

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.220/2015

IN

CIVIL APPLICATION NO.5580/2014

IN

WRIT PETITION NO.3682/2012

The State of Maharashtra,
through the Deputy Director,
Nashik.

...Applicant..

Versus

Ramesh Ramrao Gadakh & others.

...Respondents...

.....

Shri S.P. Daund, AGP for the applicant.

Shri S.S. Deshmukh, Advocate for respondent no.1.

Shri C.K. Shinde, Advocate for respondent no.2.

Shri R.R. Karpe, Advocate for respondent no.3.

.....

CORAM: SUNIL P. DESHMUKH, J.

DATE: 10.07.2015

ORDER :

1] Learned counsel for the parties concur that though the application prays for modification of the order, intrinsically it seeks review of the order passed by this Court. This Court by order dated 3.11.2014 had allowed the Civil Application No.5580/2014 in terms of prayer

clause (C). Prayer clause (C) thereof reads as under:

"The Respondent nos.1 to 3 may kindly be ordered to release and pay monthly salary of the applicant during the pendency and final disposal of the petition."

2] According to the learned AGP, since the School Tribunal makes a reference to payment of salary from the non-salary grants by the management, the State may not be required to pay the salary to present respondent no.1.

3] Learned counsel for the parties are not at dispute that the respondent no.1 is working on a sanctioned post and is eligible to hold the said post on account of his qualifications and experience, albeit it appears that approval to his appointment was not continued on account of dispute over reservation on the post where the original writ petitioner i.e. the respondent no.1 herein had been working. This Court had earlier under its order dated 16.1.2015 in Civil Application No.220/2015 had taken into account that the respondent no.1's services were being approved till 2003. This appears to have been referred to in the affidavit in reply filed to the writ petition by Secretary of the management – Mula Education

- 3 -

Society to Civil Application No.5580/2014 to the effect that approval to the original petitioner's appointment had been continued upto 2003 and salary accordingly was being regularly paid to the respondent no.1 herein. It appears that there is some confusion of receipt of non-salary grants by the school management. Under the circumstances, the Court had passed the order, which is sought to be modified under the present application.

4] Taking into account that the original petitioner i.e. respondent no.1 herein had been working for almost 14 years and upto 2003, he was being paid salary, dispute with regard to the approval to his appointment having been raised on account of reservation on the post, there is no dispute that the post being sanctioned where currently the respondent no.1 is working, the order came to be passed directing to pay the monthly salary as per rules.

5] The learned counsel for the respondent no.1 points out that the school is receiving grant-in-aid and the respondent no.1 is working on a sanctioned post. This Court had observed that the respondent no.1 would be entitled to monthly salary as per rules. If the post is

- 4 -

sanctioned and the rules provide for payment of salary from the coffers of the State and this being the order of interim nature, I do not think that the order calls for any modification at this stage. Looking at the subject matter involved in the writ petition, it would be expedient that the writ petition be taken up for early disposal. In view of this, I do not consider that at present the order requires any modification. Hence, the civil application is dismissed.

(SUNIL P. DESHMUKH, J.)