AJIT RAMESH PATHRIKAR
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14132 OF 2023

Priti Vijay Chaure ...Petitioner
Versus
The State Of Maharashtra
thr. Ministry Of Education & Ors. ...Respondents

WITH
WRIT PETITION NO. 14204 OF 2023

Mahadev Damu Khape ...Petitioner
Versus
The State Of Maharashtra
thr. Ministry Of Education & Ors. ...Respondents

Ms Manjiri Parasnis a/w Shrushti Kale for Petitioners.

Mr V. G. Badgujar, AGP a/w, P. P. Kakade, AGP a/w K. S. Thorat, 'B' Panel for Respondent-State.

Mr Girish Godbole, Senior Advocate, a/w Rajesh Satpalkar, Aazmin Bachana i/b Mulla and Mulla and Craigie Blunt and Caroe for Respondent Nos. 3 and 4.

CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.

DATE: 16th SEPTEMBER 2026

P.C.

1. Both petitions involve an identical issue; hence, both are being decided by this common order.

2. The Petitioners seek to quash and set aside the order dated 4th July 2023 passed by Respondent No. 2, Education Officer (Secondary), whereby the Education Officer has held the Petitioners as not entitled to their salaries for the

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period between 4th April 2014 and 18th May 2023 on the principle of No Work – No Pay.

Facts in Writ Petition No. 14132 of 2023

3. The Petitioner is an Assistant Teacher at Respondent No. 4 - School and is a permanent employee. Respondent No. 3 is the Trust that runs Respondent No. 4 School and receives a 100% grant-in-aid. The Petitioner's services were terminated on 15th January 2015 on the basis of a forced resignation dated 12th January 2015. She challenged the termination before the School Tribunal, Pune, by filing Appeal No. 23 of 2019. By Judgment and Order dated 25th February 2020, the School Tribunal set aside the termination order with effect from 12th January 2015. The School Tribunal also directed Respondent Nos. 2 to 4 to reinstate the Petitioner along with 50% back wages. Respondent No. 2 did not challenge the said order. The orders passed by the School Tribunal read thus:-

> "ORDER
>
> The Appeal is allowed as under:-
>
> 1. The impugned order of otherwise termination of the appellant w.e.f. 12/01/2015 by the hands of respondent no.1 management on the basis of forceful resignation is hereby declared as illegal and same is quashed and set aside.
> 2. The Respondent Nos.1 to 3 is hereby directed to reinstated the appellant on her original post with 50% back wages, continuity of service and consequential benefits within a period of 1 month from the date of this Judgment and order.
> 3. Parties shall bear their own costs.
>
> Judgment dictated and pronounced in Open Court."

4. Respondent Nos. 3 and 4 assailed the School Tribunal's order before this Court by filing Writ Petition No. 4770 of 2022. After hearing counsel for the

parties, learned Single Judge of this Court, in his Order dated 4th May 2023, recorded that the parties had reached an amicable resolution and signed the Minutes of Order. It is pertinent to note that the Education Officer was not a party to the Minutes of Order on which Writ Petition No. 4770 of 2022 was disposed of.

Facts in Writ Petition No. 14204 of 2023

5. The Petitioner is an Assistant Teacher at Respondent No. 4 School and a permanent employee. Respondent No. 3 is the Trust that runs Respondent No. 4 School and receives a 100% grant-in-aid. The Petitioner's services were terminated on 15th April 2015, based on an enquiry report dated 11th March 2015. He challenged the termination before the School Tribunal, Pune, by filing Appeal No. 20 of 2015. By Judgment and Order dated 26th August 2019, the School Tribunal set aside the termination order with effect from 15th April 2015. The School Tribunal also directed Respondent Nos. 2 to 4 to reinstate the Petitioner with full back wages. Respondent No. 2 did not challenge the said order.

6. Respondent Nos. 3 and 4 assailed the School Tribunal's order before this Court by filing Writ Petition No. 11229 of 2019. After hearing counsel for the parties, learned Single Judge, in his Order dated 4th May 2023, recorded that the parties had reached an amicable resolution and signed the Minutes of Order. Neither the Education Officer nor the State was a party to the Minutes of Order on which Writ Petition No. 11229 of 2019 was disposed of.

