



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11161 OF 2022

Dilip Kapoor, President, Suman Educational
Trust and Anr.

.. Petitioners

Versus

Bhagat Mahesh Bhaga and Ors.

.. Respondents

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- Mr. Mahesh Vijay Rawool, Advocate for Petitioners.
- Mr. C.R. Sadasivan, Advocate for Respondent No.1.
- Ms. P.J. Gavhane, AGP for Respondent – State.

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CORAM : MILIND N. JADHAV, J.
RESERVED ON : JULY 30, 2025.
PRONOUNCED ON : OCTOBER 15, 2025.

JUDGMENT:

1. Heard Mr. Rawool, learned Advocate for Petitioners, Mr. Sadasivan, learned Advocate for Respondent No.1 and Ms. Gavhane, learned AGP for Respondent – State.

2. The present Writ Petition assails judgment and order dated 22.06.2022 passed by the Presiding Officer, Mumbai University and College Tribunal, Mumbai in Contempt Application No.05 of 2019 whereby Contempt Application filed by Respondent No.1 was partly allowed.

3. The facts germane to the present case are as follows:-

3.1. On 04.08.2014, Respondent No.1 – employee was appointed as Workshop Welder (Instructor) in Petitioner No.3 – Institute. On

account of alleged unsatisfactory work and misconduct Petitioners issued show-cause notices dated 11.09.2015 and 22.03.2018. Thereafter, by letter dated 05.05.2018 Respondent No.1's services were terminated and all dues payable to him as on that date were paid by Petitioners.

3.2. Being aggrieved by the termination, Respondent No.1 preferred Appeal No.19 of 2018 before the Mumbai University and College Tribunal, Mumbai. By judgment dated 15.03.2019, Tribunal allowed the Appeal and directed Respondent No.1 to be reinstated to the same post without any break in service alongwith back-wages and costs of Rs.20,000/-.

3.3. It is Petitioners' case that Respondent No.1's services were unsatisfactory and efforts were made to settle the dispute. Despite such attempts, Respondent No.1 filed Contempt Application No.02 of 2019 alleging non-compliance with the Tribunal's order dated 15.03.2019. In the contempt proceedings Petitioners paid Rs.97,693/- towards back-wages and Rs.20,000/- towards costs as directed by order dated 15.03.2019. By order dated 11.07.2019, Contempt Application No.02 of 2019 was disposed of with directions to comply with the order dated 15.03.2019.

3.4. It is Petitioners' case that on 12.07.2019, Respondent No.1 reported for duty, submitted his reporting letter and signed the muster

roll, however he refused to perform the duties assigned to him and declined to attend Diploma College duty. Thereafter, Petitioner No.2 addressed a letter dated 13.07.2019 to Respondent No.1 and addressed letters and emails calling upon him to join duties however he did not resume despite such communications. All these facts are vehemently denied by Respondent No.1

3.5. Respondent No.1 subsequently filed 2nd Contempt Application No.05 of 2019 alleging continued non-compliance with Tribunal's order dated 15.03.2019, wherein Tribunal once again directed Petitioners to issue a letter of reinstatement dated 06.04.2022, directing Respondent No.1 to join duty from 07.04.2022. Pursuant thereto, Respondent No.1 joined duty and was assigned industrial visits for two days. In the interregnum, Petitioners informed him about joining formalities to be completed, but according to Petitioner Respondent No.1 refused to cooperate and sign the documents which further led to a dispute between Petitioners and Respondent No.1 due to which Petitioners served show-cause notice dated 07.04.2022, calling upon Respondent No.1 to show cause why disciplinary action should not be initiated against him. Respondent No.1 failed to remain present for hearing on 08.04.2022 and did not undertake the industrial visit duty assigned to him and continued to remain absent thereafter.

3.6. In Contempt Application No.05 of 2019, Respondent No.1 filed Affidavit dated 23.04.2022 recording the reinstatement and the show-cause notice proceedings dated 07.04.2022. He also filed Application for initiation of enquiry under Section 340 of the Code of Criminal Procedure, 1973 against Petitioners. Petitioners filed their reply to the Affidavit and to the said application.

3.7. By order dated 22.06.2022, the Tribunal partly allowed Contempt Application No.05 of 2019 and directed Petitioners to reinstate Respondent No.1 in the Engineering College as per the order dated 15.03.2019; further directed payment of 50% of his salary for the period of 13.07.2019 to 06.04.2022 alongwith with costs of Rs.10,000/- and imposed a default penalty of Rs.500/- per day in the event of non-compliance beyond 15 days to continue until the contravention persisted.

3.8. Being aggrieved by the aforesaid judgment and order dated 22.06.2022, Petitioners filed the present Writ Petition. On 09.07.2025, Petitioners deposited the amount of Rs.2,00,000/- computed at the rate of Rs.500/- per day for non-compliance of the order dated 22.06.2022.

4. Mr. Rawool, learned Advocate for Petitioners would submit that the Tribunal erred in holding that Petitioners failed to comply with the order by not allowing Respondent No.1 to join Degree College

duty. He would submit that in fact Petitioners reinstated him on 12.07.2019 in the Degree College as per Tribunal's order however Respondent No.1 failed to resume duty due to which letters and email dated 13.07.2019, 15.07.2019 and 16.07.2019 were issued which directed Respondent No.1 to work in the second shift and in both sections Degree College and Diploma College as per requirement of the Institute. He would submit that all letters were issued by the Degree College Principal and hence there was no question of his appointment in the Polytechnic College. He would submit that despite reinstatement, Respondent No.1 refused to work in the second shift and remained absent and took undue benefit of his own wrong.

4.1. He would submit that Tribunal failed to consider that Respondent No.1 earlier accepted letter dated 30.12.2016 which required him to follow Diploma timings in Appeal No.19 of 2018. He would submit that Petitioners also attempted to show that since beginning Respondent No.1 was signing the muster of Diploma staff but due to lapse in earlier pleadings this stand could not be raised in time and Respondent No.1 is now exploiting the said lacuna and is claiming his appointment in the Degree College Section. He would submit that Petitioners reinstated him in the Degree College but he was simultaneously also liable to perform Diploma College duties as per requirement and as per order of Tribunal Petitioners could be allotted both Degree and Diploma College work.

4.2. He would submit that Respondent No.1 approached the Tribunal with unclean hands, Respondent No.1 made illegal demands and pressurised the Petitioners. He would submit that Tribunal wrongly granted backwages to him from 12.07.2019 to 06.04.2022. He would submit that Tribunal ignored the settled principles of law and erred in rewarding Respondent No.1's absence by granting 50% compensation. He would submit that Tribunal decided disputed issues without granting Petitioners a proper opportunity of hearing.

4.3. He would submit that Respondent No.1's appointment is in violation of law and illegal and he cannot claim monetary benefit for the period he himself failed and refused to work. Hence, he would submit that the impugned judgment and order is perverse, contrary to the principles of natural justice hence deserves to be quashed and set aside and present Petition be allowed.

5. **PER CONTRA**, Mr. Sadasivan, learned Advocate for Respondent No.1 in support of the impugned order would submit that the facts narrated by Petitioners are disputed. He would submit that on 04.08.2014, Respondent No.1 was appointed as Workshop Instructor in the Degree Section of the Mechanical Engineering Department of Petitioner No.3 – College affiliated to the University of Mumbai.

5.1. He would submit that on 06.05.2016 and 09.03.2018, Petitioners themselves issued certificates certifying that he was

employed in the Degree Section and throughout his service period he was issued salary slips and assigned exam duty orders which clearly establish and confirm his employment in the Degree College. He would submit that on 05.05.2018, Petitioners terminated his services without any justifiable cause.

5.2. He would submit that by order dated 15.03.2019 passed by the College Tribunal in Appeal No.19 of 2018 Respondent No.1's Appeal was allowed and Petitioners were directed to reinstate him with continuity of service, back wages, and he was awarded costs of Rs.20,000/-.

