

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4798 OF 2015
IN
WRIT PETITION NO. 9113 OF 2012

NATHAJI ASHRUJI KAMBLE
VERSUS
BHAGWAN MADHAVRAO NAGARE AND ORS

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Advocate for Applicant : Shri Shelke D.R.
Advocate for Respondent 1 : Shri Salunke S.J.
AGP for Respondents 3 & 4 : Shri Jadhav S.M.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 17, 2015
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PER COURT :-

1. Shri Shelke, learned Advocate submits that the applicant has preferred this application in order to put forth a request to recall the order dated 6.1.2015 passed by this Court, directing deposit of Rs.3,00,000/- towards part of the back-wages as have been awarded by the School Tribunal, vide its judgment dated 4.7.2011 in Appeal No.14 of 2004, preferred by respondent No.1.
2. The reasons in support of the Civil Application are as follows:-
 - (a) The applicant is 70 years' old Senior Citizen.
 - (b) He is a nominal President of the Educational Institution.
 - (c) The Educational Institution is in financial difficulties.
 - (d) Respondent No.1 was dismissed from service for proved misconducts of serious nature and

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(e) The institution imparts education to the poor persons from the Scheduled Castes and the Scheduled Tribes.

3. It is, therefore, submitted that the order dated 6.1.2015 be recalled to the extent of a direction to deposit the amount and by retaining the interim relief granted to the petitioner.

4. Shri Salunke, learned Advocate has vehemently opposed the Civil Application. He submits that respondent No.1 has succeeded before the School Tribunal, through a final judgment. This petition was instituted on 23.10.2012. The petitioner / management has not been able to convince this Court that the judgment is unsustainable and erroneous. After obtaining ad-interim relief *ex-parte*, the petitioner kept on delaying the matter. The amount, as directed, needs to be deposited as respondent No.1 is about 63 years' old and is a retired employee.

5. Having considered the submissions of the learned Advocates, I do not find that the applicant has made out such an exceptional circumstance, which would entitle the applicant to the interim relief granted but waiver of the deposit, as was directed by this Court. Old age of the petitioner or financial difficulties, cannot be a ground for non-implementation of the order of this Court as well as for seeking the recalling of this order.

6. In the light of the above, which rejecting the Civil Application, I am constrained to observe that if the order dated 6.1.2015 is not implemented on/or before the 17.7.2015, the ad-interim protection granted to the petitioner shall stand vacated without reference to this Court.

7. Civil Application is, therefore, rejected.

(RAVINDRA V. GHUGE, J.)

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