to be deleted without further reference to the Court within two weeks from the date of expiry of six months. Both the parties have*

agreed that there would be no extension of time to allot the plots earmarked under the benefit zone to the project affected persons.

c). *If the entire process for allotment of land is not over within a period of six months from today, the petitioners whose lands have been placed under the benefit zone, would be at liberty to deal with their plots in the manner they desire. The State Government shall not initiate any acquisition proceedings in respect of these plots after expiry of six months in that event.*

d). *If these plots which are made subject matter of the notification under section 11 of the Maharashtra Project Affected Persons Rehabilitation Act, 1976, Maharashtra Project Affected Persons Rehabilitation Act, 1986, or Maharashtra Project Affected Persons Rehabilitation Act, 1999 are allotted to Project Affected Persons before expiry of six months, the State Government to initiate acquisition proceedings under the provisions of Maharashtra Project Affected Persons Affected Rehabilitation Act, 2013 expeditiously and to conclude the same in accordance with the provisions of the said Act. The petitioners shall be informed about the allotment of lands in favour of the project affected persons and / or about proposal of the State Government to acquire the lands in case of those lands which are not allotted to the project affected persons within two weeks from the date of expiry of six months.*

e). *If the lands though allotted to the project affected persons but the proceedings for acquisition are not initiated within a period of six months from today, even in that event the notification issued under section 11 of the Maharashtra Project Affected Persons Rehabilitation Act, to stand deleted.*

f). *It is made clear that within a period of two weeks from today, the lands of these petitioners who have impugned the notification under section 11 of the Maharashtra Project Affected Persons Rehabilitation Act would be notified by public notice to the members of public more particularly for the benefit of the project affected persons for their information and for application, if any, for allotment of any particular land in this zone. The aforesaid period of six months will commence after expiry of two weeks from today. The notices shall be issued in accordance with the prescribed procedure for the purpose of information of the project affected persons as well as the persons whose lands are notified under section 11 of the Project Affected Persons Rehabilitation Act. Insofar as these cases are concerned, it is made clear that the Government Resolution dated 18th January, 2022 and 11th February, 2022 shall be read with this order.*

g). *It is made clear that the time prescribed in the aforesaid*

order is by consent of both the parties and would not be subject to any extension in any circumstances.

h). All the writ petitions are disposed of in aforesaid terms. There shall be no order as to costs.

i). All parties to act on the authenticated copy of this order.”

(emphasis supplied)

3. It can be seen from the operative paragraph of the above order, namely, paragraph 5(a) to (g) that every clause had a specific time limit in regard to the compliances and/or actions to be taken by the contemnors, as the order itself was passed after inviting suggestions from contemnor no. 5, who was present in the Court when the said order was passed.

4. As none of the directions as contained in the order dated 2 March, 2022 were complied within the specified time limits, despite the petitioners knocking the doors of the contemnors, the present contempt petitions came to be filed. On service of these contempt petitions, the contemnors on different occasions, through the Government Pleader sought extensions of time to comply with the orders. In the facts and circumstances of the present case, the non-compliance and/or disobedience of the order passed by this Court, in our opinion, is by all standards deliberate, willful and with impunity, which stood compounded from what can be noted from the further orders passed by this Court.

5. By an order dated 25 January, 2023 passed on the present proceedings by a co-ordinate Bench of this Court (Coram : Mr. Justice R.D. Dhanuka (as His Lordship then was) and Mr. Justice S.M. Modak), an extension was granted. The said order reads thus:

“1. The learned AGP for the Respondent/State on instructions states that order dated 02.03.2022 passed by this Court in batch of petitions in which the Petitioners in this Contempt Petition were parties, would be complied with within a period of four months from today without fail. Statement made by the learned AGP is accepted by way of an undertaking before this Court.

2. In view of the undertaking rendered before this Court today, we do not propose to take any action in the Contempt Petition today and would consider whether to initiate the action on the next date or not.

3. Place the matter on board for reporting compliance on 07.06.2023.”

(emphasis supplied)

6. Thus, under the said orders passed on these contempt petitions, a statement on compliance of the orders was accepted as an undertaking to the Court. The proceedings were accordingly adjourned for compliance to 7 June, 2023, when again the proceedings came to be adjourned to 14 June, 2023.

