

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 45 OF 2017

SUBHASH TUKARAM JADHAVAR
VERSUS
DR. SAU. BILKIS FARUK SHAIKH AND OTHERS

...
Advocate for Petitioner : Shri Bade Patil K.D.

...

CORAM : RAVINDRA V. GHUGE, J.

Dated: January 24, 2017

...

PER COURT :-

1. The petitioner is before this Court alleging dis-obedience of the order passed by this Court on 9.3.2016 in Writ Petition No.2653 of 2016 by the respondents.

2. I have considered the submissions of Shri Patil, learned Advocate for the petitioner.

3. The petitioner has succeeded before the School Tribunal vide judgment dated 22.11.2001. The said judgment was challenged before this Court in Writ Petition No.1172 of 2002 by the management, which was dismissed by judgment dated 6.8.2009. Special Leave Petition has also been dismissed.

4. The petitioner moved execution proceedings under Section 13

of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 ("the MEPS Act" for short) by preferring Misc. Application No.15 of 2012. Objections of the management vide Exhibits 18 and 22 were rejected by the Tribunal on 16.10.2016. This Court, while dealing with the challenge of the management in Writ Petition No. 2653 of 2016, dismissed the petition of the management and imposed costs of Rs.25,000/-, which direction is said to have been implemented by the management by depositing the costs.

5. The petitioner filed a purshis Exhibit 61. By the order at issue dated 13.12.2016, passed by the School Tribunal, Aurangabad, the School Tribunal while dealing with the purshis Exhibit 61 filed by the petitioner expressing a desire to approach the High Court, has passed the following order:-

“ Considering the fact that despite several direction given to the respondents, neither the petitioner is reinstated to his original post nor he has been given back wages, the petitioner can seek necessary remedy before the Honourable High Court, therefore, the petition is disposed of accordingly.”

6. I find that the learned Presiding Officer, School Tribunal, Aurangabad has over indulged in the matter. He could not have exercised such discretion, which can be termed as "advisory" in making the above observations. Notwithstanding that the petitioner

has filed a purshis and notwithstanding that he has made an unreasonable request, the learned Presiding Officer was expected to be conscious of it's jurisdiction and could not have ventured into making the above observations and could not have disposed off the execution proceedings by the above observations.

7. In so far as this Contempt Petition is concerned, the same cannot be entertained under Section 15 of the Contempt of Courts Act and is, therefore, dismissed.

8. Learned Advocate for the petitioner makes a request that he could move an application before the Tribunal for recalling the order dated 13.12.2016 and for restoration of the execution proceedings. Considering the above, it appears that the petitioner has acted on an incorrect advise and hence is granted the liberty as prayed for.

9. The learned Registrar (Judicial) shall place the copy of this order before the learned Presiding Officer.

(RAVINDRA V. GHUGE, J.)

...