

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CONTEMPT PETITION NO.60 OF 2011

in

WRIT PETITION NO.452 of 2008

Abdul Latif Mohammed Siddique

.....Petitioner

versus

The State of Maharashtra and ors.

.....Respondents

Mr. A. A. Maniar, advocate for the petitioner.

Mr. M. V. More, AGP for the State.

Mr. S. J. Panicker, advocate for the respondent Nos. 4 and 5.

**CORAM : RANJIT MORE &
SMT.SADHANA JADHAV, JJ.**

DATE : 4th APRIL, 2018.

P. C. :

Heard learned counsel appearing for the respective parties.

2. The writ petition No.452 of 2008 filed by the petitioner came to be disposed of by the Division Bench of this Court by an order dated 6th April, 2010 by directing the respondent No.4-Management to pay salary to the petitioner in terms of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short "the MEPS Act") and to pay arrears which would be restricted to a period of three years from the date of filing of the petition. The petitioner claims that this order is not complied with as of today and has, therefore, approached this Court by way of the aforesaid contempt petition.

3. The petitioner has already retired in the month of October-2016 and before that he was getting his salary in terms of the MEPS Act. The question raised in the petition is about the arrears of the salary as per the order dated 6th April, 2010 in writ petition No.452 of 2008.

4. The respondent No.4-Management has filed an affidavit-in-reply. The respondent No.4-management relies upon the chart annexed at page 42 to the letter dated 14th April, 2011, given to the petitioner's lawyer by the respondent No.4-management's lawyer. We have perused the chart. The total arrears of the salary in terms of this chart for the period between January-2005 to November-2006 comes to about Rs.1,56,956/-. The learned counsel for the respondent No.4 makes a statement that the petitioner has been given post-dated cheques for this amount and all the cheques are cleared except for the amount of Rs.26,956/-. He further states that so far as this amount is concerned, the post-dated cheque would be cleared on 10th May, 2018.

5. The learned counsel for the petitioner relied upon the chart at pages 33 to 36 and claims that the petitioner, on the contrary, is entitled to arrears of salary amounting to Rs.5,77,727/-. The learned counsel for the petitioner, however, does not dispute that the post-dated cheques for Rs.1,56,956/- has already been given to the petitioner by the respondent No.4-management.

5. Thus, there is a dispute between the petitioner and the respondent No.4 – management regarding calculation of arrears of the salary. If that be so, then, the contempt petition is not maintainable inasmuch as there is no willful disobedience of the directions contained in the order passed by this Court in writ petition No.452 of 2008. We are, therefore, not inclined to entertain this petition.

6. Suffice it to direct the respondent No.3-Education Inspector, North Zone, Chembur East, Mumbai to hear both petitioner as well as respondent No.4 and arrive at correct figure in respect of the arrears of salary between 2005 and 2008 payable to the petitioner pursuant to the order passed by this Court (as the writ petition No.452 of 2008 was filed on 25th January, 2008) and pass appropriate orders.

7. The petitioner as well as the respondent No.4 shall abide by the orders passed by the respondent No.3-Education Inspector. In order to enable the respondent No.3 to comply with this order, the petitioner as well as representative of the respondent No.4 shall approach him on 16th April, 2018 at 11.00 am along with a copy of this order as well as copy of the order passed by the Hon'ble Division Bench in writ petition No.452 of 2008 along with their respective calculations in respect of the arrears of salary. The respondent No.3, thereafter, shall pass a speaking

order as expeditiously as possible and, in any case, within a period of three months from the date of receipt of this order.

8. In the light of the above, the writ petition is disposed of.

(SMT. SADHANA JADHAV, J.)

[RANJIT MORE, J.]