7. Despite the earlier clear orders, on 21 June, 2023 when the proceedings were listed before this Court, Mr. Kakade, learned Government Pleader, on instructions from the District Rehabilitation Officer (D.R.O) who was present in the Court, prayed for one week’s time to report compliance. Accordingly, the Court had adjourned the proceedings to 28 June, 2023. However, on the

adjourned date of hearing (28 June, 2023), it was clear that what was informed to the Court by Mr. Kakade, learned GP on instructions, to the knowledge of the contemnors was only an eye wash.

8. On such backdrop, the Court being of the clear opinion that there was no intention to comply with the orders passed by this Court, observing as to what had transpired earlier, by its order dated 28 June, 2023 issued notice to the contemnors under Rule 5 of the Contempt of Courts (Bombay High Court) Rules, 1994 read with provisions of the Contempt of Courts Act. The Court had categorically observed that the state of affairs was a sorry state of affairs and that the State Government and its officers were under a total mistaken belief that once the contempt petitions are filed, it would be in fact some kind of plea, which can be taken by such officers, to go on seeking extension of time to comply the orders, which itself was a breach and/or aggravated contempt as alleged by the petitioners. The Court also observed that the present petitions depicted a gross case inasmuch as specific timelines are defined in paragraph 5(a) to (f) of the operative order dated 2 March, 2022 of which contempt was alleged were breached with impunity. The Court also observed that the contemnors knowing well that these are Contempt Petitions wherein solemn statements being repeatedly made before the Court and the assurances that the orders passed by this Court would be complied, were

sought to be breached. The Court also made an observation that all such statements made before the Court appeared to be a total eyewash. The Court further observed that it was clear that the officers, who were supposed to comply with the orders *prima facie* had no regard to the orders passed by the Court. It was observed that even the statements made in the orders passed in the Contempt Petitions, which were accepted by the Court as an undertaking to the Court, were not being complied. It was categorically observed that the Court cannot deviate from the process of law and the expectation of the petitioners that the orders passed by this Court would be complied by the contemnors. The Court also observed that the contemnors cannot overreach the orders of the Court much less disregard the same. The Court accordingly directed that a show cause notice be issued to the contemnors under the provisions of the Rules and for a reply to be placed on record and granting sufficiently long time, the proceedings were adjourned from 28 June, 2023 to 26 July, 2023. The contemnors at all material times were represented by the Government Pleaders in these contempt proceedings right from January, 2023 and had sufficient notice of the present proceedings. We need to note the order dated 28 June, 2023, which reads thus:

1. Leave to amend to implead the name of the officers who are holding the posts of respondent nos. 2, 4 and 5 in the title of the present proceedings. Amendment to be carried out forthwith.

2. The present petitions has been filed alleging contempt of the order dated 2 March, 2022 passed by this Court. The operative part of the order reads thus:

“5. After hearing the parties including the State Government, the parties have agreed as under :-

a) The State Government will complete the process of allotting the lands of the petitioners whose lands are declared in benefit zone for allotment and yet to be allotted to the project affected persons. The State Government has agreed that the process would be completed within six months from today, without fail.

b) It is agreed by and between the parties that if the allotment of land is not issued to the project affected persons for allotment of the lands falling under benefit zone, which are the subject matter of these petitions, the mutation entries effected in the 7/12 extracts towards reservation for project affected persons to be deleted without further reference to the Court within two weeks from the date of expiry of six months. Both the parties have agreed that there would be no extension of time to allot the plots earmarked under the benefit zone to the project affected persons.

c) If the entire process for allotment of land is not over within a period of six months from today, the petitioners whose lands have been placed under the benefit zone, would be at liberty to deal with their plots in the manner they desire. The State Government shall not initiate any acquisition proceedings in respect of these plots after expiry of six months in that event.

