

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CONTEMPT PETITION NO.176/2014

IN

WRIT PETITION NO.5140/2013

Nanda Purushottam Wakade

..Vs..

Shri Sudhir Baheti and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Rneha Pande, Adv. h/f Shri S.S. Ghate, Adv. for respondents 1 and 2.
Shri N.R. Patil, A.G.P. for respondent No.3.

CORAM : Z.A.HAQ, J.

DATED : 30.1.2017.

This matter was called out in the morning session. The learned Advocates for the respective parties submitted that the judgment passed by this Court, wilful disobedience of which is complained by the petitioner in the contempt petition, is challenged before the Hon'ble Supreme Court in Petition for Special Leave to Appeal (C) No.15909/2014. On being asked about the details of the order passed by the Hon'ble Supreme Court in the matter, the learned Advocates showed unawareness and, therefore, the matter was passed over for 2.30 p.m. At 2.30 p.m. Shri S.K. Tambde, Advocate has mentioned that the advocate appearing for the petitioner is required to suddenly go out and requested for an adjournment. After hearing the learned Advocate for the respondent

Nos.1 and 2 and the learned A.G.P. and considering the facts of the case, I refused to adjourn the matter.

The petitioner had filed appeal before the School Tribunal which came to be allowed by the order passed on 21st October, 2013. The School Tribunal directed the Management to reinstate the petitioner, however, rejected her claim for back-wages. The order passed by the School Tribunal was challenged before this Court in Writ Petition No.540/2014 which is decided by the judgment given on 5th May, 2014. In paragraph No.36 of the judgment this Court has recorded that the School Tribunal has not committed any error in quashing the termination and directed the Management to reinstate the employee.

In this petition, the employee has made the grievance that inspite of the fact that this Court has maintained the order passed by the School Tribunal directing the Management to reinstate the employee, she is not reinstated.

In the petition for special leave to appeal filed by the Management, the Hon'ble Supreme Court has passed an order on 8th October, 2014 as follows:

*“Delay condoned.
Issue notice, returnable within six weeks.*

There shall be stay of operation of the impugned order.

However, a suggestion has been given to learned counsel for the petitioners, without prejudice to the respondents, whether the first respondent could be adjusted in any teaching post in the school. We have given

the suggestion as the record reflects, she has rendered more than twelve years of service.”

The learned Advocate for the respondent Nos.1 and 2 / Management states that the matter is still pending and the order passed on 8th October, 2014 continues to operate. In view of the fact that the Hon'ble Supreme Court has stayed the operation of the judgment passed by this Court of which wilful disobedience is complained, in my view, it would not be proper for this Court to consider the grievance made by the petitioner / employee in this contempt petition.

It is relevant to observe that the Hon'ble Supreme Court granted interim order in favour of the Management on 8th October, 2014. Though this contempt petition is filed on 7th August, 2014, the petitioner obtained the order of notice of this contempt petition to the respondents on 12th November, 2014. In the morning session, the Advocate for the petitioner was not in a position to point out that the petitioner was aware or not about the order passed by the Hon'ble Supreme Court on 8th October, 2014.

Be that as it may, in the facts of the case, I am not inclined to exercise jurisdiction under the Contempt of Courts Act, 1971. The petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE