

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CONTEMPT PETITION NO. 83 OF 2018
IN
WRIT PETITION NO. 8450 OF 2016

Laxmanrao S/o. Bajirao Kale,
Age - 61 Years, Occu - Retired Head Master,
R/o. At Post Fakrabad, Tal - Jamkd,
Dist. Ahmednagar. ...Petitioner

Versus

01. Laxmanrao Kolhe,
Age - 57 Years, Occu - The Education Officer
(Secondary), R/o. Zilla Parishad, Ahmednagar,
Dist. Ahmednagar.
02. Subhash S/o. Janardhan Mahajan,
Age - 54 Years, Occu - Head Master,
R/o. Ankhiri Devi, Vidyalay, Fakrabad,
Tq. Jamkhed, Dist.- Ahmednagar.
03. Gadekar R.G.
Age - 70 Years, Occu - Secretary,
Sharda Shikshan Prasark Sanstha,
R/o. Maldad Road, Sangamner,
Tal. Sangamner, Dist. Ahmednagar. ...Respondents

Mr. V.Y. Bhide, Advocate h/f Mr. S.D. Tawshikar, Advocate for
Petitioner

Mr. G.O. Wattamwar, AGP for Respondent No.1

Mr. S.K. Shinde, Advocate for Respondent Nos. 2 and 3

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**CORAM : PRASANNA B. VARALE AND
MANISH PITALE, JJ.**

DATE: 31st AUGUST, 2018

ORAL ORDER :

1. Heard the learned Counsel appearing for the petitioner. The grievance of the petitioner is non-compliance of the order passed by this Court. Our attention is invited to the orders passed by this Court on 21.08.2017, 24.08.2017 and 24.11.2017 in Writ Petition No. 8450/2016 as well in Civil Application No. 12163/2017 respectively. The grievance raised in Writ Petition No. 8450/2016 of the petitioner was about non-action on the part of respondents in not making the payment of his post-retiral benefits as well as other dues. The Division Bench of this Court, taking note of this fact that petitioner is retired on 30.06.2016 and his post retiral benefits are not paid to him, directed the respondents to release the petitioner's retiral benefits and other benefits within a stipulated period of three months. Then, it was observed by this Court, if they fail to make payment of arrears, the State shall be liable to pay interest @ 9 % per annum and application was moved for seeking clarification and by order dated 24th November, 2017. The Division Bench of this Court observed that the applicant/petitioner was not precluded from approaching the competent authority for arrears of interest from the date as sought through the application. Resultantly, the application was granted prior to making appropriate representation to the competent authority and the application was disposed of.

2. The initial submission was that there is no compliance of the order of this Court and in response, the State filed affidavit-in-reply raising certain deficiencies. The learned Counsel appearing for respondent Nos. 2 and 3 were permitted to file affidavit-in-reply. The Counsel Mr. Shinde appearing for respondent Nos. 2 and 3 invited our attention to certain documents placed on record along with the affidavit-in-reply. He submitted that the petitioner along with this proposal for grant of pension, forwarded the certificate issued by the Medical Board. Mr. Shinde then inviting our attention to the communication forwarded by the Head Master to the Education Officer (Secondary) submitted, though the pension papers were forwarded on 15th January, 2018, the petitioner failed to place on record the medical certificate, but the petitioner subsequently submitted documents i.e. Form-'C' and the medical certificate on 30th January, 2018. Mr. Shinde submitted, then the request was made to the Education Officer (Secondary) to accept these documents and process these documents further to the authorities for consideration. Then, our attention was invited to a communication from Education Officer (Secondary) to the Head Master on 27.08.2018 as well communication from the office of the Senior Accounts Officer, attached to the office of Accountant General, Mumbai to the Education Officer (Secondary), Pay and

Provident Fund Unit (Secondary), Ahmednagar. Senior Accounts Officer expressed his inability to process pension case for want of certain documents. Paragraph 1 of the communication dated 06.08.2018 states that admissibility report for commuted value is sent herewith. Then he refers to the receipt of the medical certificate in prescribed form and then further it states that in medical certificate, should be the date after receipt of admissibility report and then it is stated, admissibility report may be sent to the office of Accountant General, Mumbai for further necessary action.

3. It is admitted by the petitioner himself that the petitioner is now receiving the pension and his only grievance is in respect of the commuted leave and grant of interest thereon. The learned Counsel for the petitioner then fairly submitted that as it was the requirement to submit medical certificate along with the papers, he had forwarded the certificate issued by the Medical Board dated 15th January, 2018 issued by the Medical Board consisting of two Members and the President of the Medical Board. The learned Counsel then submitted that the petitioner is ready to attend the Medical Board in view of the communication dated 06.08.2018 forwarded to the Education Officer by Senior Accounts Officer and the communication dated 27.08.2018 forwarded to the Head Master by the Education Officer

(Secondary). The learned Counsel then submits that the copy of the communication dated 27.08.2018 is addressed to the petitioner and the petitioner is ready to undertake this exercise. The learned Counsel submits that in pursuance to the copy received by him, he will approach the Medical Board and make himself available for the examination through the Medical Board. Considering these facts, we are of the opinion that the Writ Petition now can be safely disposed of by permitting the petitioner to go before the Medical Board within one week from today. The learned AGP to communicate the Education Officer (Secondary), Ahmednagar that the petitioner is permitted to undertake exercise of his examination before the Medical Board, and if needed, the Education Officer (Secondary) to forward the separate communication to the petitioner to that effect. The Medical Board to examine the petitioner and issue the certificate as expeditiously as possible. On receiving such certificate, the petitioner to submit it before the Education Officer (Secondary) and in turn, to the School. The School in turn, to the Education Officer (Secondary) immediately, in turn, to forward it to the Senior Accounts Officer. After completion of this exercise, the necessary action be taken by the office of the Accountant General.

4. We further direct the Deputy Director of Education

(Secondary) Division Pune to decide the representation of the petitioner dated 07.10.2017 as expeditiously as possible and not later than four weeks from the date of order of this Court.

5. The Contempt Petition is accordingly disposed of with above referred directions.

(MANISH PITALE, J.)

(PRASANNA B. VARALE, J.)

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