d) If these plots which are made subject matter of the notification under section 11 of the Maharashtra Project Affected Persons Rehabilitation Act, 1976, Maharashtra Project Affected Persons Rehabilitation Act, 1986, or Maharashtra Project Affected Persons Rehabilitation Act, 1999 are allotted to Project Affected Persons before expiry of six months, the State Government to initiate acquisition proceedings under the provisions of Maharashtra Project Affected Persons Affected Rehabilitation Act, 2013 expeditiously and to conclude the same

in accordance with the provisions of the said Act. The petitioners shall be informed about the allotment of lands in favour of the project affected persons and / or about proposal of the State Government to acquire the lands in case of those lands which are not allotted to the project affected persons within two weeks from the date of expiry of six months.

e) If the lands though allotted to the project affected persons but the proceedings for acquisition are not initiated within a period of six months from today, even in that event the notification issued under section 11 of the Maharashtra Project Affected Persons Rehabilitation Act, to stand deleted.

f) It is made clear that within a period of two weeks from today, the lands of these petitioners who have impugned the notification under section 11 of the Maharashtra Project Affected Persons Rehabilitation Act would be notified by public notice to the members of public more particularly for the benefit of the project affected persons for their information and for application, if any, for allotment of any particular land in this zone. The aforesaid period of six months will commence after expiry of two weeks from today. The notices shall be issued in accordance with the prescribed procedure for the purpose of information of the project affected persons as well as the persons whose lands are notified under section 11 of the Project Affected Persons Rehabilitation Act. Insofar as these cases are concerned, it is made clear that the Government Resolution dated 18th January, 2022 and 11th February, 2022 shall be read with this order.

g) It is made clear that the time prescribed in the aforesaid order is by consent of both the parties and would not be subject to any extension in any circumstances.

h) All the writ petitions are disposed of in aforesaid terms. There shall be no order as to costs.”

3. Mr. Deshpande, learned counsel for the petitioners would submit that the order is self-operative order. He has drawn our

attention to paragraph 5(b) of the order wherein the compliances as set out therein have not been achieved, namely, the mutation entries effected in the 7/12 extracts towards reservation for project affected persons to be deleted without further reference to the Court within two weeks from the date of expiry of six months. The respondents have also agreed, as recorded in the said order, that there would not be any extension of time to allot the plots earmarked under the benefit zone to the project affected persons, which has not happened. Mr. Deshpande would also submit that in fact none of the directions of this Court contained in the order dated 2 March, 2022 have been complied. It is also submitted that the Court has very categorically set out the timelines in paragraph 5(a), (b), (c), (d), (e), (f) and further in paragraph 5(g) of the said order, the Court has made clear that the time prescribed in the aforesaid order was by consent of both the parties and would not be subject to any extension in any circumstances.

4. As there was no compliance whatsoever, of the said directions of the Court the present Contempt Petitions were filed on 9 November, 2022. These Contempt Petition were heard by a co-ordinate Bench of this Court on 25 January, 2023 when the following order came to be passed:

“1. The learned AGP for the Respondent/State on instructions states that order dated 02.03.2022 passed by this Court in batch of petitions in which the Petitioners in this Contempt Petition were parties, would be complied with within a period of four months from today without fail. Statement made by the learned AGP is accepted by way of an undertaking before this Court.

2. In view of the undertaking rendered before this Court today, we do not propose to take any action in the Contempt Petition today and would consider whether to initiate the action on the next date or not.

3. Place the matter on board for reporting compliance on 07.06.2023.”

5. In the order dated 25 January, 2023, a statement was recorded on behalf of learned AGP, which was an undertaking to the Court, that the order dated 2 March, 2022 passed by this Court would be complied within a period of four months without fail. The Court also observed that undertaking rendered before this Court, it did not propose to take any action and would consider whether to initiate action on the next date or not. Thereafter on 7 June, 2023, as a matter of last chance, the proceedings were adjourned to 14 June, 2023. Again on 14 March, 2023, the proceedings were adjourned to 21 June, 2023. On 21 June, 2023, this Court recording the statement as made by learned AGP on instructions

from the DRO, who is present in the Court, passed the following order:

“1. Mr. Kakade, learned Government Pleader, on instructions from the DRO, who is present in the Court, states that the orders passed by this Court will be complied with. He prays one week’s time to report for compliance of the order of this Court.

