

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

WRIT PETITION NO. 5782/2016.

Sanjay Rambhau Hinge and others.

VERSUS

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

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

DATE : JULY 11, 2017.

Heard Shri P.N. Shende, learned Counsel for the petitioners, Shri A.S. Fulzele, learned Acting G.P. for respondent nos. 1 to 3 and Shri N.M. Jibhkate, learned Counsel for respondent nos. 4 to 6.

2. We find that respondent nos. 4 to 6 are not managing the Ashram School properly. Alleging that petitioners are not residing at the headquarters, a defence has been taken before this Court that therefore, their increments and house rent allowance is not released. The documents which bring on record their stay elsewhere are recent in origin i.e. after filing of the Writ Petition. Moreover, places at which petitioners reside are not

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mentioned in the said document.

3. The Government Resolution requires residential accommodation to be made available in the Ashram school for such staff. Reply does not point out that such accommodation has been made available and though petitioners were asked to occupy it, they have refused to do so.

4. Respondent nos. 1 to 3 have pointed out that stopping of house rent allowance or not releasing annual increments, is an internal matter between the petitioners and their employer. It is also submitted that it may amount to misconduct for which appropriate disciplinary action can be taken.

5. The respondent nos. 4 to 6 have not taken any disciplinary action against the petitioners and have not inflicted any punishment, so as to disqualify them either from earning annual increments or claiming house rent allowance. Though government resolution empowers the management to do so, principles of natural justice need to be complied with and thereafter only action of stopping annual increments or house rent allowance can be taken. Respondent nos. 4 to 6 have not even bothered to pass a formal order withdrawing the annual increment. Thus,

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they are abusing their position and power.

6. During arguments it has been pointed out by the petitioners that in this academic year respondent nos. 4 to 6 are also not permitting students to take admission and therefore, the school may be closed down from 01.07.2017. Shri Shende, learned counsel submits that even today the number of students is very less.

7. It is apparent that Ashram School has been sanctioned after recognizing need of area by respondent nos. 1 to 3. Government money has been spent on it and respondent nos. 4 to 6 are bent upon to see that that the facility should cease to operate. This will create problems for tribal students in the vicinity.

8. Taking over all view of the situation, we direct respondent nos. 4 to 6 to prepare bills of petitioners towards house rent allowance as also annual increments and incremental arrears, within a period of two weeks from today. The same shall be submitted to the respondent no.3 within a period of next two weeks. Thereafter the respondent no.3 shall within next eight weeks take suitable decision on the same.

9. Considering the public investment in the School, we direct respondent no.3 to proceed to take

possession of said School or take suitable steps to see that the Ashram School is not closed and continues to serve the purpose for which public money has been spent. Primacy needs to be given to welfare of tribal students. Claims if any, for compensation by respondent nos. 4 to 6 shall be investigated and dealt with in accordance with law. The orders of this court should be complied with within a period of four weeks from today.

10. An amount of Rs. 1 lakh is deposited by respondent nos. 4 to 6 with the Registry of this Court. There are 10 petitioners before this Court, we grant them costs of Rs. 7000/- to each and thus, they are permitted to withdraw an amount of Rs. 7000/- each out of that amount. The balance amount along with the accrued interest is allowed to be withdrawn by respondent no.3 on behalf of respondent nos. 1 and 2, to be appropriated towards costs of this litigation and exercise as directed.

11. In view of above, Writ Petition is partly allowed and disposed of.

12. Request made by learned counsel for respondent nos. 4 to 6 to stay this order is rejected.

JUDGE

JUDGE