

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20____

IN

Original Application No. _____ of 20____

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>9/1/18</u></p> <p>CORAM: Hon'ble Justice Shri A. H. Joshi (Chairman) Hon'ble Shri M. Kameshwar (Member) A.</p> <p>APPEARANCE: Shri/Smt. <u>A.V. Bandiwadkar</u> Advocate for the Applicant Shri/Smt. <u>M.D. Lonkar</u> C.P.O./P.O. for the Respondent/s Spl. Counsel with Archana B.K.P.O. <u>O.A.s. are disposed off.</u></p>	<p><u>OA No.984 of 2015 with OA No.1016 of 2015</u></p> <p>Shri S.A. Sarwade Shri K.R. Kumbhar Vs. The State of Maharashtra & Ors.</p> <p>..Applicants ..Respondents</p> <p>Heard, Shri A.V. Bandiwadkar, learned Advocate for the Applicants and Shri M.D. Lonkar, learned Special Counsel with Smt. Archana B.K., learned Presenting Officer for the Respondents.</p> <p>2. Ld. Special Counsel has tendered copy of minutes of meeting of the committee where applicants in the present OAs have been found to be fit for appointment.</p> <p>3. In view of the statement of Ld. Special Counsel, Ld. Advocate for the applicants states that he is satisfied with the compliance.</p> <p>4. In view of the statement of Ld. Advocate, both OAs are disposed off.</p> <p style="text-align: right;">Sd/- (A.H. Joshi, J.) Chairman 9.1.2018</p> <p>(sgj)</p>

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

Date : 09.01.2018

O.A.No.1137 of 2017

Shri Dattatray N. Pawar

....Applicant.

Versus

The State of Maharashtra & Ors.

.....Respondents.

1. Heard Shri U. V. Bhosale, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

2. Disposed as withdrawn with liberty to file fresh O.A. for same purpose with suitable grounds and averments.

DATE : 9/1/18

CORAM :

Hon'ble Justice Shri A. H. Joshi (Chairman)

APPEARANCE:

Shri/Smt. : U.V. Bhosale

Advocate for the Applicant

Shri/Smt. : A.J. Chougule

C.P.O.P.C. for the Respondent/s

AdHSO to Disposed as withdrawn
with liberty to file fresh O.A.

ME
J.E

vsm

Sd/-

(A.H. Joshi J.)
Chairman

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

O.A. No.30 of 2018

Shri J.P. Shinde ..Applicant
Vs.
The State of Maharashtra & Ors. ..Respondents

Heard Shri C.T. Chandratre, learned Advocate with
Shri Yogesh Naidu, learned Advocate for the Applicant and
Shri N.K. Rajpurohit, learned Chief Presenting Officer for
the Respondents.

2. Ld. Advocate for the applicant orally prays for leave
to amend for adding averments and annexures.

3. Leave to amend and add, as prayed, is granted.

4. S.O. to 10.1.2018.

Sd/-

(A.H. Joshi, J)
Chairman
9.1.2018

DATE: 9/1/18

CORAM:

Hon'ble Justice Shri A. H. Joshi (Chairman)

Hon'ble Shri M. Rameshkumar (Member) A

APPEARANCE:

Shri/Smt. C.T. Chandratre with
Yogesh Naidu
Advocate for the Applicant

Shri/Smt. N.K. Rajpurohit
C.P.O. for the Respondents

Adj. To S.O. to 10/1/18.

(sgj)

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**CONTEMPT APPLICATION NO 62 OF 2017
IN
ORIGINAL APPLICATION NO 1142 OF 2016**

DISTRICT : KOLHAPUR

Shri Dattatraya Baburao Karnale)
Occ : Retd as Inspector of Motor Vehicle)
R/at: Shriman, 237/14, E-Ward)
Tarabai Park, Near Gold Gym,)
Kolhapur - 03.)...**Applicant**

Versus

1. Mr Manoj Sounik,)
Principal Secretary,)
Home Department [Transport],)
Mantralaya, Mumbai 400 032.)
2. Mr Pravin Gedam,)
Transport Commissioner,)
Administrative Bldg, 4th floor,)
Govt. Colony, Bandra [E],)
Mumbai 400 051.)...**Respondents**

Shri K.R Jagdale, learned advocate for the Applicant.

Ms Archana B.K, learned Presenting Officer for the Respondents.

CORAM : Shri Justice A.H Joshi (Chairman)

DATE : 09.01.2018

ORDER

1. Heard Shri K.R Jagdale, learned advocate for the Applicant and Ms Archana B.K, learned Presenting Officer for the Respondents.



2. This Contempt Application was taken up for admission-hearing.
3. Learned Presenting Officer had tendered affidavit of Shri Manoj Sounik, Principal Secretary, Home Department, Mantralaya, Mumbai.
4. In the affidavit in reply the Contemnor Shri Manoj Sounik has offered explanation towards the reasons due to which the order passed by this Tribunal was not complied with.
5. Though apology is tendered, prima facie it is in the nature of left handed remorse than whole hearted and candid remorse. The gravity of neglect to the order of this Tribunal gets aggravated due to averments contained in para 3 and 3.1, which read as follows:-

“3. I say that due to unauthorized absence of the applicant D.E was initiated against the applicant. It is further submitted that applicant has filed another O.A 269/2017 to set aside the D.E and charge sheet served against the applicant. And the said O.A is pending at the time when the Hon’ble Tribunal decided O.A 1142/2016 filed for regularizing the leave period.

3.1 Thus, if the leave period of the applicant would have decided then D.E initiated against applicant becomes infructuous. Hence taking into consideration the said facts the Government was not in position to take decision on the order dated 19.7.2017 passed by this Hon’ble Tribunal in O.A 1142/2016.”

4.

5. It is submitted that the orders of the Hon’ble Tribunal in O.A 1142/2016 and O.A 259/2017 is implemented and the delay in the implementation is not deliberate and intentionally. Hence, I humbly tender my sincere and unconditional apology for delay in implementing the orders due to above mentioned reasons and unavoidable circumstances. Hence the affidavit.”

(Quoted from page 14 & 15 of affidavit in reply filed on behalf of Respondent no. 1).

6. It can be understood and quite convincing that Government as a litigant is entitled to challenge the order passed by this Tribunal which was done in the present case.

7. However, it was open for the Contemnor to have approached this Tribunal and sought extension of time on the ground that Government wants to approach Hon'ble High Court, and even any clarification by using the device such as Review or speaking to the minutes of the order. However, offering the reason as narrated in para 3.1 (quoted in foregoing paragraph) amounts to tinkering the order passed by this Tribunal. Hence, contempt which has occurred gets further aggravated.

8. In paragraph 5 apology towards delay in compliance is tendered. Yet the tenor of affidavit is not apologetic, because said apology is qualified as averred in para 3.1 thereof.

9. When the Contempt Application was heard, learned P.O was called to find out whether Contemnor will remain present and would like to explain his stance or modify it and in the event he arrives, his counselling too could be done.

10. For enabling learned Presenting Officer to communicate to and contact the Contemnor to see the Contemnor's response, hearing was adjourned to afternoon session.

11. In the afternoon session, when the case was called out, learned Presenting Officer on the basis of instructions from the Contemnor made a statement that Contemnor is not ready to

voluntarily remain present or appear on the basis of oral direction, rather has refused to remain present.

12. The totality of conduct definitely aggravates the contempt. The fact that having lost in the Writ Petition, the order has been complied and belated compliance of this Tribunal's order does not result in purging the contempt in any manner particularly in the background of the contentious plea which is disclosed from the averments contained in para No. 3.1 of the affidavit quoted in foregoing paragraph No. 5.

13. Hence, it is considered necessary to issue show cause to Contemnor No. 1, for contempt of this Tribunal's final order passed in O.A no 1142/2016. Depending on the fact that as to whether satisfactory reply is given, this Tribunal may consider to impose cost on the Contemnor, or to adopt other course or to take cognizance.

14. Therefore, Contemnor is called upon to show cause against ordering costs or any other course or for initiating action for contempt of this Tribunal's final order passed in O.A 1142/2016.

15. Notice shall be made returnable on 28.2.2018.



Sd/-

(A.H. Joshi, (J.))
Chairman

Place : Mumbai

Date : 09.01.2018

Dictation taken by : A.K. Nair.