2. At his request, stand over to 28 June, 2023 “High on Board.”

6. Today, when the proceedings are before the Court, Mr. Patel, learned AGP, who is briefed for the first time in the present proceedings, as earlier Mr. P.P. Kakade, the learned GP had appeared, states that further time be granted on the ground that the proposal has been forwarded to the State Government. We are not aware about any such internal happenings, as we are concerned on the plain and categorical consequences of the order passed by the Court on which there is no ambiguity whatsoever. A solemn assurance was made to the Court in the order dated 2 March, 2022 which is more than 18 months back.

7. Considering such state of affairs, we are constrained to observe that the State Government and its officers are under a total mistaken belief that once Contempt Petitions are filed, it would be in fact be some kind of plea which can be taken by such officers to go on seeking extension of time to comply the orders, which in fact itself is a breach and/or aggravated contempt as alleged by the petitioners in the memo of the Contempt Petitions. We see that the present petitions depict a gross case inasmuch as specific timelines are defined in paragraph 5(a) to (f) of the order dated 2 March, 2022 of which contempt is alleged are breached with impunity. This apart, even in the present proceedings and knowing well that these are Contempt Petitions, solemn statements are repeatedly made before the Court as noted by us, with assurance that the orders would be complied. However, it appears to be a total eyewash. We are more than clear that the officers who are supposed to comply with the order prima facie have no regard to the orders passed by the Court. Even the statements made in the orders passed in the Contempt Petitions are not being complied. In fact the Government Pleader and Assistant Government Pleader who are placed in as situation of embarrassment, as this time we note that the Government Pleader has not appeared in the present proceedings and everytime the representation has changed. This is a sorry state of affairs. The Court cannot deviate from the process of law and the expectation of the petitioners of the orders passed by

this Court being complied. The Contemnors can overreach the orders of the Court much less disregard the same.

8. In the aforesaid circumstances, we issue notice to the contemnors under Rule 5 of the Contempt of Courts (Bombay High Court) Rules, 1994 to show cause as to why they should not be punished for intentionally/willfully disobeying the order dated 2 March, 2022 passed by this Court (Exhibit 'B) and further orders dated 25 January, 2023, 7 June, 2023 and 21 June, 2023 passed on the present proceedings as a non-compliance of which would be an aggravated contempt. Notice is made returnable on 26 July, 2023.

9. Let reply to the show cause notice be placed on record within two weeks of the notice being received by the respondents/contemnors. The respondents/contemnors are directed to remain present before the Court on the adjourned date of hearing so that they can be heard and further appropriate orders can be passed. Mr. Patel, learned AGP to inform the contemnors of the order passed by this Court.

10. Stand over to 26 July, 2023.”

9. We are deeply pained to note as to what has transpired despite such serious observations as made by this Court in the above order dated 28 June, 2023, namely, that no affidavits to the contempt petitions were filed by any of the contemnors except by contemnor No.1 before the pre-admission stage. Such affidavit was merely to seek further extension of time to comply with the orders of the Court and could not have saved the breach which had already taken place. This itself was indicative of the fact of the casual approach and impression, the contemnors have towards the orders passed by the High Court. We are really surprised to note such negligent approach of these contemnors to the binding orders of this Court and the undertakings they have

made before the Court, and the regard they have to the Rule of law and the Constitutional governance which is expected from the public officers.

10. In our opinion, the matter should have rested at this for the Court to pass further orders. Once the contemnors for such long duration having appeared in the present contempt proceedings refused to file a reply on compliance of the orders, this became a clear case of the contemnors having accepted the petitioner's case of intentional disobedience of the orders passed by this Court and added to that the directions as made by the Court in the subsequent orders, further accepting undertaking as given on behalf of the contemnors, as noted by us hereinabove.

11. Any proceedings as serious as this, the first approach of the contemnors would always be of an apology for any conduct in relation to disobedience/disregard of the orders passed by this Court and that too with a wholehearted respectful approach, which is what is expected from the public servants like the contemnors. But the present contemnors have shown themselves to be quite special. They think that they are law unto themselves. They certainly have no regard to the orders passed by this Court as noted by us above. They have chosen a path for themselves by not replying to the contempt petitions despite being aware of every order passed on the present proceedings. As noted by us, there is only one affidavit of Shri Siddharth Bhandare/contemnor no. 1, which seeks extension of time to comply the orders

passed by this Court. No Interim Application was filed to seek any extension of time at any point of time by any of the contemnors. In fact, a new case contrary to the order was sought to be put up in such solitary reply affidavit filed before notice was issued on the present proceedings.

