

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

C.A.O.NO.443 OF 2015 IN M.C.A.ST.NO.3150 OF 2015 IN WRIT PETITION NO.6465 OF 2013(D).

State of Mah. and ors. ..vs.. Shri Shyam Dadasaheb Jibhkate and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs.B.P.Maldhure, AGP for the applicants.
Mr.A.Z.Jibhkate, Adv. for the respondents.

CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.
DATED : SEPTEMBER 11, 2015.

Review is sought of order dated 18th of March, 2014 passed in Writ Petition No.6465 of 2013 on the ground that, the very premise of said order, petitioner is found surplus, is incorrect. Our attention is invited to the fact that as there were 20 students in school, one post of Headmaster, one Assistant Teacher and one Junior Clerk were sanctioned and were not declared surplus.

During hearing, we find that as orders dated 18th of March, 2014 have not been complied with, a Contempt Petition has been filed by said petitioner.

There is delay of about 305 days in moving M.C.A.St.No. 3150 of 2015. Delay is explained by stating that when matter was taken up for consideration as per directions contained in order dated 18th of March, 2014, during hearing error was noticed and hence review has been sought.

After hearing learned Assistant Government Pleader as also Advocate Mr.Jibhkate for original petitioners, we find that even in present review petition in paragraph no.6 it has been stated that as per staffing pattern for the academic Sessions 2010-2011 as there were only 20 students in 8th standard, grant came to be sanctioned for one post of

Headmaster, one Assistant Teacher and one Junior Clerk. The Staffing pattern for academic sessions 2011-2012 was considered and was sanctioned on 1st of October, 2011 and grant came to be sanctioned for 5th and 9th standards. Enrollment of the students was found inadequate for academic sessions 2012-2013 and staffing pattern was decided on 18th of September, 2012. Since the sufficient number of students were not available in school, no grant came to be sanctioned. As students were inadequate, though school was recognized, no grants could be released.

This stand itself falsifies the contention that petitioners were not found surplus. When number of students was inadequate and grant could not be released, provisions of Rule 26 of M.E.P.S.Rule, 1981 operate and therefore on 18th of March, 2014 the fact that the petitioners were found surplus was correctly not disputed.

In this situation, though we condone the delay in filing M.C.A., we find no case is made out warranting interference in review petition.

Civil Application (CAO) no.443 of 2015 is accordingly allowed. However, M.C.A.St.No.3150 of 2015 is rejected.

JUDGE

JUDGE

Chute.