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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.107 OF 2017

IN

CONTEMPT PETITION NO.580 OF 2013

IN

WRIT PETITION NO.1151 OF 2012

Bandhane Gorakhnath Popat

...Petitioner
(Original Respondent No.1)

vs

Shri Vasant Ganu Patil, Chairman,
Sanjeevan Gramin Vaidhakiya Samajik
Sahayata Pratishthan

...Contemnors/Respondents
(Original Petitioners)

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Mr. C.R. Sadasivan, i/b. N.M. Ganguli, for the Petitioner.

Mr. Susheel Mahadeshwar, i/b. Ranjana Todankar, for Contemnor Nos. 1 and 2.

Mr. Vasant Ganu Patil, present.

M.S. Bane, 'B' Panel Counsel for Respondent No.4.

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CORAM : PRASANNA B. VARALE, J.

DATED: 14 AUGUST, 2017

P.C. :

. Heard learned Counsel for the Petitioner.

2. Learned Counsel for the Petitioner invited my attention to the order of this Court dated 17 February 2017. The submission is in

view of the earlier order passed by this Court, the Petitioner joined services and reported on duty on 22 February 2017. The submission is though the part of the Petitioner is complied with by the Petitioner, Respondent No.1, who was duty bound to comply his part in view of an undertaking given to this Court, failed to comply with the undertaking. Learned Counsel appearing for Respondent Nos. 1 and 2 though initially made an attempt to submit before this Court that the college is situated in a tribal area, as such it would require some time to grant back wages to the Petitioner. It was submitted that a communication is forwarded to the Petitioner on 18 April 2017 giving a schedule of payment of the back wages. It was submitted that an amount of Rs.1,25,000/- is already paid to the Petitioner. Learned Counsel for Respondent Nos. 1 and 2 submitted that the last drawn salary of the Petitioner was at the rate of Rs.9649/- per month. Accordingly, the amount is calculated and the back wages for the period from 1 April 2011 to 22 February 2017 is to the tune of Rs.6,85,079/-. After going through the order passed by this Court dated 17 February 2017, it was made clear to the learned Counsel appearing for Respondent Nos. 1 and 2 that this Court cannot undertake in piecemeal and the undertaking of the Respondent No.1 that he will pay the back wages in a schedule installment reflected in communicated dated 18 April 2017. Learned Counsel, on instructions from Respondent No.1, Mr. Vasant Ganu Patil, Chairman of Sanjeevan Gramin Vaidhakiya Samajik Sahayata Pratishthan, submitted that the amount of back wages, excluding amount of Rs.1,25,000/-, would be paid to the Petitioner within four weeks from today. The amount of the remaining back wages, excluding 1,25,000/-, comes to the tune of Rs.5,60,079/-. An undertaking is given to this Court that the said amount of Rs.5,60,079/-

would be paid to the Petitioner within four weeks from today. The undertaking is accepted. Learned Counsel for Respondent Nos. 1 and 2 then made an attempt to submit that there is a serious dispute insofar as the entitlement of the Petitioner is concerned. He also made an attempt to submit before this Court that the Petitioner was never a permanent employee of the institute. It was also submitted to this Court that the issue in respect of wages paid to the Petitioner was pending before the Grievance Committee. Considering the judgment of the learned Presiding Officer of the University Tribunal dated 22 December 2011, order of this Court dated 5 July 2012 in Writ Petition No.1151 of 2012 and order of this Court dated 17 February 2017, in my opinion, the issue before this Court cannot come into all these issues. It will be out of place to refer to the order of this Court dated 17 February 2017 :-

“4. Mr. Mahadeshwar, however, would urge that his client has certain issues of payment of back-wages and these issues be considered. This submission of Mr. Mahadeshwar cannot be accepted. In these proceedings, the issue is limited only to the extent of exercise of contempt jurisdiction under the Contempt of Courts Act read with Contempt of Court (Bombay High Court) Rules 1994, thus any dispute on merits of the orders passed by this Court, cannot be the subject-matter of this proceeding. If the respondent no.1 has any issues in that regard he is not precluded from urging the same before the appropriate forum.”

3. Thus, at the cost of repetition, this Court again says that if the Respondents are having any issue on merit, they can approach the appropriate forum. The only issue for consideration before this Court was whether Respondent No.1 committed breach of an undertaking given to this Court and as such whether the action for committing breach

of undertaking resulting in contempt of Court of this Court can be initiated against the Respondents. As the statement is made before this Court that Respondent No.1 would pay the amount of Rs.5,60,079/- to the Petitioner within four weeks and as the learned Counsel for the Petitioner submitted that the Petitioner is ready to accept the amount, if it is paid within the stipulated period. The contempt petition is disposed of in view of the statement made by learned Counsel for the Respondents. It is again submitted that this Court is of the opinion that if the Respondents are having any issue on merit, they can approach the appropriate forum, and if so advised, they may avail the appropriate remedies available under law. The petition is disposed of in above terms.

(PRASANNA B. VARALE, J.)