

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

CONTEMPT PETITION NO. 201 OF 2018
IN
WRIT PETITION NO. 9367 OF 2015

Swati D/o Laxman Patil

...Petitioner

Versus

The Education Officer (Primary),
Zilla Parishad, Jalgaon, and Ors.

...Respondents

.....

Ms. S.P. Mahajan, Advocate for Petitioners
Mr. G.O. Wattamwar, AGP for Respondent/State
Mr. R.N. Chavan, Advocate h/f Mr. Vijay Sharma, Advocate for
Respondent No. 1
Mr. K.V. Patil, Advocate for Respondent No. 2

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

DATE: 15th OCTOBER, 2018

ORAL ORDER :

1. Heard the learned Counsel Ms. Mahajan for the petitioner, the learned Counsel appearing for the Education Officer i.e. respondent No.1 and learned Counsel for respondent Nos.2 and 3.

2. The petitioner is before this Court with the grievance that the order passed by this Court on 15.12.2016 in Writ Petition

9367/15 is not complied with. By the said order, the Division Bench of this Court firstly directed the Education Officer (Primary) to keep the petitioner in the list of surplus candidates to be absorbed and further directed that he shall thereafter pass an order directing absorption of the petitioner in other school as per its turn. Secondly, the Division Bench directed the management to submit the salary bill to the Education Officer for the period from 01.07.2014 to 23.08.2014. Then, it was directed that the Education Officer shall process the same, verify the bill and if he comes to the conclusion that the said amount is due and payable, then he may sanction the bill or pass such appropriate order. The Division Bench then observed that, in case the Education Officer does not sanction the said salary bill, then it would be responsibility of the management to pay the salary to the petitioner from 01.07.2014 to 23.08.2014.

3. An affidavit-in-reply is filed on behalf of the Education Officer. The Education Officer submits that by order dated 28.04.2017, the Superintendent of Pay Unit, Jalgaon informed the Head Master that as there is no vacant post available in the school being run by the management, the salary bill of the petitioner cannot be granted and as per clause 3 of the order of this Court dated 19.12.2016, the management is duty bound to take further steps.

4. The learned Counsel appearing for the management on instructions, makes a statement before this Court that the respondent No. 2 i.e. Secretary, Smt. Shradha Sanjay Gawande is ready to pay the salary of the petitioner for the period 01.07.2014 to 23.08.2014, and in any case, the salary would be paid to the petitioner before 31st October, 2018. The statement made by the learned Counsel on instructions, is accepted. In so far as the other grievance raised by Ms. Mahajan that the Education Officer partially complied with the order of this Court in respect of absorption is concerned, there is a communication placed on record. A perusal of the communication dated 20.08.2018 issued by the Deputy Director of Education shows that the petitioner is placed at Sr. No.5 in the list of surplus teachers.

5. It is the submission of Ms. Mahajan that Education Officer committed an error by not considering the Government Resolutions. It is also the submission of Ms. Mahajan that the petitioner has completed the period of 30 months as a Shikshan Sevak , the petitioner ought to have been placed in the list of the surplus teachers.

6. Per contra, it is submitted by the learned Assistant

Government Pleader that the pre-requisite is not of 30 months, but it is of three years. As these are the disputed questions and we are not inclined to entertain these disputed questions by enlarging the scope of the present contempt petition, if the petitioner is aggrieved by her placement in the said list of the surplus teachers, the petitioner is at liberty to avail the appropriate remedies for raising the grievances before the appropriate forum, if so advised. Keeping this liberty open for the petitioner, the present contempt petition is disposed of as the grievance of the petitioner is substantially redressed.

7. In response to the statement made by the learned counsel appearing for the institute, Ms. Mahajan, the learned counsel for the petitioner submits before this Court that, the petitioner would attend the Late Rajiv Gandhi Primary School, Amalner, Dist. Jalgaon on 31st October, 2018 at 11.00 a.m. and also endorse receipt of receiving the salary amount for the period 01.07.2014 to 23.08.2014.

(MANISH PITALE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

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