7. The grievance of both the Petitioners is that, despite the directions given by

the School Tribunal and the disposal of the Writ Petitions, Respondent No. 2, the Educational Officer, has failed to disburse their salaries for the period during which they were wrongly terminated. According to the Petitioners, the responsibility for disbursing their salaries squarely falls on the State, as Respondent No. 4, the school, is fully aided by the Government. They also allege that the management has refused to co-operate and assist the Petitioners in facilitating the State's disbursement of their salaries. The Petitioners exchanged various communications with Respondent No. 3 and Respondent No. 2, requesting them to act in aid of the School Tribunal's order directing the disbursement of their back wages. However, by the letter dated 4th July 2023, the Education Officer decided not to disburse their salaries on the principle of No Work – No Pay, completely ignoring that their termination was set aside by the School Tribunal as illegal and that Respondent Nos. 2 to 4 were directed to reinstate the Petitioner in Writ Petition No. 14132 of 2023 in service with 50% back wages, and the Petitioner in Writ Petition No. 14204 of 2023 in service with full back wages, and other consequential reliefs. The Petitioners assail this decision of Respondent No. 2 – Education Officer, in the present Writ Petitions.

8. Heard Ms Manjiri Parasnis, learned counsel appearing for the Petitioners, Mr V. G. Badgujar, learned Additional Government Pleader appearing for the Respondent No. 1 - State, and Mr Girish Godbole, learned Senior Advocate, appearing for Respondent Nos. 3 and 4.

9. Ms Parasnis submitted that Respondent No. 2 failed to recognise that

Respondent No. 3 – Trust/Management had unconditionally withdrawn all allegations against the Petitioners. The School Tribunal had held that their termination from service was wrongful. Moreover, the vacancy created by their unlawful termination was never filled, and the grant remained unutilised. She therefore submitted that Respondent No. 2 is duty-bound to release their salaries in accordance with the School Tribunal's directions. Ms Parasnis also brought to our attention various decisions of this Court as follows:

i. *Nandgaon Panchkroshi Madhyamik Shikshan Sanstha Nandgaon & Anr. v. Kum. Kavita Prakash Nalawade and Anr.*[1]

ii. *The President/Secretary, Maharashtra, Bhasah Mahavidyalaya v. Shri Phoolchand M. Ram & Ors.*[2]

iii. *Arpan Shikshan Prasarak Sanstha and Anr. v. The Education Officer (Primary) and Anr.*[3]

She thus urged the Court to allow the petition.

10. Mr Godbole, learned Senior Advocate, supported the arguments of the Petitioners and affirmed that their positions have remained vacant during their unlawful termination and no grants were released by the State Government for that period. He submitted that the State Government is responsible for disbursing back wages to the Petitioners, and the management is ready and willing to co-operate with the Petitioners in that regard.

11. Mr V. G. Badgujar, learned AGP, submitted that the Petitioners were not on duty from 4th April 2014 to 18th May 2023, during which their services stood terminated. He further submitted that the Petitioners' wrongful termination was

1 Order dated 20th July 2009 in Writ Petition No. 3643 of 2009, Bombay High Court.
2 Order dated 16th September 2005 in Writ Petition No. 8574 of 2004, Bombay High Court.
3 Order dated 26th September 2016 in Writ Petition No. 6842 of 2015, Bombay High Court (Nagpur Bench).

due to the management's irresponsible acts, and the Government cannot be held responsible. Notwithstanding his aforesaid contention, Respondent No. 2 heard the Petitioners and the management, and only thereafter did the proposals for release of back wages stand declined. Respondent No. 2 relied on the principle of No work, No pay. Mr Badgujar thus attempted to justify the order impugned herein.

