

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.4859 OF 2015**Jakir Ahamed Abdul Patel and others Vs. The State of Maharashtra and others.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Ms.Surekha P.Mahajan, advocate for the petitioners.
Mrs.M.A.Deshpande, Additional Government Pleader for the State.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**
Date : 24.01.2017.

PER COURT :

1. Heard.
2. The petitioners Nos.1 and 2 are the employees of petitioner No.3. They are working as Assistant Teachers. They were terminated. The petitioners Nos.1 and 2 filed an appeal before the School Tribunal. The School Tribunal allowed the appeal, thereby directing the respondents therein to reinstate the petitioners with full back wages to be paid within forty (40) days. The petitioners are not paid the back wages, as such have filed the present petition
3. Ms.Mahajan, learned counsel for the petitioners states that the Respondents were directed to pay the back wages as per the

order of the School Tribunal. The Education Officer was also party to the proceedings before the School Tribunal. As yet, the petitioners are not paid the back wages as awarded by the School Tribunal except paltry sum of Rs.1,00,000/- (Rupees one lac) each. The learned counsel submits that even as per Section 11(3) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, the salaries can be paid from the grants receivable by the Management. The grants would include the non-salary grant. The learned counsel to substantiate her contention relies on the judgment of the learned Single Judge of this Court in the case of **“Vilas Shankarrao Deshmukh and another Vs. S.A.Ghode, Principal, Navprabhat Vidya Mandir and Junior College, Thanegaon and others”** reported in **2001 (1) Mh.L.J. 261**. The learned counsel relying on the communication made by the Education Officer dated 5.7.2013 further states that for the year 2013-14, the petitioner No.1 was held entitled to an amount of Rs.7,78,000/- (Rupees seven lacs seventy eight thousand) towards the non-salary grants. The said amount is not paid. Even the non-salary grants, for which the funds were received by the Government, as the same not being disbursed, had lapsed. The petitioners are entitled for an amount of Rs.16,00,000/- (Rupees sixteen lacs) i.e. Rs.8,00,000/- (Rupees eight lacs) each. The Respondents be directed to pay the amount towards arrears of

salary to the petitioner Nos.1 and 2 directly by deducting the amount from the non-salary grants payable to petitioner No.3. The learned counsel submits that even Management in the affidavit had undertaken to this effect.

4. The learned Additional Government Pleader submits that whatever amount the petitioner No.3 was entitled to towards non-salary grants for the year 2013-14 has been paid to the petitioner No.3. As per the G.R. dated 19.1.2013 the non-salary grants are payable to the extent of 5% of the total salary. As far as contention of the petitioner regarding the non-salary grants being lapsed, the same is because some of the institutions did not raise the demand. The non-salary grants are meant for specific purpose and can not be utilised for payment of salaries.

5. We have considered the submissions canvassed by the learned counsel for respective parties. It is a fact that the termination orders thereby terminating the services of the petitioners are set aside by the School Tribunal and they have been held entitled to full back wages i.e. from the date of their termination till their reinstatement. It appears that the order of the School Tribunal was subject matter of further proceedings before this Court. When the matter was pending before this Court, affidavit came to be filed by the Management. In the affidavit, the Management specifically agreed that they would not claim non-

salary grants and the back wages payable to the petitioners be paid from the non-salary grants i.e. by deducting the said amount from the non-salary grants. Even the State has given its No Objection to the said proposition of the Management. The same is explicitly clear from the order passed by this Court in W.P.No.6167/2012 dated 29.7.2013. The present petition is filed by the employees, so also the Management.

6. Considering the aforesaid, the Respondent State and its authorities shall pay the petitioner Nos.1 and 2 the amount towards the arrears of salary from the non-salary grants to the extent the same is admissible to the petitioner No.3 expeditiously.

7. The Writ Petition accordingly is disposed of. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.24.01.2017.

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