

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Writ Petition No.1778 of 2012

* Smruti w/o Navnitdas Kasari,
Age 48 years,
Occupation : At present Nil,
R/o Momin Galli, Main Road,
Ausa, Taluka Ausa,
District Latur. **.. Petitioner.**

Versus

- 1) The State of Maharashtra
Through its Secretary,
School Education Department,
Mantralaya, Mumbai.
- 2) The Director of Education,
Maharashtra State, Pune.
- 3) The Deputy Director of Education,
Latur Division, Latur.
- 4) The Education Officer (Secondary)
Zilla Parishad, Latur.
- 5) Vasantrao Naik Shikshan Prasarak
Mandal, Devtala, Taluka Ausa,
District Latur
Through its Chairman.
- 6) Madhav s/o Vishwanath Gore,
Age 68 years,
Occupation : Business,
R/o Gore Complex, Tagore Nagar,
Behind Rajasthan High School,
Latur, Taluka & District Latur. **.. Respondents.**

Shri. Anand V Patil (Indrale), Advocate, for petitioner.

Shri. S.B. Pulkundwar, Assistant Government Pleader, for respondent Nos.1 to 4.

Shri. V.D. Hon, Senior Advocate, for respondent Nos5 & 6.

**CORAM: T.V. NALAWADE
Smt. I.K. JAIN, JJ.**

DATE : 15th APRIL 2015

JUDGMENT:

1) Rule, rule made returnable forthwith. Heard both the sides for final disposal by consent.

2) This is the second round of litigation in this Court. The petitioner was working as Headmistress in Saraswati Girls High School, Ausa, the school which was run by respondent No.5, society. She was terminated and this order was challenged by her before the School Tribunal. She succeeded before the School Tribunal. The said decision of the School Tribunal was challenged before this Court by filing Writ Petition No.7277 of 2008 by respondent Nos.5 and 6. In that matter stay to the payment of back wages was granted to some extent and

the institute was directed to pay 50% of the back wages. She was allowed to resume duties. It is contended that she was not allowed to resume duties and the back wages were not paid. She approached the Education Department but they could not do anything. Then Contempt Petition No.243 of 2010 came to be filed. The said proceeding is still pending.

3) Writ Petition No.7277 of 2008 was disposed of and this decision was challenged by the respondents in Letters Patent Appeal No.14 of 2010. LPA No.14 of 2010 came to be dismissed and the matter was taken to the Apex Court by filing proceeding like S.L.P. The Hon'ble Apex Court directed this Court to dispose of the writ petition expeditiously and then the writ petition came to be dismissed on merits. Even after the decision of the writ petition, the order of the School Tribunal was not complied by the respondents. As the respondents were not complying with the orders and directions the Education Department appointed Administrative Committee on the school. There were other lapses also. This order of appointing Administrative Committee was challenged in

this Court by filing Writ Petition No.1244 of 2012. Thus, various proceedings were filed to stall the things by the respondent - institute.

4) The submissions made show that the school itself is closed and it is virtually locked. In the reply filed by the respondent No.5 allegations are made against the present petitioner about her conduct and starting of departmental enquiry. These things cannot be considered when this Court is considering the entitlement of the petitioner to get the fruits of the order made in her favour like back wages.

5) The petitioner is claiming similar reliefs again. She has made allegations against the officers of the Education Department also. However, it appears that the respondent No.5 and 6 are acting adamantly. The submissions made show that the school has not left any property. In any case attempt needs to be made to execute the order made in favour of the petitioner. So to that extent, for execution of the order made by the School Tribunal in favour of the petitioner the writ petition can

be allowed. However, at present the relief of allowing her to resume duties cannot be considered as at present the school is closed.

6) The respondent Nos.1 to 4 to take all possible steps and measures for execution of the order made by the School Tribunal. As the school is now closed, such order giving direction to see that she is allowed to resume on the same post in the same school cannot be given in the present case at least at present. It appears that this Court had given direction to the respondent to deposit amount of Rs.2.5 lakh and the amount has been deposited till this date. Amount deposited needs to be paid to her. As prayer is made in respect of the execution of the previous order and giving direction in that regard, this Court holds that the petitioner is entitled to get the order made by the School Tribunal executed. In these terms the petition is allowed. Rule is made absolute in those terms.

Sd/-
(Smt. I.K. JAIN, J.)

Sd/-
(T.V. NALAWADE, J.)

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