12. These petitions raise a short but significant issue to the effect as to whether in the facts and circumstances of the case and in law the State Government was correct in directing the arrears of wages which they retain to an aided post. The State Government fully aids the schools. This aid includes salaries payable to the teachers and other staff of the schools. Admittedly, the School Tribunal set aside the termination of the Petitioners' services as unlawful and directed disbursement of back wages. It is also admitted that during the period of unlawful termination, the Petitioners' vacancies were not filled, and the State Government did not release any grant. Thus, the grant-in-aid remained unutilised for this period in respect of these Petitioners.

13. The School Tribunal’s order was assailed by the Petitioners by filing separate Writ Petitions. The Writ Petitions were disposed of as the individual Petitioners resolved their grievances with the management and tendered Minutes of Order before this Court. The Court took the Minutes of Order on record and disposed of the Writ Petition No. 4770 of 2022 on that basis. Paragraphs 4 to 13 of the Minutes of Order read thus:

"4. Mr. Dinshaw Cawasji, the Managing Trustee of the Petitioner School who is present in the Court makes a statement that the School has not employed anyone in place of the Respondent No. 1 from 4th April 2014, that the Post is vacant and the Management has not availed any grant in aid in respect of the said post of the Respondent No. 1. In view of this, the Respondent No. 1 who is present in the Court agrees that she will not claim from the Petitioners any amounts towards the 50% back wages, other consequential benefits and any other monetary compensation whatsoever due as per the order dated 25th February, 2020 in Appeal No.33 of 2019 passed by the School Tribunal and Respondent No. 1 agrees that the Petitioners will not be liable for the same in any manner whatsoever.

5. Respondent No. 1 agrees that she shall within 7 days from this order unconditionally and irrevocably withdraw Execution Application No. 30 of 2022 filed before the Court of Hon'ble Civil Judge, Senior Division, Vadgaon Maval, Pune.

6. It is hereby directed that the Petitioner Management shall, forthwith re-instate the Respondent No. 1 in the same Post as a Full time Teacher in the vacant post as an employee on the post for which grant in aid is provided by Zilla Parishad, Pune, with continuity of service, and fixation of salary in a pay scale as prescribed/ decided by the Zilla Parishad. Since the post was vacant and since the Petitioners have not claimed any grant in aid for the said post, Respondent No.1 shall be entitled to draw arrears of wages in terms of and in the manner directed by the present order.

7. The Petitioner Management shall within 7 days from the re-instatement of Respondent No. 1, submit a proposal/ application to the Education Officer, Zilla Parishad, Pune, to enable the Respondent No.2 to pass appropriate orders:

i. Regarding the disbursement of grant in aid of Respondent No.1 in service and pass formal orders to grant continuity of service,

ii. deciding /determining and fixing the pay-scale of the Respondent No.1 in a post as an aided employee of the Zilla Parishad for the purpose of payment of salaries from the date of reinstatement;

iii. considering the proposal for payment of the 50% back wages and other monetary benefits which can be disbursed by Zilla Parishad to the Respondent No.1 (without any liability on the Petitioners) for the period of her absence from service till her reinstatement in accordance with the said order dated 25th February, 2020.

8. The Petitioners shall in the proposal state that the post occupied by Respondent No.1 has been kept vacant and no grant in aid has been availed in respect of the said post for the period of absence.

9. The Respondent No.1 has agreed to extend full co-operation to Petitioners for submitting the requisite proposals/applications in respect of the re-instatement of the Respondent No.1 and answer any queries which may be raised so as to enable Petitioners to submit any documents which may be demanded by the Respondent No.2 Education Officer.

10. It is made clear that the Petitioners shall not be, in any manner whatsoever, liable if the proposal for payment of back wages is rejected partly or fully by Zilla Parishad.

11. The Respondent No.1 shall within 15 days from the date of the re-instatement as an aided employee by the School, join the post and commence her job as a teacher of the said School with continuity of service and all consequential benefits.

12. The attachment of (1) Current Account No. No.2 (salary grant account of Zilla Parishad)-Pune District Central Cooperative Bank Ltd, Lonavala, Old Mumbai Pune Road., (2) Account No.32673 of Syndicate Bank, Branch Khandala (now Canara Bank). (3) Account Nos. 1845401200, 1845402146 and 1845422800 of Central Bank of India, Branch Lonavala, pursuant to order dated 19th November, 2022, passed in Execution Application No. 30 of 2022 by this Hon'ble Court, is hereby directed to be released/ vacated forthwith.

