

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

**CONT. PETITION NO.84 OF 2019
IN WP/15284/2017**

**USHA RAMDAS JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. M.R. Sonwane, Advocate for the petitioner
Mr. V.S. Badakh, AGP for the respondent/State.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 06.02.2019

P.C. :-

1. Heard learned Counsel for the petitioner.
2. The petitioner is before this Court with a grievance that even though by order dated 27.04.2018, the Education Officer was directed to conduct inquiry within stipulated period and thereafter to take decision in regard to payment of salary of the petitioner from September 2016, till date the petitioner joined the service, the Education Officer failed to conduct enquiry within stipulated period.
3. The Division Bench of this Court referred to the facts and more particularly the transfer of the petitioner from respondent No. 6-School in Writ Petition No. 15284 of 2017 to respondent No. 7-School on the ground that the petitioner was rendered as a surplus teacher. It was a grievance made before this Court that the petitioner is not allowed to join either in

respondent No.7-School nor is allowed to work in respondent No.6-School. Then considering the academic qualifications of the petitioner, the Division Bench permitted the petitioner to join respondent No.7-School and observed that the petitioner shall present herself before respondent No. 7-School on 03.05.2018. The Division Bench then observed that as far as salary for the period from September 2016 till date is concerned, the Education Officer shall enquire in to the matter as to whether respondent No.7 was not allowing the petitioner to join or the petitioner on her own volition has not joined the post, as there are rival claims in this Court regard.

4. The petitioner has placed on record certain documents and application is submitted to the Head Master of Dyaneshwar Mauli Vidyalaya, Pimpri, i.e. the respondent No.7-School in the present Contempt Petition submitting therein that the petitioner be permitted to join the school. There is an endorsement on the application that on 03.05.2018, the petitioner is permitted to join the school in view of the order of this Court dated 27.04.2018. Then the petitioner submitted another representation to the Head Master on 09.07.2018. Referring to the petition filed in this Court and joining of the petitioner in the school, the petitioner then requested the Head Master to release salary of the petitioner and further requested to deposit the salary in the account of petitioner. Then on 03.10.2018, the petitioner made a representation to the Education Officer (Secondary) finding fault with the

said school and the Zilla Parishad and then petitioner wants the Education Officer that on failure to compliance of the order of this Court, the petitioner would approach this Court by filing Contempt petition. On 02.11..2018 respondent No.7 forwarded a communication to the petitioner. Respondent No.7 refers to the factum of joining of the petitioner in the school on 03.05.2018 and then further states that the petitioner has requested time and again orally for submitting the release order and the L.P.C., but the petitioner failed to provide these documents, as such the Head Master was not in a position to take further steps. Then, again he requested the petitioner to submit these documents within three days so as to facilitate the office of the Head Master to take further steps. Then the petitioner approached the Education Officer submitting that on 02.11.2018 a letter was handed over to the petitioner through respondent No.7-School at 12.30 p.m. and the petitioner approached respondent No.6-School i.e. Balnath Vidyalaya Chakarwadi. It is further stated in the representation that the petitioner could not find the Head Master of Balnath Vidyalaya i.e respondent No. 6 in the school and though the petitioner made a phone call to respondent No.6, the respondent No.6 denied to attend the phone call. Then the petitioner alleges that the petitioner though submitted an application to respondent No.6 on 03.11.2018 and the petitioner personally visited the school on 05.11.2018 respondent No. 6 was neither responding the application nor receiving the phone call and respondent No.6 is purposely avoiding to provide documents and the

petitioner then requested the Education Officer to call for the documents. The Education Officer (Secondary) by way of a communication dated 05.12.2018 forwarded a communication to respondent No.7. It is informed to respondent No.7 that the petitioner is relieved by respondent No. 6-School under the official communication dated 22.09.2016 bearing the number 2016-2017/47 and the petitioner joined the school-respondent No.7 on 03.05.2018. These facts are revealed from an enquiry conducted by the Education Officer. The Education Officer then directed respondent No.7-Head Master to take steps immediately and submit the action taken report to the office of the Education Officer and failure of this act would make the respondent No.6 responsible for non-compliance of the order of this Court.

5. Considering all these facts we are of the opinion that the Education Officer had initiated the enquiry and then sought for certain material from respondent No.7 at the cost of repetition we say that this is a communication of 05.12.2018 and petition is filed on 24.01.2019 and as such *prima facie* it is our opinion that respondent No.4-the Education Officer cannot be said to be either negligent or averse to the orders of this Court.

6. On the back drop of these facts, we see no merit in the Contempt Petition. At the same time considering the fact that the petitioner is interested in her rightful claim of salary, we dispose the petition

only with observations that the Education Officer, if he is not in receipt of any report from respondent No.7, is not prevented to take recourse to any action against respondent No.7, including coercive action as provided under the provisions of law in general and the School Code or the Government Resolutions in particular.

7. With these observations, the petition is disposed of.

[S.M.GAVHANE,J.]

[PRASANNA B. VARALE,J.]