5.3. He would submit that Petitioners failed to comply with order dated 15.03.2019 due to which Respondent No.1 was compelled to file Contempt Application No.2 of 2019, wherein Petitioners tendered unconditional apology and gave undertaking to reinstate him and also paid Rs.97,693/- to him towards backwages along with costs of Rs.20,000/- whereupon proceedings were disposed of on 11.07.2019.

5.4. He would submit that despite the said undertaking, Petitioners did not reinstate him in the Degree Section. He would submit that Respondent No.1 was not allowed to enter the college premises due to which he issued two letters dated 12.07.2019 and 13.07.2019 appended at page No.270 onwards. He would submit that

Petitioners took a false stand that he was an employee of the Polytechnic Section which issue or ground was never raised during the Appeal.

5.5. He would submit that due to consistent non-compliance by Petitioners, 2nd Contempt Application No.5 of 2019 was filed by Respondent No.1 wherein by order dated 22.06.2022, Tribunal directed Petitioners to reinstate Respondent No.1 in the Engineering College and pay 50% salary from 13.07.2019 till 06.04.2022 with further costs of Rs.10,000/- and also imposed a penalty of Rs.500/- per day in case of default. He would submit that Petitioners once again failed to comply with the said order and directions of the Tribunal.

5.6. He would submit that thereafter Petitioners approached this Court to challenge order dated 22.06.2022. However it is pertinent to note that order dated 15.03.2019 remained unchallenged till this date. He would submit that Petitioners filed Affidavit dated 10.10.2022 whereby it gave an undertaking that Respondent No.1 would be reinstated in accordance with the Tribunal's order dated 15.03.2019.

5.7. He would submit that this Court (Coram: N.J. Jamadar, J.) by order dated 27.03.2024 considered the Affidavit filed by Petitioners on 10.10.2022 and directed Respondent No.1 to join duty from 02.05.2023.

5.8. He would submit that on 02.05.2023, Petitioners issued reinstatement order but contrary to its undertaking and showed his appointment in the Polytechnic Section instead of the Degree College where he was appointed and compelled him to sit in the Principal's office for the entire day and thereafter assigned him duties to visit industries outside the College. He would submit that this conduct of Petitioners was in gross violation of judicial orders and their own undertaking given to avoid contempt action.

5.9. He would submit that fabricated muster rolls and records produced by Petitioners to support their false and belated claim of Respondent No.1's appointment in the Polytechnic Section amounts to perjury and fraud upon the Court. He would submit that conduct of Petitioners demonstrates a pattern of defiance and abuse of process of law. He would submit that this ground was never taken earlier during the Appeal and it is a concocted ground taken up for the first time.

5.10. He would submit that in view of the continued non-compliance of binding judicial orders by Petitioners and financial hardship faced by Respondent No.1 for a continuous period of 5 years he would urge the Court to uphold the impugned order and dismiss the Petition in the interest of justice.

6. I have heard Mr. Rawool, learned Advocate for Petitioners, Mr. Sadasivan, learned Advocate for Respondent No.1 and Ms. Gavhane, learned AGP for Respondent – State and with their able assistance perused the record of the case. Submissions made by the learned Advocates at the bar have received due consideration of the Court.

7. At the outset, it is seen that the initial order dated 15.03.2019 passed by the College Tribunal in Appeal No.19 of 2018 set aside the termination of Respondent No.1 and directed his reinstatement with continuity of service, full back wages and costs of Rs.20,000/-. However it is surprising that the said order was never challenged by Petitioners and has now therefore it has attained finality. Despite the binding nature of the said order, Petitioners failed to comply with it till date.

8. It is seen that in Contempt Application No.2 of 2019, Petitioners tendered an unconditional apology and gave an undertaking to reinstate Respondent No.1 and also made payment towards backwages and costs as directed in order dated 15.03.2019. The said application was disposed of on 11.07.2019 with specific directions for reinstatement. However Petitioners failed to reinstate Respondent No.1 in the Degree Section of the College where he was appointed.