13. The Respondent No.2 is hereby directed to decide proposal of the Respondent No.1 for release of salary and back wages of the Respondent No. 1 within 15 days from the date of submitting of the proposal and if the said decision is in favour of Respondent No.1, release the same as expeditiously as possible and within one month from date of decision of the proposal and release the salary of the Respondent No.1 for every month from the date of re-instatement and continue releasing immediately from the date of this Order. The Petitioners shall in no manner be liable for payment of backwages and salary of the Respondent No.1."

(emphasis supplied)

14. The Writ Petition No. 11229 of 2019 was similarly disposed of in terms of the Minutes of Order, which were also taken on record by this Court. Paragraphs 4 to 13 of the Minutes of Order read thus:

"4. Mr. Dinshaw Cawasji, the Managing Trustee of the Petitioner School who is present in the Court makes a statement that the School has not employed anyone in place of the Respondent No. 1 from 4th April 2014, that the Post is vacant and the Management has not availed any grant in aid in respect of the said post of the Respondent No. 1. In view of this, the Respondent No. 1 who is present in the Court agrees that he will not claim from the Petitioners any amounts towards the full back wages, other consequential benefits and any other monetary compensation whatsoever due as per the order dated 26th August, 2019 in Appeal No. 20 of 2015 passed by the School Tribunal and Respondent No. 1 agrees that the Petitioners will not be liable for the same in any manner whatsoever.

5. Respondent No. 1 agrees that he shall within 7 days from this order unconditionally and irrevocably withdraw Execution Application No. 29 of 2022 filed before the Court of Hon'ble Civil Judge, Senior Division, Vadgaon Maval, Pune. Undertaking is accepted.

6. It is hereby directed that the Petitioner Management shall, forthwith re-instate

the Respondent No. 1 in the same Post as a Full time Teacher in the vacant post as an employee on the post for which grant in aid is provided by Zilla Parishad, Pune, with continuity of service, and fixation of salary in a pay scale as prescribed/ decided by the Zilla Parishad. Since the post was vacant and since the Petitioners have not claimed any grant in aid for the said post, Respondent No.1 shall be entitled to draw arrears of wages in terms of and in the manner directed by the present order.

7. The Petitioner Management shall within 7 days from the re-instatement of Respondent No. 1, submit a proposal/ application to the Education Officer, Zilla Parishad, Pune, to enable the Respondent No.2 to pass appropriate orders:

i. Regarding the disbursement of grant in aid of Respondent No.1 in service and pass formal orders to grant continuity of service,

ii. deciding /determining and fixing the pay-scale of the Respondent No.1 in a post as an aided employee of the Zilla Parishad for the purpose of payment of salaries from the date of reinstatement;

iii. considering the proposal for payment of the full back wages and other monetary benefits which can be disbursed by Zilla Parishad to the Respondent No.1 (without any liability on the Petitioners) for the period of his absence from service till his reinstatement in accordance with the said order dated 26th August, 2019.

8. The Petitioners shall in the proposal state that the post occupied by Respondent No.1 has been kept vacant and no grant in aid has been availed in respect of the said post for the period of absence.

9. The Respondent No.1 has agreed to extend full co-operation to Petitioners for submitting the requisite proposals/applications in respect of the re-instatement of the Respondent No.1 and answer any queries which may be raised so as to enable Petitioners to submit any documents which may be demanded by the Respondent No.2 Education Officer.

10. It is made clear that the Petitioners shall not be, in any manner whatsoever, liable if the proposal for payment of back wages is rejected partly or fully by Zilla Parishad.

11. The Respondent No.1 shall within 15 days from the date of the re-instatement as an aided employee by the School, join the post and commence his job as a teacher of the said School with continuity of service and all consequential benefits.

