

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Criminal Writ Petition No. 1202 of 2016

District : Dhule

1. Vijaysing s/o. Nathesing Rajput,
Age : 65 years,
Occupation : Agriculturist,
R/o. Sakuba Niwas,
Thansing Jibhau Chowk,
At Post Sindkheda,
District Dhule.

 2. Loknete Aamdar Kailaswasi Mangalsing
Nimji Rajput @ Thansing Jibhau
Shikshan Prasarak Mandal
(A trust registered under
Maharashtra Public Trusts Act, 1950),
Sakuba Niwas, Thansing Jibhau
Chowk, At Post Sindkheda,
District Dhule,
Through its Chairman,
Vijaysing s/o. Nathesing Rajput
- .. Petitioners
(Original accused
nos.2 & 3)

versus

1. The State of Maharashtra,
Through Principal Secretary,
Home Department,
Mantralaya, Mumbai - 32.

 2. Hilal s/o. Krishna Rajput,
Age : 54 years,
Occupation : Service,
R/o. Ekvira Colony,
Plot No.18,
At Post Sindkheda,
District Dhule.
- .. Respondents.

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Mr. P.R. Patil, Advocate, for petitioners.

*Mr. P.N. Kutti, Addl. Public Prosecutor, for
respondent no.1.*

Respondent no.2 served (Absent).

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CORAM : Z.A. HAQ, J.

DATE : 17TH NOVEMBER 2016

ORAL ORDER:

Heard Mr. P.R. Patil, learned Advocate for petitioners and Mr. P.N. Kutti, learned Addl. Public Prosecutor for respondent no.1 - State of Maharashtra.

2. Rule. Rule made returnable forthwith.

3. Respondent no.2 had filed appeal before the School Tribunal. It was allowed by order dated 5th December 2013. The Tribunal set aside the termination order dated 2nd January 2012 and directed the management to reinstate respondent no.2 herein, as Assistant Teacher along with consequential benefits.

4. The aforesaid order passed by the School Tribunal was challenged before this Court in Writ Petition No. 11933 of 2014 which is decided by the judgment dated 2nd September 2015. This Court modified the order passed by the School Tribunal and

directed the management to reinstate present respondent no.2 with effect from 16th october 2015 and to pay 50 % of the back wages, and permitted the management to conduct disciplinary proceedings against present respondent no.2, leaving it to the management to keep the present respondent no.2 under suspension or not.

5. Present respondent no.2 initiated proceedings i.e. S.T.C. No. 223/2014 before the Judicial Magistrate (F.C.), Sindkheda, District Dhule, under Section 13 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 [**For short, "MEPS Act"**], complaining non-compliance of the order passed by the Tribunal. In these proceedings, petitioners (Management) moved an application (Exhibit 29), pointing out that the order passed by the Tribunal is modified by this Court and the judgment passed by this Court is complied. It was pointed out that the present respondent no.2 is reinstated with effect from 16th October 2015 and amount of Rs. 9,00,000/- is deposited by Demand Draft in the account of present respondent no.2, and the petitioners prayed before the Magistrate that the order passed by him directing issuance of process be recalled. The learned Magistrate has rejected the application (Exhibit 29) by the impugned order.

6. Mr. Patil, learned Advocate for petitioners,

has pointed out the averments made on oath in paragraph no.07 of this Writ Petition, that the present respondent no.2 is reinstated with effect from 16th October 2015 and the amount equivalent to 50 % back wages is also deposited in the account of present respondent no.2. Petitioners have placed on record, photo-copy of extract of account of management.

7. Considering the above facts, in my view, the learned Magistrate has committed an error in rejecting the application (Exhibit 29). The proceedings under Section 13 of the MEPS Act are provided to execute the order passed by the Tribunal. The order passed by the Tribunal, modified by this Court, having already been complied by the management, nothing remained to be executed. The learned Magistrate has failed to consider this aspect.

8. Hence, the following order :-

(a) The impugned order dated 9th August 2016, passed by the Judicial Magistrate (F.C.), Shindkheda, District Dhule, below Exhibit 29 in S.T.C. No. 223/2014, is set aside.

(b) The application (Exhibit 29) filed by the petitioners before the Magistrate stands allowed.

(c) Rule made absolute in the above terms. In the circumstances, the parties shall bear their own costs.

(Z.A. HAQ)
JUDGE

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