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

**CONTEMPT PETITION NO.674 OF 2018
IN
WRIT PETITION NO.7528 OF 2018**

Kum. Nisha d/o Bapurao Dhobale,
Age: 32 years, Occu: Service as
Assistant Teacher in
Shri. Shivaji High School Khokadpura,
(Shivajinagar), Aurangabad,
Tq & Dist. Aurangabad

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Smt. Vandana Krishna,
Department of School Education,
Mantralaya, Mumbai-32
2. Bhausahab Chavan,
Age: 46 years, Occu: Service as
Education Officer (Secondary),
Zilla Parishad, Aurangabad
3. Shri. Shivaji Mofat Education Society,
Kandhar, Tq. Kandhar, Dist. Nanded,
Through its Secretary
4. Shri. Shivaji High School,
Khokadpura (Shivajinagar),
Aurangabad, Tq. & Dist. Aurangabad,
Through its Head Master

..RESPONDENTS

Mr V. S. Panpatte, Advocate for petitioner;
Mr S. M. Ganachari, A.G.P. for respondent/State

**CORAM : PRASANNA B. VARALE
AND
MANGESH S. PATIL, JJ.**

DATE : 4th December, 2018

ORAL ORDER:

Heard Mr Panpatte, learned Counsel appearing on behalf of the petitioner at length.

2. It is the grievance of the petitioner that the order dated 21st March, 2018, passed by the Division Bench of this Court in Writ Petition No.7528 of 2017 is not complied with.

3. A simple notice was issued to respondent No.2 on 26th September, 2018. The grievance of the petitioner in Writ Petition No.7528 of 2015 was of rejection of the proposal submitted before the authority for grant of approval to the appointment of the petitioner. The Division Bench of this Court, by observing that the petitioner's appointment was much prior to the academic year 2015-16, the ground assigned for rejection to the fact situation of year 2015-16, namely, availability of surplus teachers is unsustainable and quashed and set aside the rejection order. The Education Officer was directed to decide the proposal afresh on its own merits and it was further directed by the Division Bench that the proposal shall not be rejected on the very ground on which it was earlier rejected. The stipulation of period for decision of the proposal was four months as per the order of this Court. The grievance was raised in the petition that the authority failed to decide proposal within stipulated period.

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4. Today, it was submitted before us that in compliance of the order of this Court, the proposal is decided afresh and by an order dated 24th October, 2018, the Education Officer (Secondary), Zilla Parishad, Aurangabad granted approval to the appointment of the petitioner. The order dated 24th October, 2018 refers to the order of the Division Bench dated 21st March, 2018. Considering the facts, the Education Officer (Secondary) granted approval to the appointment of the petitioner on the post of 'Shikshan Sevak' for a period of three years, namely, from 22nd December, 2012 to 21st December, 2015 and then further observed that as the petitioner has completed his probationary period, he would be entitled for the salary as an 'Assistant Teacher' from 22nd December, 2015 with continuity in the service.

5. Mr Panpatte, learned Counsel for the petitioner submits that though the order is passed granting approval, the salary is not paid to the petitioner and as such, there is part compliance of the order of this Court.

6. We are unable to accept this submission of learned Counsel for the petitioner for the simple reason that the Division Bench of this Court had directed the authority concerned, namely, the Education Officer (Secondary) to consider the proposal afresh and pass orders accordingly in case of grant of approval to the appointment of the petitioner. The authority concerned has passed the order by granting approval to the petitioner. The order of this

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Court is complied with and the grievance raised by the learned Counsel for the petitioner is beyond the scope of the contempt petition. As such we are unable to entertain this grievance of the petitioner. The petitioner is at liberty to avail appropriate legal remedies by approaching the competent forum for redressal of the grievance of the petitioner, if so advised. With these observations, contempt petition is disposed of.

(MANGESH S. PATIL, J.)

(PRASANNA B. VARALE, J.)

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