12. The attachment of (1) Current Account No. No.2 (salary grant account of Zilla Parishad)-Pune District Central Cooperative Bank Ltd, Lonavala, Old Mumbai Pune Road., (2) Account No.32673 of Syndicate Bank, Branch Khandala (now Canara Bank). (3) Account Nos. 1845401200, 1845402146 and 1845422800 of Central Bank of India, Branch Lonavala, pursuant to order dated 19th November, 2022, passed in Execution Application No. 29 of 2022 by this Hon'ble Court, is hereby directed to be released/ vacated forthwith.

> 13. The Respondent No.2 is hereby directed to decide proposal of the Respondent No.1 for release of salary and back wages of the Respondent No. 1 within 15 days from the date of submitting of the proposal and if the said decision is in favour of Respondent No.1, release the same as expeditiously as possible and within one month from date of decision of the proposal and release the salary of the Respondent No.1 for every month from the date of re-instatement and continue releasing immediately from the date of this Order. The Petitioners shall in no manner be liable for payment of backwages and salary of the Respondent No.1."

15. Despite the Writ Petitions filed by the management before this Court, assailing the School Tribunal's order, which was disposed of on the basis of consent terms, including an assurance of assistance for submission of an application seeking payment of back wages, the management failed to assist the Petitioners in facilitating disbursement of back wages from the Respondent No. 2. Significantly, the School Tribunal's order was not challenged by Respondent No. 2 when it was passed against the Education Officer. Hence, the obvious consequence is that Respondent No. 2 was bound by the said order, and in the absence of Respondent No.2 not assailing the same, it is deemed that the orders of the School Tribunal were accepted by Respondent No.2. Thus, the orders of the School Tribunal were binding on the State Government and hence, were required to be complied.

16. This Court, in *Nandgaon* (supra), in a case involving identical facts, held that the Government department is responsible for paying the arrears of salaries and allowances of employees who were reinstated, particularly when it did not entail any additional expenditure for the Government. Since the State had already approved the Petitioners' services and they were working prior to their unlawful termination, and their posts were sanctioned and aided, Respondent No. 2 is responsible for disbursing back wages to the Petitioners.

17. In *Arpan Shikshan Prasarak Sanstha* (supra), a Division Bench of this Court, relying on the Supreme Court's decision in *Education Society, Tumsar and Others vs. State of Maharashtra*[4], held that, as a general principle, whenever a terminated employee of an aided school challenges the termination, and the termination is held illegal by a competent judicial forum, and an order is passed for payment of back wages, the Government is supposed to bear the burden. The Division Bench also referred to the aforesaid Supreme Court decision, holding that the said rule would apply, as back wages and other payments are in the nature of salary for the intervening period that the employee would have earned had he remained in service.

18. In the instant case, it is undisputed that Respondent No. 4 - School was fully aided and the Petitioners' appointments prior to their unlawful termination were duly approved by the Education authorities. It is also undisputed that the management did not appoint any other employees in the posts that fell vacant during the termination of the Petitioners' services. Had the Petitioners continued to work in the school run by Respondent No. 3 - Trust, they would have received their salaries from the State exchequer. Moreover, the School Tribunal has already directed disbursement of 50% back wages to the Petitioner in Writ Petition No. 14132 of 2023, and full back wages to the Petitioner in Writ Petition No. 14204 of 2023. Respondent Nos. 1 and 2 have not challenged the said order, and it has attained finality. In these circumstances, the Petitioners are entitled to receive their respective back wages for the period they remained unlawfully terminated.

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4 2016 (2) Bom. C.R. 244 (Supreme Court).

19. In light of the above discussions, the impugned decision dated 4th July 2023 rendered by Respondent No.3 cannot be sustained and is accordingly quashed and set aside. The back wages in respect of the Petitioners in both these petitions as directed by the School Tribunal and the manner as confirmed by the learned Single Judge of this Court would become payable to the Petitioners by allowing the proposal as submitted by the Management - Respondent Nos.3 and 4. Let the amounts payable for the respective periods in relation to each of the Petitioners in the present proceedings be calculated and released in their favour within a period of six weeks from today.

20. The Writ Petitions are thus allowed in the aforesaid terms. No Costs.

(DR. NEELA GOKHALE, J) **(G. S. KULKARNI, J.)**