

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.811/2015

Santosh S/o Ramrao Choudhari.

..Petitioner..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri A.V.Patil, Advocate for the Petitioner.

Ms.S.S.Raut, AGP for Respondent Nos.1 to 3.

Shri A.H.Sabnis, Advocate h/f Shri V.D.Gunale, Advocate
for Respondent Nos.4 & 5.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 15.11.2016

ORDER :

1] Mr.Patil, learned counsel for the petitioner submits that though the respondent no.2 – appellate authority on 2.8.2014 had passed an order directing the present respondent no.5 to allow the petitioner to join the post so also to take steps for payment of salary from August, 2011 onwards and for a period April, 2008 to December, 2008, the petitioner is not allowed to join nor steps are

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taken for complying the order passed by the appellate authority. According to the learned counsel, the petitioner was always ready and willing to join his post with respondent no.5, but the respondent no.5 was not allowing the petitioner to join. Even the said order passed by the respondent no.2 – appellate authority was not assailed by the institution and only two months back, the same is sought to be assailed.

2] Mr.Sabnis, learned counsel for the respondent no.5 submits that the petitioner did not join the post. Even writ petition was filed by the petitioner seeking directions to allow the petitioner to work in the other Ashram school where he was directed to be absorbed after being declared surplus. This Court did not consider the request of the petitioner and directed him to join the present respondent no.5 – school. The petitioner did not join the respondent no.5 – school. According to the learned counsel, when the petitioner has not worked on the said post, he is not entitled for the salary.

3] The learned AGP submits that pursuant to the orders of this Court, the Assistant Commissioner, Social Welfare was present in the said school on 26.10.2016 and the

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petitioner has joined with the respondent no.5 – school on 26.10.2016.

4] Mr.Patil, the learned counsel submits that though the petitioner was allowed to join on 26.10.2016, however, since 27.10.2016, he is not allowed to sign the Muster. The said grievance may be made before the Assistant Commissioner and/or the appropriate authority, which would be considered by the appropriate authority after considering the record and the say of the parties.

5] As the petitioner is now allowed to join in service, the clause (2) of the order stands complied with.

6] It is submitted that the said order is assailed by the respondent no.5 by filing a separate writ petition. The respondent no.5 can agitate his grievance in the said writ petition. The petitioner can also put forth his case.

7] However, there would be no impediment for the respondent no.5 to submit the salary bills alongwith its notings / remarks to the appropriate authority. The appropriate authority shall consider the said salary bills and the remarks of the respondent nos.4 & 5 on the same and take decision accordingly. However, the same

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would be subject to the decision in the writ petition filed by the respondent nos.4 & 5 challenging the order dated 2.8.2014. With these observations, writ petition is disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)