

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
REVIEW PETITION NO.53 OF 2018
IN
WRIT PETITION NO.12663 OF 2018

The Headmistress/Headmaster, Ashokrao	]	
Desai Krushi Vidyalaya, Alegaon, Taluka	]	
Sangola, Dist. Solapur and another.	]	Petitioners
Vs.		
Sadashiv Maruti Sangolkar & Ors.	]	Respondents
.....		
Mr. Shikur G. Kudale, for petitioners.		
Mr. Anvil Kalekar, for respondent No.1.		
.....		

CORAM : R.G. KETKAR, J.

DATE : 6TH JULY, 2018.

P.C:

Heard Mr. Kudale, learned Counsel for the petitioners and Mr. Kalekar, learned Counsel for respondent No.1.

2. This Petition seeks review of the order dated 9th June, 2017 passed by this Court in Writ Petition No.12663 of 2016. By that order, Petition instituted by the Head Mistress/Head Master Ashokrao Desai Krushi Vidyalaya, Alegaon, Taluka Sangola, Dist. Solapur and another was dismissed. Order dated 20th November, 2015 passed by the learned Presiding Officer School Tribunal Solapur in Appeal No.25 of 2015 was upheld. By that order, the Tribunal had allowed the appeal preferred by the first respondent and set aside oral termination order dated 5th April, 2014 and held that oral otherwise

termination order dated 5th April, 2014 is illegal and accordingly was set aside. The Tribunal further ordered reinstatement of the first respondent with continuity of service as 'Naik' from the date of his termination and full back wages. The Petitioners/Management was directed to comply with this order within 30 days from the date of receipt of the order.

3. Mr. Kalekar submits that respondent No.1 is reinstated. However, he has not been paid 100% back wages. Mr. Kudale submitted that petitioners are not at fault in terminating services of respondent No.1. Respondent No.1 should make statement whether management is with second respondent herein. He submitted that as the petitioners are not at fault, they are not liable to pay 100% back wages to the first respondent.

4. During the course of hearing, Mr. Kudale also submitted that petitioners have not challenged the order dated 9th June, 2017 of this Court before the higher Court. Thus, the order dated 9th June, 2017 is neither stayed nor set aside. In paragraph 11 of that order, oral application for stay of direction to pay 100% back wages was recorded. At the same time, petitioners are not in a position to make a statement that in case the petitioners do not get favourable order from higher Court, they will pay back wages was also noted. In view thereof, oral application was rejected.

5. Even today also, petitioners are not in a position to make a statement as regards payment of 100% back wages as ordered by the School Tribunal and confirmed by this Court by order dated 9th June, 2017. On this ground alone, Review Petition is liable to be dismissed and is dismissed accordingly.

[R.G. KETKAR, J.]