

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CONTEMPT PETITION NO. 95/2016 IN WRIT PETITION NO.1145/2014 (D)
(SIDDHARTH NAMDEO MADARE VERSUS SANJAY CHAHANDE, SECRETARY, STATE OF
MAHARASHTRA, HIGHER AND TECHNICAL EDUCATION, MANTRALAYA, MUMBAI & OTHERS)

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

Court's or Judge's orders

Shri V.G. Wankhede, counsel for the petitioner.
 Ms N.P. Mehta, A.G.P. for the R-1 & 2.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : JUNE 7, 2016.

By this contempt petition, the petitioner seeks an action against the respondents under the provisions of the Contempt of Courts Act for willful disobedience of the interim order passed by this Court on 10.11.2014 in Writ Petition No.1145 of 2014.

The petitioner is working as a Lecturer from 15.12.1993 and according to the petitioner, he was entitled to the senior scale as per the University Grants Commission notification dated 24.12.1998 as though the petitioner has not passed the NET/SET examination, he has completed six years of service. The petitioner, therefore, filed Writ Petition No.1145 of 2014 for grant of benefits of Career Advancement Scheme. One of the similar matters was decided by this Court and the State Government had filed a special leave petition against the said judgment granting the benefit of the Career Advancement Scheme in favour of the lecturers that did not possess the NET/SET qualification but, had continuously served for a period of more than six years. During the pendency of the special leave petition, the Supreme Court, by the interim order dated 18.11.2013, directed that the teachers that had not passed the NET/SET examination but, had completed six years of service would be entitled to the benefits of the Career Advancement Scheme only for the purpose of the pay-scale during

the pendency of the petitions. On the basis of the said interim order passed by the Hon'ble Supreme Court, in the petition filed by the present petitioner, bearing Writ Petition No.1145 of 2014, this Court directed the respondents to complete the exercise of considering the grant of benefits of Career Advancement Scheme only for the purpose of pay-scale to the petitioner within a period of six months. Since there is non-compliance of the interim order dated 10.11.2014, the petitioner has sought action against the respondents.

The respondent no.2 has filed an affidavit-in-reply. It is stated in the affidavit-in-reply that in the special leave petition that was pending before the Hon'ble Supreme Court, the Supreme Court has passed further orders on an application filed by the State Government for clarification and has directed that all the similar petitions that were pending before the three Benches and the Principal Seat of the Bombay High Court should be clubbed together and be placed before one Bench for appropriate decision/order. It is stated on behalf of the respondent no.2 that in pursuance of the said order of the Hon'ble Supreme Court, dated 25.03.2015, all the matters including the writ petition filed by the present petitioner bearing Writ Petition No.1145 of 2014 were placed before the Division Bench at the Principal Seat and all the petitions including the petition filed by the present petitioner were dismissed. Though the writ petitions were dismissed, the judgment was not given effect to, and the interim orders in the writ petitions were not vacated till the Supreme Court passes an appropriate order. It is stated that the aggrieved teachers approached the Hon'ble Supreme Court by challenging the judgment rendered by the Division Bench at the Principal Seat on 23.12.2015 and the Hon'ble Supreme Court, while issuing notice in the special leave petitions has directed the parties to maintain *status quo*. It is stated that in view of this subsequent development, it cannot be said that the respondents have deliberately disobeyed the interim order of which the contempt is alleged. It is stated that Writ Petition

No.1145 of 2014, in which the interim order was passed is dismissed and in the circumstances of the case, the interim order was not implemented in view of the subsequent developments. It is stated that the order of *status quo*, as granted by the Hon'ble Supreme Court on 14.03.2016 cannot be helpful to the petitioner for advancing the case in the contempt petition.

On hearing the parties and on a consideration of the subsequent developments, we do not find that the respondents have deliberately disobeyed the order of which the contempt is alleged. Writ Petition No.1145 of 2014, in which the interim order was passed, was transferred to the Principal Seat and the said writ petition is dismissed. The interim orders were not vacated and were directed to be continued till the Supreme Court passes effective orders in the special leave petitions filed by the aggrieved teachers. The order of *status quo*, as granted by the Supreme Court would not come to the rescue to the petitioner herein, to seek action against the respondents under the provisions of the Contempt of Courts Act. The Hon'ble Supreme Court has directed the parties to maintain *status quo* in respect of those who are already covered by the scheme. The writ petition filed by the petitioner is dismissed and till the writ petition was dismissed, the petitioner was not receiving the benefits of the Career Advancement Scheme even for the purpose of pay-scale. In the peculiar facts of the case, it cannot be held that the respondents have deliberately disobeyed the order of which the contempt is alleged and are liable to action under the provisions of the Contempt of Courts Act.

Hence, we drop the proceedings against the respondents and dismiss the contempt petition with no order as to costs.

JUDGE

JUDGE