

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.723 OF 2015
IN
WRIT PETITION NO. 305 OF 2012**

Ashwini Amol Chougule

..Applicant

Vs.

**Deepak Society through its
President/Secretary & Anr.**

..Respondents

**Mr. M. S. Topkar for the Applicant (original Respondent No.1)
Mr. A. R. Belge for the Respondent No.1 (Original Petitioner)
Ms M. S. Bane, "B" Panel Counsel for the Respondent Nos.2 and 3**

CORAM : R. M. SAVANT, J.

DATE : 20th July, 2015

P.C.

1 The above Civil Application has been filed for two fold reasons, firstly for the relief that the Applicant/Respondent No.1 may be permitted to withdraw the amount of Rs.43,000/- which the Respondent No.1 management has deposited in this Court pursuant to the order dated 25-7-2014 and the second relief sought is that the Petitioner should be directed to deposit additional amount of Rs.1,68,175 which according to the Applicant/original Respondent No.1 is the amount of back wages that are actually due to the Applicant.

2 In so far as the said amount of Rs.1,68,175/- is concerned, the calculation arrived at by the Applicant/original Respondent No.1 is on the basis

that the Applicant would have to be treated as an Assistant Teacher after the tenure of two years as Shikshan Sevak comes to an end. It is on the basis of the emoluments that an Assistant Teacher would be entitled to, that the said amount of Rs.1,68,175 has been calculated. In my view, it is not necessary to go into the said aspect as the entitlement if any of the Applicant would be contingent upon the decision that would be rendered in the above Petition which is pending hearing and final disposal. If this Court ultimately comes to the conclusion that the termination of the Applicant/Respondent No.1 was illegal, then the Applicant/Respondent No.1 would be entitled to the consequential benefits that would arise out of such declaration, which would include the emoluments of that of an Assistant Teacher. However, in so far as the first relief which is sought namely withdrawal of Rs.43,000/-, the said amount is for the period beyond termination of the Applicant/Respondent No.1.

3 In my view, the Applicant can be allowed to withdraw the said amount of Rs.43,000/-, subject to filing of an undertaking in this Court, that in the event it is held that the Applicant/Respondent No.1 is not entitled to the said amount, the Applicant/Respondent No.1 would refund the same within the time stipulated by this Court. The said undertaking to be filed within three weeks from date. With the aforesaid directions, the Civil Application the disposed of.

[R.M.SAVANT, J]