

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1234 OF 2000

G.R.Bhavsar

Age major, occ. service

working as Principal,

A.M.Patil Arts, Commerce and

Kai. Annasaheb N.K.Patil

Science College, Pimpalner,

Tq. Sakri, Dist. Dhule.

..Petitioner

Versus

1. State of Maharashtra

2. Ahire Popat Khandu

C/o Badhane A.B.

Satana Road, Behind ITI,

Pimpalner, Tq. Sakri

District Dhule.

3. The President,

Pimpalner Education Society,

Pimpalner, Tq. Sakri

District Dhule.

4. The Joint Director

Higher Education Grants,

Jalgaon Region, Jalgaon.

..Respondents

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Advocate for Petitioner : Shri Yogesh Bolkar

h/f Shri R.B.Raghuwanshi

AGP for Respondents 1 & 4 : Shri V.S.Badakh

Advocate for Respondent 2 : Shri R.J.Godbole

Advocate for Respondent 3 : Shri Ajinkya Deshmukh

h/f Shri A.V.Hon

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CORAM : RAVINDRA V. GHUGE, J.

Dated: March 20, 2018

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ORAL JUDGMENT:-

1. The petitioner is aggrieved by the order dated 31.1.2000 passed by the University and College Tribunal in Misc. Application No.24 of 1999, vide which the petitioner has been held guilty of disobeying the order of the Tribunal dated 5.7.1999 and having failed to reinstate the original appellant / respondent No.2 herein.

2. I have considered the strenuous submissions of the learned Advocates for the respective sides.

3. Considering the sequence of events, I am not going into the aspect of whether the Tribunal, who has exercised jurisdiction, could have concluded that the petitioner is guilty of Contempt of the Tribunal.

4. I find that the Tribunal delivered its judgment on 5.7.1999 setting aside the termination letter dated 26.10.1998 and ordering the reinstatement of the appellant with payment of salary for the intervening period. There are two groups / factions in the management. The petitioner herein was the Principal. One group directed him to file a Writ Petition No.4535 of 1992

in this Court and challenge the judgment of the Tribunal dated 5.7.1999. Another group took a stand that the Principal was not authorized to file such a petition. Said petition was disposed off on 16.7.2001. It was on account of the said litigation that the petitioner was before this Court. Subsequently the said appellant has been reinstated in service on 23.12.1999 with '0' workload as there was no workload available.

5. The Honourable Apex Court has concluded in the matters of Niyaz Mohd. Vs. State of Haryana [(1994) 6 SCC 332 - Three Judges' Bench] and Indian Airport Employees Union Vs. R. Chatterjee [1991 I CLR 706], that unless disobedience of an order is willful, intentional and deliberate, aimed at overbearing the authority of the Court, a person cannot be held guilty of having dis-obeyed the order of the Court. It must appear from the record that there was a willful and intentional disobedience.

6. From the record available, it appears that the Tribunal noticed that the first cheque issued by the Chairman of the Society for payment of Rs.15,000/- towards part payment of the backwages was dishonored. This happened because one Shri T.S.Deshmukh, the then Chairman of the Society, directed the Bank to stop the payment. Subsequently, a second cheque was

issued and the payment was made. So also, since one group backed out and did not support the petitioner, who was directed by another group to prefer a Writ Petition for challenging the judgment of the Tribunal, that the College Tribunal concluded that he had preferred the Writ Petition without authorization and was, therefore, guilty of committing contempt of the Tribunal.

7. I do not find that such factors would indicate a deliberate, willful and intentional disobedience with the object of overbearing the authority of the Tribunal, on the part of the petitioner. The amount of Rs.15,000/- which was directed by the Tribunal during the pendency of the Misc. Contempt Application has been paid, inasmuch as, the fine of Rs.1500/- has also been paid by the petitioner. The appellant was reinstated before the impugned order could have been passed.

8. Considering the above, this petition is partly allowed. The conclusion of the University and College Tribunal that this petitioner is guilty of contempt of the Tribunal is quashed and set aside. The fine of Rs.1500/- which is imposed, has already been deposited and hence I am not interfering with the impugned order to the extent of the fine of Rs.1500/-.

9. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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akl/d