

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1921 OF 2016
IN
WRIT PETITION NO. 5556 OF 1999**

Shaikh Jamal Chand .. Applicant.
Vs.
Maharashtra Seva Sangh and Ors. .. Respondents

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Mr. S.G. Kudle a/w Mr. Santosh Sitap for Applicant.
Mr. M.S. Topkar a/w Pavitra Manesh for Respondent No.1
Mr. A.R. Metkari, AGP for Respondent No.2.

**CORAM : A.A.SAYED, J.
DATE : 28 APRIL 2017.**

P.C. :

1. This Civil Application is filed by the Applicant-teacher (original Respondent No.1 in the above disposed of Writ Petition) seeking the following reliefs.

- a) This Hon'ble Court be pleased to direct Hon'ble Registrar High Court Appellate Side to release an amount of Rs. 46,598/- (Rs. Forty Six Thousand Five Hundred Ninety Eight only) in favour of Applicant for which the Applicant is entitled for.*
- b) That any other just and equitable order be passed in favour of Applicant.*
- c) This Civil Application be allowed.*

2. The Applicant-teacher had initially filed an Appeal before the School Tribunal, Solapur. The School Tribunal vide order dated

08.09.1999 allowed the said Appeal and directed the Respondent-Management to allow the Applicant-teacher to join duty as a full time teacher and to pay his salary with effect from 01.04.1994. That order was challenged by the Respondent-Management before this Court vide Writ Petition No. 5556/1999. While admitting the Writ Petition, this Court by order dated 20.09.2000 stayed the order of School Tribunal subject to the Respondent-Management depositing the Applicant-teacher's salary as full time teacher in this Court from 01.04.1994 till 08.09.1999 after deducting therefrom the amount which had actually been paid to him as teacher either on part time or clock hour basis. The Court permitted Applicant-teacher to withdraw the said amount after furnishing the security to the satisfaction of the Registrar of this Court.

3. The Respondent-Management accordingly deposited Rs.3,42,007/- on 10.09.2001 in this Court. The Applicant-teacher thereafter withdrew the said amount of Rs.3,42,007/- from this Court on 13.07.2004 i.e after about 3 years. In this interregnum period, interest had accumulated of the amount of Rs., 3,42,007/- as the said was amount was invested by this Court, which interest amount remained deposited.

4. On 21.03.2009, this Court ultimately allowed the Writ

Petition and set aside the order of the School Tribunal. The Applicant-teacher thereafter challenged the said order before the Division Bench in LPA No.178/2009, which came to be dismissed on 20.08.2009. The Applicant-teacher thereafter filed SLP No18904/2000 before the Supreme Court which also came to be dismissed on 01.12.2000.

5. The Respondent-Management thereafter filed Civil No. 110/2010 in the Writ Petition No. 5556/1999 pointing out that the Applicant-teacher had not deposited the amount withdrawn by him as per the undertaking given while furnishing security. By order dated 17.09.2010, a Single Judge of this Court allowed the Civil Application and directed the Applicant-teacher to deposit the amount of Rs.3,42,007/- within a period four weeks with 6% simple interest from the date the amount was withdrawn till realization.

6. The Applicant-teacher thereafter filed Writ Petition No. 5550/2011 seeking re-instatement. The Respondent-Management filed its Affidavit and pointed out that Applicant-teacher has not yet refunded the amount withdrawn by him despite the order dated 17.09.2010. By virtue of various orders passed by this Court, the Applicant-teacher ultimately refunded the amount with interest, as directed. The Applicant-teacher in the terms of the order dated 17.09.2010 refunded an amount of Rs.5,90,000/- comprising of the

principal amount of Rs.3,42,007/- and interest @ 6% pa on the principal amount.

7. The amount of Rs. 46,598/- sought to be withdrawn by the Applicant-teacher by the present Civil Application is the interest component that has accrued on the amount of Rs.3,42,007/- from the time the said amount was deposited by Respondent-Management in this Court pursuant to the order dated 20.09.2000 till the same was withdrawn by the Applicant-teacher on 13.07.2003 i.e about 3 years. The Respondent-Management, has filed an Affidavit in Reply to the present Civil Application stating that the said amount of Rs.46,598/- is required to be refunded to them.

8. I have heard learned Counsel for the Applicant-teacher and the learned Counsel for the Respondent-Management.

9. While disposing the Civil Application No. 110/2010 filed by the Respondent-Management, learned Single judge of this Court on 17.09.2010 had passed the following order.

"1. The Civil Application has been filed for a direction to the respondent No.1 to repay an amount of Rs.3,42,007/- along with interest @ 12% p.a. The Writ Petition was disposed of by this Court on 21st March, 2009. This Court allowed the Writ Petition. The said order of the learned Single Judge passed in the Writ

Petition was challenged by the respondent No.1-teacher by preferring a Letters Patent Appeal before this Court. That Letters Patent Appeal was dismissed by this Court. Thereafter the respondent No.1 preferred a Special Leave Petition before the Supreme Court which has also been dismissed.

2. *In these circumstances, in my view, it would be appropriate to grant the Civil Application. Accordingly, the Civil Application is allowed. The amount of Rs.3,42,007/- shall be deposited by the respondent No.1-teacher in this Court within a period of four weeks from today together with 6% simple interest from the date the amount was withdrawn from this Court till realization.*

3. *The Civil Application is disposed of.”*

10. Thus, it is clear that this Court had directed the Applicant-teacher to return the deposit amount of Rs.3,42,007/- alongwith interest @ 6% simple interest from the date the amount of Rs. 3,42,007/- was withdrawn by him till realization, which order was complied with by the Applicant (though belatedly). It is not in dispute that pursuant to the order dated 20.09.2000, the Respondent Management had deposited an amount of Rs.3,42,007/- in this Court on 10.09.2001. However, the Applicant-teacher has withdrawn the amount of Rs.3,42,007/- only on 13.07.2004 i.e after a period of about 3 years. During the period from 10.09.2001 till 13.07.2004 interest had accrued on the said amount of Rs.3,42,007/-. The amount of

Rs.46,598/- as indicated earlier, comprises of the interest component on the said amount of Rs.3,42,007/- which remained deposited for three years in view of the delay on the part of the Applicant-teacher to withdraw the amount. In these circumstances, I am unable to see how the Applicant-teacher can lay a claim and would be entitled to the interest amount accumulated because of the delay on his part to withdraw the amount of Rs. 3,42,007/- which he is now seeking to withdraw by the present Civil Application. The said amount as a matter of fact would belong to the Respondent Management.

11. The learned Counsel for the Respondent-Management has very fairly agreed to the suggestion of the Court, that the interest component which has remained in this Court of Rs. 46,598/- can be paid to the High Court Legal Services Authority. In the circumstances, office is directed to make out a cheque of the amount of Rs. 46,598/- (alongwith accrued interest, if any) and pay the same to the High Court Legal Services Authority within a period of eight weeks from today. Office to inform the learned Counsel for the Respondent-Management once the said amount is paid to the High Court Legal Services Authority.

12. Subject to directions, the Civil Application is disposed of.

(A.A.SAYED, J.)