12. It is in these circumstances when the proceedings appeared before us on 23 August, 2023, which is almost two months after we passed the order dated 28 June, 2023 making serious observations, the position before us was nothing more but requiring us to proceed in the matter as the law would mandate. On such backdrop, we passed the following order on 23 August, 2023 directing the contemnors to remain present before this Court on 30 August, 2023 at 2.30 p.m.:

“1. In Contempt Petition Nos. 81 of 2023, 82 of 2023, 83 of 2023 and 84 of 2023 by a detailed order dated 28 June, 2023, we had issued notice to the contemnors under Rule 5 of the Contempt of Courts (Bombay High Court) Rules, 1994 to show cause as to why the contemnors should not be punished for intentionally/willfully disobeying the order dated 2 March, 2022 passed by this Court and the subsequent orders dated 25 January, 2023, 7 June, 2023 and 21 June, 2023. We had also observed that non-compliance of the subsequent orders be considered as aggravated contempt. The notice was made returnable on 26 July, 2023. We find from the record that no reply to the show cause notice has been placed on record on behalf of the contemnors. Thus, it can be presumed that in these matters the contemnors have nothing more to be said on the proceedings.

2. The contemnors no. 1 to 5 are accordingly directed to remain present before this Court on 30 August, 2023 at 2.30 p.m.

3. Stand over to 30 August, 2023 at 2.30 p.m.”

13. The proceedings were accordingly listed before us yesterday(i.e., 30 August, 2023) and as to what has transpired before us was another disregard and non-compliance even of the said order dated 23 August, 2023. This something which would really shock the conscience not only of the Court but would shake the confidence of any citizen in regard to such Officers of the respondent showing no intention to even acknowledge the orders passed by the Court in contempt proceedings. The question is not only in regard to the gross, deliberate, intentional, willful and conscious disobedience of the orders of this Court but also the approach these officers to even disregard the instructions as given to the contemnors by the learned Government Pleader(s) who were representing them from time to time on compliance of the orders, including to respect the orders by remaining present before the Court. Mr. Kakade, learned Government Pleader is at pains to inform us that time and again he has held meetings with the contemnors, when he told the contemnors about the seriousness of the orders, however, every time what these contemnors, in fact did, was to misguide and put the Government Pleader as also the Assistant Government Pleaders who were representing them in the matter to an embarrassment before the Court by asking them to make oral statements on compliance of the orders. They have no regard to the

instructions even of their lawyers who were appearing for them before the Court.

14. If this is the approach, conduct and attitude of such officers/contemors, we would fail to understand as to how these officers being in Government service can serve the Society and discharge the burden of public duties and confidence as reposed in them, and if this be so, whether they can continue to be in the Government service is a question which would seriously stare at the Government. Also such officers who with impunity disobey the orders whether at all deserve to be tolerated in public service is another question. If such is the approach of these officers before the Court, as to what would happen to a common man, a farmer, an illiterate person, a person who is not aware about his rights, when they would approach them for redressal of their grievances is just to be imagined. We would fail in our duty if we are not to make these observations, which our conscience and our duty to the Constitution and Rule of law would require.

15. Coming back to the case in hand, the proceedings when were listed before this Court on 30 August, 2023, the contemnors, except Mr. Ajay More, without any explanation and with complete disregard to the order dated 23 August, 2023 failed to remain present. Mr. Kakade, learned GP again is at pains to point out that such order as passed by the Court and which was serious

in nature, was informed to the concerned contemnors. Being confronted with such situation, the Court had two alternatives which were available before it on the prior occasion (30 August 2023), either to proceed with the contempt proceedings and pass appropriate orders on the contempt proceedings and/or to give one more opportunity to the contemnors. The quotient of sympathy which we inherently have and an approach of another opportunity to be given many times is felt by us to be quite unwarranted. Be that as it may, to our conscience, instead of proceeding with the contempt, we adjourned the proceedings for today by giving one more opportunity to the contemnors to remain present before this Court and on the backdrop by making observations that earlier order passed by the Court, directing the contemnors to remain present in the proceedings, which are under the Contempt of Courts Act and governed by the rules were not complied by the contemnors. Yesterday, we, accordingly, passed the following order directing the contemnors to remain present before this Court today, i.e., 31 August, 2023 at 10.30 a.m.:

