

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 300 OF 2018
IN
WRIT PETITION NO. 2917 OF 2015**

Shri Ayurved Prachar Sanstha & anr. ..Applicants.

IN THE MATTER BETWEEN

Shri Ayurved Prachar Sanstha & anr. ..Petitioners.

V/s.

Laxmidutt Nageshdutt Shukla & ors. ..Respondents.

Mr. A.D. Shetty a/w. Swapnil P. Kamble, advocate for applicants/petitioners.

Mr. Omkar V. Amberkar I/b. V.J. Amberkar, advocate for respondent No. 1.

Mr. Kedar Dighe, AGP for respondent No. 2.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : SEPTEMBER 26, 2018.

P. C. :

1 Heard the learned Counsel for the respective parties.

2 Rule. Rule made returnable forthwith with the consent of the parties.

3 Notice of motion is filed by the petitioner seeking recovery of Rs. 3,50,000/- from the respondent No. 1 and withdraw the balance amount of Rs. 3,66,140/- deposited by them with the Controlling

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Authority, Labour Court, Mumbai alongwith accrued interest thereon till the date of withdrawal.

4 The respondent No. 1 Laxmidutta Nageshdutta Shukla herein as per rules was entitled to the gratuity in the sum of Rs. 7 Lakhs under the Gratuity-cum-Pension Scheme under the Government of Maharashtra. Office of the Accountant General by a communication dated 4/9/2017 has informed the District Treasury officer that the petitioner would be entitled to a total amount of Rs. 3,72,039/-. That the deduction would be of Rs. 2,96,309/- which was the contribution of the college and Rs. 31,652/- and therefore, the total amount of Rs. 3,27,961/- was to be recovered. It is pertinent to note that the Government of Maharashtra Finance Department has issued a cheque of Rs. 3,72,039/- in favour of the respondent No. 1 Laxmidutt Nageshdutt Shukla. As per the order of the Office of the Accountant General, College would be entitled to recover an amount of Rs. 3,50,000/- since the same is deposited and withdrawn by the respondent. In view of this, the respondent would be entitled to receive balance of Rs. 22,039/- from the college. However, since the cheque is issued in the name of the respondent No. 1, it would be difficult for the college to recover the amount, which is already received by the respondent No. 1 and therefore, the present notice of motion.

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5 In the course of hearing, to avoid process of recovery from the respondent No. 1, it would be appropriate to request the government to issue two cheques by cancelling the cheque which is already issued and issue two cheques, one cheque for the amount of Rs. 22039/- in favour of the respondent No. 1 Laxmidutt Nageshdutt Shukla and another cheque of Rs. 3,50,000/- in the name of the college towards the contribution, which is paid by the college. It is made clear that this direction is restricted to the present case in the peculiar facts of the case and shall not be treated as a precedent in the case of other claims, which are pending with the Government.

6 Rule is made absolute in the above terms.

7 It is made clear that the respondent Laxmidutt Nageshdutt Shukla would not be entitled to any remainder amount besides Rs. 22,039/- from the college. The learned Counsel for the petitioner submits that as per the directions of the court, the petitioner college has deposited a cheque of Rs. 6,44,000/- out of which the respondent Laxmidutt Nageshdutt Shukla has withdrawn an amount of Rs. 3,50,000/-. The petitioner would be entitled to withdraw the remainder amount of Rs. 3,66,140/-.

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8 Rule is made absolute in the above terms. The motion is disposed of accordingly.

9 In view of the above directions, Writ Petition stands disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]

Digitally
signed by
Aruna
Sandeep
Talwalkar
Date:
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