

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

WRIT PETITION NO. 5305 OF 2017

SHAIKH WASIM SHAIKH SALIM
VERSUS
HAJI LOOKMAN SOCIAL AND EDUCATION ASSOCIATION
HAJI LOOKMAN DHULE AND OTHERS

**WITH
CIVIL APPLICATION NO. 14616 OF 2019**

THE EDUCATION OFFICER (PRIMARY) ZILLA PARISHAD
DHULE
VERSUS
HAJI LOOKMAN SOCIAL AND EDUCATION ASSOCIATION
HAJI LOOKMAN DHULE AND OTHERS

...
Advocate for the Petitioner : Shri S. P. Shah
Advocate for Respondent No.2 : Shri S. S. Deshmukh
Advocate for Respondent No. 3 : Shri P. D. Bachate
Advocate for Respondent No. 4 : Shri R. S. Pawar

...
CORAM : RAVINDRA V. GHUGE, J.

DATED : 11th DECEMBER, 2019

...

PER COURT :

1. On 28/11/2019, after considering the orders passed by different learned Benches, I had passed the following order :-

"1. On 15/02/2019, this Court had passed the following order:-

"1.Despite order dated 7th August,2018 it appears that respondent No. 4 has not caused his appearance.

2. Office to issue notice to respondent No.4, returnable on 15th March, 2019, referring to order dated 7th August, 2018 and directing him to remain present before this court on the next scheduled date along with record referred to in the order. In case of failure to remain present before this court on the next date, warrant may be issued."

2. It is informed that record and proceedings has still not been filed by respondent No.4, Education Officer (Primary), Zilla Parishad, Dhule. Though served, he has not caused an appearance either in-person or through an Advocate.

3. Considering the above order, issue a bailable warrant in the sum of Rs.25,000/- for ensuring the presence of respondent No.4 on 11/12/2019.

4. Stand over to 11/12/2019, in Urgent Admissions Category."

2. This matter, though made returnable on 11/12/2019, was not on board. The learned Advocate for Respondent No. 4 / The Education Officer (Primary) moved a motion at 10.30 a.m. and hence this matter was taken on the production board.

3. Respondent No.4 has preferred a Civil Application praying for recalling of the order dated

28/11/2019. Shri Manish Rajaram Pawar, the Education Officer (Primary) Zilla Parishad, said to be presently Incharge of the said post, concedes that he was the Incharge Respondent No. 4 on 15/03/2019. He concedes that he had received the notices of this Court and instead of appearing before the Court as directed in the last order as he was non co-operative, he still passed on Whatsapp messages to the learned Advocate to deal with the matter and did not appear before the Court. The learned Advocate for Respondent No. 4 submits that the Record and Proceedings are presently with him and he would deposit the same with the Registry of this Court.

4. Now that Respondent No. 4 has appeared in this matter, there could be no hindrance in recalling the bailable warrant that this Court had issued vide order dated 28/11/2019 and the same is, therefore, recalled.

5. However, the conduct of Respondent No.4 Shri Pawar cannot be countenanced and hence if he agrees to deposit an amount of Rs. 25,000/- from his salary in this Court, this Court would close the issue and would not initiate any action against him. The learned Advocate submits on instructions from respondent No. 4 Shri Pawar, who is present in the Court that he would deposit an amount of Rs. 25,000/- from his personal salary in this Court, on or before 19/12/2019. By recording the said statement, the Civil Application is disposed off and the bailable warrant stands recalled. Liberty to deposit the R & P with the Registry of this Court, is granted.

6. If the amount is not deposited, this Court would initiate suo-moto action against Respondent No.4. After the amount is deposited, the same shall be transmitted to the **Advocate**

Associations' Bar Library of Bombay High Court, Bench at Aurangabad.

7. Considering that a service dispute is at issue and the Petitioner employee has come up with a case that he was a permanent employee and was terminated without conducting a domestic enquiry, list the petition for final hearing on 02/01/2020.

(RAVINDRA V. GHUGE, J.)

shp/-