“1. By our order dated 28th June 2023, we had issued notice under Rule 5 of the Contempt of Courts (Bombay High Court) Rules, 1994, to the Respondents/Contemnors, who are named in the title of the present proceedings, to show cause as to why they should not be punished for intentionally/willfully disobeying the order dated 2nd March 2022 in respect of which the present petitions are filed and the subsequent orders dated 25th January 2023, 7th June 2023 and 21st June 2023 passed by this Court on the present proceedings. It was also observed that disobedience of the subsequent orders would, in fact, show that the Respondents are in aggravated contempt of the orders passed by this Court. Despite such a serious orders being passed, no reply to the show cause notices have been filed by any of the Contemnors. On such backdrop, when the proceedings were listed

before us on 23 rd August 2023, observing as to what had transpired earlier, we had passed the following order adjourning the proceedings for today at 2.30 p.m. :

“1. In Contempt Petition Nos. 81 of 2023, 82 of 2023, 83 of 2023 and 84 of 2023 by a detailed order dated 28 th June, 2023, we had issued notice to the contemnors under Rule-5 of the Contempt of Courts (Bombay High Court) Rules, 1994 to show cause as to why the contemnors should not be punished for intentionally/willfully disobeying the order dated 2 nd March, 2022, passed by this Court and the subsequent orders dated 25 th January, 2023, 7 th June, 2023 and 21 st June, 2023. We had also observed that non-compliance of the subsequent orders be considered as aggravated contempt. The notice was made, returnable on 26 th July, 2023. We find from the record that no reply to the show cause notice has been placed on record on behalf of the contemnors. Thus, it can be presumed that in these matters the contemnors have nothing more to be said on the proceedings.

2. The contemnors 1 to 5 are accordingly directed to remain present before this Court on 30 th August, 2023 at 2.30 p.m.

3. Stand over to 30 th August, 2023 at 2:30 p.m.”

2. Accordingly, when the proceedings are called out, it is quite shocking to learn from Mr. Patel, the learned AGP, that despite names of the contemnors having clearly set out in the title of the proceedings, Respondent No.1 – Siddharth Bhandare has refused to remain present on the ground that he is transferred. Similar is the position in respect of Respondent No.2 – Mr. Jayant Salunkhe, Respondent No.4- Mr. Sachin Kale and Respondent No.5- Mr. Assen Gupta. The only contemnor, who is present, is Mr. Ajay More, Additional Collector, Pune District. There cannot be disobedience of the orders to such an extent when the previous orders were crystal clear to what they intended and, most significantly in respect of such serious proceedings as fairly conceded by Mr. Patel.

3. In the above circumstances and only as a matter of indulgence so as to enable the Contemnors to remain present before this Court, we adjourn the proceedings for tomorrow (31st August 2023) at 10.30 a.m. “First on Board”.

4. In the event, the Contemnors fail to remain present tomorrow, there would be no alternative left to this Court but to secure their presence in a manner known to law.”

16. It is on such backdrop, the proceedings are before us. Perusal of the record would indicate that there is nothing on record to show as to why the orders dated 2 March 2022 passed by this Court in the manner they stood were not complied by the contemnors except the oral contentions which appears to be in desperation, as made today by Mr. Kakade, that the contemnors intend to place on record affidavit that the orders are complied. In our opinion, now considering the proceedings as they stand, such belated / mitigating position being taken by the contemnors that too on a oral submission in fact would show an utter casual approach of the contemnors. Once the several bindings orders have already stood disobeyed having not being complied in the manner they warranted compliance, such contention as urged by Mr. Kakade would be secondary. The Court cannot overlook the intentional disregard and open flouting of the orders by these contemnors, as the law warranted them to comply, that too at cost of heavy suffering of the petitioners who are project affected persons.