9. It is further seen that in Contempt Application No.5 of 2019, Tribunal by judgment dated 22.06.2022 once again directed Petitioners to reinstate Respondent No.1 in the Engineering College alongwith payment of 50% salary for the period from 13.07.2019 to 06.04.2022 and further costs of Rs.10,000/- and also imposed a penalty of Rs.500/- per day in default. It is seen that Petitioners have not complied with this order as well and have challenged it. According to Petitioners they have reinstated Respondent No.1 but the reinstatement is in the Polytechnic Section and not the Degree College. This ground of his appointment in Polytechnic College or the muster rolls that he had signed earlier was never pleaded or taken by the College at the time of Appeal. Hence it cannot be countenanced at this stage especially when the order dated 15.03.2019 has become absolute.

10. It is seen that Petitioners filed Affidavit in form of undertaking dated 10.10.2022 before this Court (Coram: N.J. Jamadar, J.) to reinstate Respondent No.1 in accordance with the Tribunal's order dated 15.03.2019. By order dated 27.03.2023, this Court recorded the undertaking and directed reinstatement of Respondent No.1 from 02.05.2023. However, Petitioners are in breach of their own undertaking as reinstatement letter dated 02.05.2023 shows Respondent No.1's appointment and posting in the Polytechnic Section instead of the Degree Section which is contrary to the orders of the

Tribunal and this Court.

11. It is evident from the record that all judicial orders passed till date are against the Petitioners but none of them have been complied with in their true letter and spirit. It is seen that two undertakings given before the Tribunal and this Court are clearly dishonoured by Petitioners. The belated plea that Respondent No.1 was a Polytechnic employee is a clear afterthought which was never raised during the proceedings in Appeal No.19 of 2018 and is contrary to the documents placed on record. It is thus clear that Petitioners have willfully and deliberately defied the binding judicial orders passed by the Tribunal and this Court. Hence, Petitioners are not entitled to any reliefs whatsoever in such circumstances. Petition therefore fails.

12. In view of the above, observations and findings, the impugned judgment and order dated 22.06.2022 passed by the University and College Tribunal in Contempt Application No.05 of 2019 stands upheld.

13. As on today, Petitioners are liable to pay an amount of Rs.6,95,750/- comprising arrears of 50% salary alongwith penalty imposed under order dated 22.06.2022 and costs of Rs.10,000/- as computed in the statement of Respondent No.1 and further payment as per above computation. By order dated 09.07.2025, this Court directed Petitioners to deposit amount Rs.2,00,000/- which was deposited by

them to show their bonafides.

14. Registry is directed to release the said amount in favour of Respondent No.1 – employee within a period of four weeks from today. Further, Petitioners are directed to pay the balance amount to Respondent No.1 within a period of four (4) weeks from the date of uploading of this judgment. If the said amount is not paid as directed, it shall attract interest at the rate of 12% per annum after the due date of four (4) weeks.

15. It is directed by the Court that Respondent No.1 – employee shall be reinstated by Petitioners in the Degree College Section in accordance with the order dated 15.03.2019 alongwith continuity in service and all other consequential benefits as awarded by the orders of the Tribunal.

16. It is further clarified that his appointment shall be in the Degree College (Engineering Section) of Petitioner No.3 - Institute and not in the Polytechnic Section forthwith.

17. Writ Petition is dismissed and disposed of in the above terms.

[MILIND N. JADHAV, J.]

18. After the aforesaid order is pronounced in open Court, Ms. Shah, Advocate holding for on behalf of Mr. Rawool, Advocate for Petitioners would persuade the Court to stay the present Judgment to

test its validity and legality in the Supreme Court. I have considered her request for stay but in view of the gross facts and circumstances in the present case which have been enumerated in the aforesaid Judgment, I am not inclined to accept the request for stay.

19. Hence, request made for stay is declined by the Court.

[MILIND N. JADHAV, J.]

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AJAY TRAMBAK
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