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

**CONTEMPT PETITION NO.763 OF 2018
IN
WRIT PETITION NO.358 OF 2017**

Nilima Pandurang Pakad,
Age: 58 years, Occu: Retired (Household),
R/o. Golibar Tekadi, F.C.I. Godown,
Jamnagiri Road, Dhule

..PETITIONER

VERSUS

1. Dr. Naresh Gitte,
At present working on the post of
Chief Executive Officer,
At Zillha Parishad, Nasik
2. G. M. Shevale,
present working on the post of
Child Development Project Officer,
Integrated Child Development
Service Scheme, Malegaon (Rural),
Malegaon, Dist. Nasik

..RESPONDENTS

Mr P. B. Patil, Advocate for petitioner;
Mr U. B. Bondar, Advocate for respondents

**CORAM : PRASANNA B. VARALE
AND
R. G. AVACHAT, JJ.**

DATE : 8th July, 2019

ORAL ORDER:

Heard Mr Patil, learned Counsel appearing on behalf of the
petitioner and Mr Bondar, learned Counsel appearing for respondents.

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2. The grievance of the petitioner in the present petition is of non-compliance of the order of this Court, dated 13th July, 2017. By Clause 'E', the Division of this Court had directed respondent Nos.3 and 4 to pay the terminal dues of the petitioner and release the same within a stipulated period of two months from the date of receipt of the order of this Court. By Clause 'F', the Division Bench observed that if the petitioner is entitled to draw any pension in terms of applicable Rules and as may be admissible, the same shall be paid to her.

3. It was submitted before us by learned Counsel for the petitioner on 22nd October, 2018 that the authorities are seeking recovery from the petitioner and this was contrary to the order of this Court, dated 13th July, 2017.

4. On 21st May, 2018, the petitioner was informed about pendency of writ petition challenging the decision of Scrutiny Committee invalidating her caste claim. The communication dated 21st May, 2018 also refers to the Government Resolution dated 18th May, 2013, whereby protection to the service was withdrawn on failure to submit the caste validity certificate. The communication also refers to the liberty to the petitioner to seek voluntary retirement.

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5. Mr Bondar invited our attention to the order passed by the Project Officer on 28th May, 2018. The order of the Project Officer refers to the order of the Division Bench, dated 13th July, 2017. The order further states that as the caste claim of the petitioner is invalidated, she could not have obtained any protection to the service and she could have been entitled for the pensionary benefits, only if the petitioner gets a validity certificate through the competent authority. The communication also refers to the date i.e. 31st December, 2018, whereby the petitioner was relieved on account of obtaining voluntary retirement. It is the submission of Mr Bondar, learned Counsel for the respondents that the amount against the terminal dues is already paid to the petitioner in compliance of the order of this Court and the issue insofar as the pensionary benefits is concerned, as the petitioner is not entitled to get this benefit, she has accordingly informed through the communication dated 21st May, 2018 forwarded by the Chief Executive Officer, Zilla Parishad, Nasik and the Project Officer and as such, there is no willful disobedience of the order of this Court.

6. Mr Patil, learned Counsel for the petitioner submitted before us that the petitioner be granted liberty to challenge the orders dated 21st May, 2018 and 28th May, 2018 before the competent forum under the

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provisions of law, if so advised. He then invited our attention to the concluding part of the order dated 21st May, 2018 and then concluding part of para 5 of the affidavit-in-reply filed on behalf of respondents to submit that in spite of rendering service to the Zilla Parishad, the Zilla Parishad informed the petitioner that the amount would be recovered from her. This proposed exercise of Zilla Parishad is in contrast to the principles of service law and as such, is unsustainable.

7. We find considerable merit in the submission of Mr Patil, learned Counsel for the petitioner. Considering limited scope of our jurisdiction in dealing with contempt petition and considering the fact that now the order is passed by the respondents, we dispose of the petition with liberty to the petitioner to challenge the orders dated 21st May, 2018 and 28th May, 2018, if so advised. We further direct the respondents not to give effect to the order dated 21st May, 2018, to the proposed action of recovery till the petitioner challenges the order dated 21st May, 2018 before the competent forum and/or interim orders being passed by the competent forum on approach by the petitioner. The petition is disposed of accordingly with the aforesaid observations.

(R. G. AVACHAT, J.)

(PRASANNA B. VARALE, J.)