

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

WRIT PETITION NO.71 OF 2015

[Ku. Pratibha D. Ridhorkar .vs. State of Maharashtra and others]

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

Court's or Judge's orders

Ms. Dashputre, Advocate h/f Shri P.B. Patil, Advocate for the petitioner,
 Shri Palshikar, A.G.P. for respondent nos.1 to 3,
 Shri Warulkar, Advocate for respondent nos.4 and 5,

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : MARCH 08, 2016.

Heard Ms. Dashputre, learned counsel for the petitioner, Shri Palshikar, learned Assistant Government Pleader for respondent nos.1 to 3 and Shri Warulkar, learned counsel for respondent nos.4 and 5.

Learned Assistant Government Pleader is seeking time of two weeks to obtain instructions from respondent no.2.

In absence of any statutory provisions enabling the petitioner to claim her salary for the period from 1.9.2009 to 24.6.2011 in this writ petition, cognizance of prayer to release the salary for that period cannot be taken. The learned counsel for the petitioner submits that there are some subsequent Government Resolutions enabling the petitioner to claim her salary, but those resolutions are not on record. Similarly, for the salary of the petitioner for the period from 1.9.2009 to 24.6.2011 with increments, support is being taken from order dated 15.12.2011. By that order, earlier school of the petitioner has been made over to

respondent nos.4 and 5. On that day, the petitioner was working in respondent no.6-School. The petitioner has urged that because of that order, the petitioner was relieved from respondent no.6-school. It is obvious that if the petitioner has worked in same school during the said period i.e. from 1.9.2009 to 24.6.2011, her salary must be paid. Similarly, if she was prohibited either by respondent nos.4 and 5 or then respondent no.6 from working during that period, again concerned respondents must pay her salary. We find that though this court has issued notice about one year back, the learned counsel for the parties are not in position to assist the court properly. Respondent no.2 has avoided to file a proper affidavit.

Hence, we grant the petitioner leave to make appropriate representation containing all her grievances. If such representation is made within a period of four weeks from today, respondent no.2 or other competent authority shall look into it within next eight weeks.

Acceptance of any benefit, in view of any orders passed by the said authority, shall not preclude the petitioner from challenging the correctness of that decision. As we find respondent no.2 is not cooperating with this court, we direct respondent no.2 to deposit in this court an amount of Rs.2,000/- payable as costs to the petitioner.

Keeping all rival contentions open, we dispose of this writ petition.

JUDGE

JUDGE