17. Insofar as respondent/contemnor no. 5 is concerned, accepting his statement, the order dated 2 March, 2022 was passed by the co-ordinate Bench of this Court of which a grievance of contempt is made. In our opinion,

contemnor No.5 has overlooked all canons of reasonableness to respect the orders passed by this Court and in regard to the timelines as set out therein. As rightly urged on behalf of the petitioners, no application for extension of the timelines was filed. Thus, the petitioners would be right in their contention that contemnor no. 5 was certainly duty bound to comply with the said orders and had not complied the same despite complete knowledge as to what the orders mandated, and hence, contemnor No.5 is certainly guilty of contempt of not only the order dated 2 March 2022 and the subsequent orders including the recent orders dated 23 August, 2023 as also the order dated 30 August, 2023 passed by us. We are at pains to note such approach of contemnor No.5 who is a senior officer, who is supposed to be more diligent and responsible in discharging duties while exercising enormous powers his office would repose on him.

18. The following facts would indicate as to how contemnor no. 5 has dealt with the orders of the Court, in regard to its compliance and avoidance to comply with the orders of the Court. The first and foremost instance, there was no reply affidavit filed by contemnor no. 5 in regard to any compliance of the order dated 2 March, 2023 till date when today Mr. Kakade, the learned Government Pleader says that contemnor No.5 intends to file an affidavit; secondly, when the Court made serious observations in the order dated 28

June, 2023 and as noted by us, contemnor no. 5 was least moved by such observations much less to take a position that when the Court painfully had referred to several orders being not complied and which were orders passed at the behest of contemnor no. 5, his approach was of a total silence before the Court; and thirdly, it appears that contemnor no. 5 was too busy and/or being least bothered about the orders passed by this Court and what they would mandate, he decided not to comply them, which is clear from the fact that the order dated 23 August, 2023 passed by this Court directing the contemnors to remain present before the Court on 30 August 2023 was disregarded by contemnor No.5; Mr. Kakade again is at pains to point out that he had given instructions that the contemnors should remain present before the Court. This for the reason that despite contemnor no. 5 being in Mumbai, he did not chose to appear before this Court although specific directions were issued by us in the order dated 23 August, 2023 and as noted by us.

19. What would shock the conscience of the Court is that contemnor no. 5 in the approach he would have for the orders of the Court, yesterday (30 August, 2023) in the evening, is stated to have made an affidavit and gave it to the Government Pleader to be flashed to us today, knowing well that he was already in breach of the orders dated 23 August, 2023, not only in regard to non-compliance of the orders of which contempt is alleged, but also, of the

binding order of this Court that he ought to have remained present on two occasions, that is on 30 August 2023 and today, if at all he respected the orders of this Court, that too passed on contempt proceedings. It is stated by Mr. Kakade that contemnor No.5 has left for Delhi despite being informed to him by the learned Government Pleader that the proceedings under the orders of the Court passed yesterday (30 August 2023) are placed today, First on Board at 10.30 a.m.

20. We are at a complete loss to digest such approach of any litigant to the orders of the Court much less from a responsible senior officer to the orders of the highest Court in the State. This, in our opinion, can only happen when such officer gathers an impression of being above the law, that there are no Courts whose orders would bind them and/or there is no Rule of law. There cannot be any other reading of the conduct of contemnor no. 5 much less any respectable approach or any apology to the Court, which otherwise is the normal norm. As observed by us, the present contemnors have depicted that they are not bound by any law or even the instructions which their pleaders have given them.

21. It is in the aforesaid circumstances, quite unhappily we carry forward the contempt proceedings, which if we do not carry forward and succumb to the laxity of the contemnors, a wrong signal would be conveyed to the society and

the litigants at large, that such public servants are not bound by the orders of the Court. This can never be a situation.

22. None of the contemnors except contemnor No.1 (pre notice) have filed a reply, although all the contemnors had sufficient notice of the present proceedings and the orders passed on the proceedings from time to time, which shows that the contemnors have accepted the case of the petitioners of they being not only the proper parties to the contempt petitions but also being officers under obligation to comply with the orders of the Court.

