

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

C.A.NO. 61/2015 IN C.P.NO. 11/2006
IN L.P.A.NO. 209/2004 IN W.P.NO. 2338/2004.

Gaurishankar Jaipal Patle

-VERSUS-

Premlal Meshram and another.

C.A.NO. 62/2015 IN C.P.NO. 12/2006
IN L.P.A.NO. 210/2004 IN W.P.NO. 2337/2004.

Santosh Bhaulal Rahangdale.

-VERSUS-

Premlal Meshram and another.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : B. P. DHARMADHIKARI
AND ROHIT B. DEO, JJ.

DATE : JULY 18, 2017.

Heard Shri B.G. Kulkarni, learned Counsel
for the petitioners, Shri P.N. Shende, learned Counsel
for respondent no. 1, Shri A.Y. Kapgate, learned
Counsel for respondent no.3 and Mrs. K.S. Joshi,
learned A.G.P. for respondent no.4. Shri N.M.
Gaidhane, learned Counsel for intervenor.

2. Petitioners are employees and are trying to
get benefit of adjudication in Writ Petition

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No.2338/2004 in their favour. The said adjudication entitles them to a relief of reinstatement with continuity and back wages. Petitioners are accordingly reinstated.

3. They have not received the following benefits :

(a) Recovery of back wages for the period from 22/23.07.1999 to 06.02.2008 (Rs. 12,43,912/-) from Management (respondent nos. 1 and 2).

(b) The Education Officer is required to modify the order of approval and is required to grant approval to the appointment of petitioners as Assistant Teacher with effect from 04.07.1999 and 09.09.1999.

(c) Education officer has to release the back wages / arrears of salary from 07.02.2008 to 31.03.2013 total amounting to Rs. 18,28,153/-.

(d) The Education Officer is also under an obligation to pay difference of salary from 01.04.2013 by taking into account pay fixation and time bound promotion [senior scale];

(e) The management and headmaster are

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under an obligation to prepare updated service book of the petitioners by treating continuous approved service w.e.f. 04.07.1999 and 09.06.1999, respectively.

(f) In view of continuity in service as an approved teacher from 04.07.1999 and 09.06.1999, the Education Officer is required to open G.P.F. Account of the petitioners and to credit entire G.P.F. Contribution arrears from 04.07.1999 and 09.06.1999 from the amount payable to the petitioners in the G.P.F. Account and to release the balance payment to the petitioners.

(g) The regular monthly salary is to be revised by taking into account pay fixation and time bound promotion [senior scale].

4. Their efforts to secure these benefits are on since 11 years. Contempt Petition itself is pending since 09.01.2006.

5. Earlier one Education Officer Ku. Mamta Jha, was respondent no.3 and after her retirement, she has been substituted by next incumbent Shri Munghate. Shri Munghate now is not the Education

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Officer concerned with the matter. He has also retired. Respondent no. 5 in contempt petition was State of Maharashtra through its Secretary, Department of Education and it has been allowed to be deleted on 24.10.2008. In present Civil Applications State of Maharashtra has been shown as respondent no.5.

6. Respondent no.4 is office of Education Officer, Zilla Parishad, Gondia. That office has filed reply on 02.09.2016 and in paragraph no.5 disclosed that it has complied with the orders of this Court and sent necessary letter to the office of the Director of Education (Secondary and Higher Secondary), Pune on 25.06.2013. It is mentioned that said authority acts on behalf of the State of Maharashtra. The need to release quantified amount is also reflected therein. The said authority namely Director, thereafter has forwarded a communication to State Government. Respondent no.4 office therefore, claims that it is not responsible for any disobedience of courts order.

7. In Contempt Petition, if action is to be taken against present incumbent working as Education Officer, again matter will be required to be amended and as there is already an affidavit on behalf of the said office, the exercise may not yield any fruitful

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result. Office of the Director of Education, Pune or respondent no.5 are not parties presently in contempt petition.

8. Shri Kulkarni, learned counsel for petitioners is seeking adjournment to study the matter and to find out further steps to be taken. He insists and urges that it is period of 11 years for which matter has remained pending before this Court, which may have resulted in all these complications.

9. Shri Shende, learned counsel appearing on behalf of respondent no. 1 points out that respondent no.2 Parasram, the then President and Headmaster has also expired in the year 2014.

10. If grant of approval to appointment of respective petitioners, after their reinstatement in terms of orders of this Court is not contingent upon, the exercise now pending with the State Government / Director of Education, we direct the respondent no.4 to take a decision upon it forthwith and to communicate it to the respective petitioners.

11. We grant petitioners time of three weeks to make appropriate representation to State Government through its Secretary, Education Department and to Director of Education, Pune with its

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copy to the Education Officer. The authority shall note that in contempt matter this court has given this opportunity to petitioners in order to see that further time is not lost and relief to which petitioners are legally found entitled is conferred upon them. The authorities shall accordingly take a decision upon it within next six weeks. If necessary opportunity of hearing be given to the petitioners.

12. Shri Kulkarni, learned counsel at this stage submits that in peculiar circumstances, the contempt proceedings are being disposed of, he therefore seeks leave to renew the grievance made therein if occasion therefor arises. We accordingly grant leave and keep all the contentions of respondents in relation to it open. With these directions, we dispose of the contempt petitions. No cost.

13. At this stage, it is pointed out that for period prior to reinstatement, i.e. prior to 2008 salary claim was to be paid by the respondent nos.1 and 2. i.e. the private parties who have auctioned the property and an amount of Rs. 4,10,000/- fetched, has been deposited with the Registry of this Court.

14. The amount payable to respective petitioners towards their salary claim for said period is

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in excess of Rs. 12 lakhs. We therefore, permit each petitioner to withdraw half of the amount in deposit with proportionate interest towards their entitlement. They are free to recover the balance out-standing from the management as per law.

JUDGE**JUDGE**

Rgd.