

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 435 OF 2014
IN WRIT PETITION NO. 6277/2012

CHANDRAKANT YADAVRAO WALLURE
VERSUS
ASHOKRAO BAPUSAHEB PATIL (EKAMBEKAR) AND OTHERS

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Advocate for Petitioners : Shri Kolhare S.R.
Advocate for Respondents 1 & 2 : Shri Gunale V.D.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 20, 2015

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PER COURT :-

1. The petitioner has pointed out an order passed by this Court (Coram : Sunil P. Deshmukh, J.), dated 5.2.2014, in Writ Petition No.6277 of 2012 filed by the petitioner employee and Writ Petition No.8947 of 2012 filed by the Kisan Shikshan Prasarak Mandal, Udgir.

2. The petitioner as well as the said institution were before this Court in relation to the judgment and order of the School Tribunal, dated 2.3.2012, passed in Appeal No.45 of 2011. Considering the said challenge, this Court has observed in paragraph Nos.9, 10, 11 and 12 as follows:-

"9. *Be that as it may, ends of justice can be met with by directing the management to hold an inquiry afresh, ab initio, including fact finding as would be necessary for payment of back wages.*

10. *It appears that the management has made several allegations including that of misappropriation and therefore, it would be appropriate that said allegations are properly inquired into.*

However, looking at the provisions of section 11 of the Maharashtra Employees of Private Schools, Act, it would be clear that such a direction by the School Tribunal, will not exactly fall under its purview.

11. Taking into account aforesaid, clauses No. 2 and 3 of the order dated 2nd March, 2012 in Appeal bearing No. 45 of 2011 passed by the Presiding Officer, School Tribunal, Latur are set aside. It would be open for the management to hold an inquiry afresh, by following proper procedure and rules.

12. Having regard to aforesaid, writ petition No.6277 of 2012 stands allowed to the extent as referred to herein above. Rule is made absolute accordingly. In view of aforesaid, writ petition No. 8947 of 2012 preferred by the management stands dismissed. Rule stands discharged. Both the petitions stand disposed of."

3. The petitioner submits that he has been terminated from employment on 30.6.2014. The enquiry has not been conducted in accordance with the Rules and as per the directions of this Court. Copy of the enquiry report was not supplied to the petitioner. Principles of natural justice have been disregarded while conducting the enquiry and while issuing the order of termination by way of punishment. The enquiry committee has not arrived at any finding as regards payment of backwages to the petitioner as observed in paragraph No. 9 by this Court in its judgment dated 5.2.2014. The petitioner has, therefore, alleged disobedience of the order of this Court dated 5.2.2014 at the hands of the respondents.

4. Shri Gunale, learned Advocate for respondents 1 and 2 submits that the petitioner has been terminated from employment after conducting an enquiry as contemplated by law. He has preferred Appeal No. 39 of 2014 before the School Tribunal, Latur and has called in question his termination order. Whether the termination order or the enquiry report are unsustainable in law, is an issue which will be gone into by the School Tribunal. He, therefore, submits that there is no disobedience by the respondents of the order dated 5.2.2014 passed by this Court in Writ Petition Nos. 6277 of 2012 and 8947 of 2012.

5. In the light of the above stated events, I do not find that this petition needs to be entertained for the reason that the petitioner has failed to make out a case of intentional, willful and deliberate disobedience of the judgment dated 5.2.2014 delivered by this Court.

6. The allegations made by the petitioner as regards non-compliance of principles of natural justice, violation of the procedure laid down by law for conducting an enquiry, errors committed by the enquiry committee and there being no evidence to prove the charges against the petitioner, are issues which fall within the jurisdiction of the School Tribunal. The appeal filed by the petitioner would be decided by the School Tribunal by considering these issues. The Doctrine of Relation Back would also deal with the grievances of the petitioner as regards payment of backwages.

7. As such, there is no merit in this Contempt Petition. The same is,

therefore, rejected. Needless to state that the School Tribunal shall consider all questions and contentions set out by the petitioner as well as the respondents in the appeal proceedings and decide the same in accordance with law keeping in view the observations of this Court in this order as well as the observations of this Court in the judgment dated 5.2.2014.

(RAVINDRA V. GHUGE, J.)

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