23. The above discussion indicates that the contemnors are certainly guilty of having acted in willful breach of the several orders as passed by this Court as discussed above and more particularly of the order dated 2 March 2022. We are thus of the clear opinion that the contemnors need to be punished under the Contempt of Courts Act, 1971 for willful disobedience of the said order dated 2 March, 2022 passed by the Division Bench of this Court in Writ Petition No. 5507 of 2021 (along with other connected petitions), as also of the subsequent confirming orders dated 25 January, 2023, 7 June, 2023, 21 June, 2023, 28 June, 2023, 23 August, 2023 and 30 August, 2023, as noted by us above. Hence the following order is passed:

O R D E R

- (i) The Contempt petitions are accordingly allowed.
- (ii) The respondents/contemnor nos. 1 to 5 are held guilty of willful disobedience of the order dated 2 March, 2022 passed by the Division Bench of this Court in Writ Petition No. 5507 of 2021 (along with other connected petitions), as also of subsequent confirming orders dated 25 January, 2023, 7 June, 2023, 21 June, 2023, 28 June, 2023, 23 August, 2023 and 30 August, 2023. The respondents/ contemnors no. 1 to 5 are accordingly sentenced to be detained in civil prison for a period of one month.
- (iii) Contemnor nos. 1 to 4, who are present in the Court, shall surrender before the Officer-in-charge of the High Court Police Station during the course of the day.
- (iv) Contemnor no. 5, who is stated to be in Delhi, is directed to surrender within a period of two days from today.
- (v) Warrants be accordingly issued.
- (vi) The concerned police station shall act on the copy of this order.

24. At this stage, Mr. Kakade, learned GP makes a request for stay of this order. Considering the gross facts of the case, the request made by Mr. Kakade is rejected.

Later on at 3 p.m.

25. We have pronounced the above order in the Open Court today in the first session. However, in the second session, Dr. Milind Sathe, learned senior counsel i/b. Mr. Bhalchandra Shinde, on instructions of the contemnors, is before the Court. A request as made by Dr. Sathe is quite peculiar and possibly prima facie not justified from what we have observed in the foregoing paragraphs. A plea is now taken that the contemnors were never aware of the contempt proceedings and on a technical ground that the notices were not received by the contemnors. We are quite aghast at such approach being taken after the order is pronounced and when the order was about to be implemented. However, we are of the clear opinion that even if such a technical plea is taken, it should not defeat justice and certainly we would have a consideration of such issue, if at all any prejudice on such aspect is being caused to the contemnors. Dr. Sathe states that the Advocate instructing him would accept notice, although in our opinion, throughout the contemnors were not only aware of the contempt proceedings but had sufficient notice of the same, this more particularly, when in fact, today contemnor no. 5 has attempted to file affidavit through the Government Pleader. The Government Pleader throughout in his earlier appearances never made a grievance that the contemnors were not served with the notice of these petitions which are not

only pending for quite sometime but several orders passed thereon. We however do not mind giving another chance to the contemnors to respond to these petitions and in regard to their contaminous conduct in respect of each and every order, which we have referred above. We do not mind hearing the contemnors even by such opportunity being provided to them by permitting them to file their respective affidavits which Dr. Sathe states, would be filed within one week from today.

26. In view of such plea of Dr. Sathe, in the interest of justice, we stay our order sentencing the contemnors to civil imprisonment till the adjourned date of hearing.

27. We make it clear that we shall hear all the contemnors on the replies they may file on the adjourned date of hearing and shall proceed to pass further appropriate order on the present contempt proceedings.

28. Stand over to **6 September, 2023 at 2.30 p.m. (Part Heard)** The contemnors shall remain present in the Court on the next date.

29. We are informed that there are connected contempt petitions alleging breach of the very orders passed by the Court and subject matter of the present

proceedings. Those petitions be independently listed along with the present proceedings, as it is stated that the fate of the said proceedings would be covered by the orders to be passed on the present proceedings.

(JITENDRA JAIN, J.)

(G. S. KULKARNI , J.)