

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

WRIT PETITION NO. 10650 OF 2010
WITH
CIVIL APPLICATION NO.12278 OF 2017
IN
WRIT PETITION NO.10650 OF 2010

THE PRESIDENT, KISAN SHIKSHAN PRASARAK MANDAL'S
VIDYAVARDHINI PRIMARY SCHOOL, UDGIR AND OTHERS.
VERSUS
BHAGWAT GUNDERAO MUSANE AND ANOTHER

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Advocate for the Petitioners : Shri Gunale V.D..
Advocate for Respondent 1 : Shri P.G.Deshmukh h/f Shri S.R.Kolhare.
Advocate for Respondent 2 : Shri Ajinkya Deshmukh h/f Shri A.V.Hon..
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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 28th February, 2018

Per Court:

1 The Petitioner/ Management and Respondent No.1/ original Appellant have arrived at consent terms and have set out the said terms in writing in the form of the compromise terms dated 22.02.2018, which is supported by the sworn verifications of two representatives of the Management, Headmaster and the original Appellant.

2 The learned Advocate for Respondent No.2/ Education Department makes a serious grievance in view of the last sentence in paragraph 4 of the compromise terms by which, it is stated that the

Appellant will claim arrears of back wages from the stay order of this Court till his reinstatement, from the Education Department, if he is legally entitled to the same.

3 The learned Advocates for the Management as well as the Appellant jointly respond to the grievance of the learned Advocate for Respondent No.2/ Education Department that all arrears of the back wages from the stay granted by this Court on 30.11.2010 till his reinstatement on 27.02.2018 would be claimed as per the directions of the School Tribunal in its judgment dated 23.07.2010.

4 The School Tribunal had directed the payment of back wages by all the Respondents to the appeal which comprise of the Management and the Education Department. The statement of the Appellant and the Management is that 50% back wages have been waived by the Appellant from 01.10.2008 till 30.11.2010 from the Management.

5 The learned Advocate for the Appellant submits that this amount of 50% back wages will not be claimed by the Appellant from the Management and he will only pray for 50% of the back wages for the period 01.12.2010 till 26.02.2018 from Respondent No.2/ Education Department, if he is legally entitled for the same. There is no dispute on this count as both the learned Advocates for the Appellant and the Management confirm this.

6 In the light of the above, this Writ Petition is disposed of

considering the compromise terms, which are marked as "X" for identification. Consequentially, the Management shall forward the bill for 50% of the back wages of the Appellant for the period 01.12.2010 to 26.02.2018 to Respondent No.2/ Education Department. Respondent No.2/ Education Department would consider the said proposal and shall decide the same on it's own merits and in accordance with law, without being influenced by any observation of this Court or the contentions set out in the consent terms. In short, Respondent No.2/ Education Department shall take an independent decision with regard to the said proposal as noted above within a period of TWO MONTHS from today.

7 Rule is, therefore, discharged.

8 The pending Civil Application does not survive and stands disposed of.