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

**CONTEMPT PETITION NO.692 OF 2018
IN
WRIT PETITION NO.8974 OF 2016**

1. Shivsena Bahu-uddeshiya
Pratisthan, Parbhani,
Dist. Parbhani,
Through its President.
2. Shri. Chhatrapati Shivaji Maharaj
Primary Ashram School,
Dhangar Takli, Tq. Purna,
Dist. Parbhani, through its
Head Master.
3. Rohini D/o Sangram Aspatwar,
Age: 29 years, Occ: Service
as Assistant Teacher in
Shri. Chhatrapati Shivaji Maharaj
Primary Ashram School,
R/o. Dhangar Takli, Tq. Purna,
Dist. Parbhani. ..PETITIONERS

VERSUS

1. The State of Maharashtra
Through its Secretary,
Shri. Nandkumar,
Department of School Education,
Mantralaya, Mumbai-32.
2. Prakash B. Bachav,
Age: 50 years, Occ: Service as
Regional Deputy Commissioner,
Social Welfare Department,
Aurangabad Region,
Aurangabad.

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3. Tejas s/o Laxmanrao Malvadkar,
Age: 36 years, Occ: Service as
The Assistant Commissioner of
Social Welfare Department,
Parbhani, Dist. Parbhani. ..RESPONDENTS

Mr V.S. Panpatte, Advocate for petitioners;
Mr S.S. Dande, A.G.P. for respondents/State

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

DATE : 16th JANUARY, 2019

ORAL ORDER :

Heard Mr. Panpatte, learned Counsel
appearing for the petitioners.

2. It was the grievance of the petitioners
that the order of this Court dated 23rd April, 2018
in Writ Petition No. 8974 of 2016 is not complied
with.

3. In response to the notice issued by this
Court on 18th December, 2018, learned A.G.P., on
receiving instructions from respondent No. 2 –
Regional Deputy Commissioner, Social Welfare
Department, Aurangabad Region, Aurangabad, placed

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before us the copy of the order passed by respondent No.2.

4. Perusal of the order dated 23rd April, 2018 shows that the Division Bench of this Court, to which, one of us was party (S.M. Gavhane, J.) allowed the petition by making rule absolute in terms of prayer clauses (B) and (C), which read thus :

"B. By a writ of certiorari or any other appropriate writ or direction in the like nature, the letter dated 19.11.2015 issued by the respondent No.3 may please be quashed and set aside.

C. By a writ of mandamus or any other appropriate writ or direction in the like nature, the respondent No.2 and 3 may please be directed to grant approval to the services of the petitioner No.3 as untrained Assistant Teacher from 01.05.2012 to 26.08.2015 in the scale of Rs.5200-20200 Grade Pay 2000 and further to grant permanent approval to the services of the petitioner No.3 as

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Assistant Teacher in pay-scale of Rs.5200-20200 Grade Pay 2800 from 27.08.2015 onwards and accordingly, release the arrears of the petitioner No.3."

5. Perusal of the order dated 20th November, 2018 shows that the direction in respect of granting approval to the services of petitioner No.3 as untrained Assistant Teacher from 01.05.2012 to 26.08.2015 in the scale of Rs.5200-20200 Grade Pay 2000 and further direction to approval to the services of petitioner No.3 as Assistant Teacher in pay scale of Rs.5200-20200 Grade Pay 2800 from 27.08.2015 onwards is complied with and tabular form refers to in the order shows that the order of this Court is complied with in letter and spirit insofar as pay scale is concerned.

6. Learned Counsel for the petitioners vehemently submitted before us that further part of the order namely; release of arrears of salary of petitioner No.3 is not complied with. On specific

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query made to learned Counsel, he submitted before us that the procedure is, the management submits salary bills through head master to the competent authority of the State Government and on receiving bills, the competent authority is duty bound to release the amount.

7. Learned Counsel for the petitioners then submitted that the management is facing difficulty, as the education authorities are not providing required user-id number to the management and unless and until, user-id number is provided by the department to the management, the management will not be in a position to submit salary bill.

8. All the aforesaid facts are submitted before us by way of oral submissions and there is not a single word in the contempt petition insofar as these aspects are concerned. Apart from this, considering these aspects is beyond the scope of contempt petition. Secondly, this action entering in arena wherein there is a scope for assumptions

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and presumptions of the parties, strictly speaking this may not permit us to enter in this arena and thereby leading the scope of contempt petition to be expanded on assumptions and presumptions of the parties but for a peculiar circumstance, which prompts us to undertake this exercise, we are entering in this arena.

9. We also fail to understand that when present contempt petition is filed through President of the institute as petitioner No.1 and head master of the school as petitioner No.2, what prevented these petitioners to provide specific instructions or to make this statement in the contempt petition expressing their difficulties. On the backdrop of these reservations, we are entering in the arena.

10. As stated above, normally we would not have entered but for peculiar circumstances namely, the documents placed on record show that petitioner No.3 is a lady of 29 years of age and discharging

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her duties as Teacher in village Dhangar Takli, Taluka Purna, District Parbhani is subjected to an unforeseen difficulty namely, subjected to a serious ailment. Copy of the representation placed on record dated 4th August, 2018 shows that as per medical certificate, petitioner No.3 is suffering from Cancer and was subjected to surgical intervention on 1st July, 2017 and is under treatment at a place which is away from her work place i.e. undergoing treatment in the hospital at Aurangabad namely, Kamal Nayan Bajaj Hospital. In the representation, it is stated that in view of the serious ailment being suffered by petitioner No.3, she is in need of financial assistance.

11. Considering this peculiar fact, we direct that if the respondents-authorities, particularly, respondent Nos. 2 and 3 receive necessary proposal or material from petitioner Nos.1 and 2 so as to initiate action for grant of user-id number to the institute, respondent Nos. 2 and 3 to take early decision on that issue and if petitioner No.1

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institute complies with all the formalities to grant user-id number expeditiously and on receiving this user-id number, petitioner No.1 – institute to submit salary bills of petitioner No.3 through petitioner No.2 – head master expeditiously and on receiving such bills, if they are complete in all respects, respondent Nos. 2 and 3 to take immediate steps for release/disbursement of the salary and/or arrears of salary.

12. At the cost of repetition, we say that as the order of this Court is complied with in view of the order dated 20th November, 2018 passed by respondent No.2, the contempt petition is accordingly disposed of.

(**S.M.GAVHANE**)
JUDGE

(**PRASANNA B. VARALE**)
JUDGE