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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 12748 OF 2016

Nagnath Shankar Survase

... Petitioner.

V/s.

Siddharth Shikshan Prasarak Mandal & Ors. ... Respondents.

Mr. I.M. Khairdi for the Petitioner.

Mr. P.P. Kakade, GP a/w. Ms. Nisha Mehra, AGP for Respondent
Nos. 4 & 7.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M. JAMDAR, J.***

DATE : 26 JUNE 2019.

P.C. :-

Filed in the year 2016, the Writ Petition is listed today
for admission.

2. On advance copy of the Writ Petition being served upon
the Respondent Nos. 4 and 7, Counsel as above appeared.

3. The Writ Petition can be disposed of without issuing
notice to the other Respondents or seeking a reply to be filed by
Respondent Nos. 4 and 7.

4. Working as a Headmaster with the 3rd Respondent – School (an aided institution), established by Siddharth Shikshan Prasarak Mandal, Petitioner's service was terminated on 07.06.2009. He challenged the termination order by filing Writ petition No. 1815 of 2012 in this Court which was disposed of on Consent Terms by a Division Bench on February 21, 2013. The settlement was between the Petitioner and the School in which he was employed and the trust which had established a School. The settlement was that the Petitioner would be reinstated in service as a Headmaster. On the question of wages to be paid interregnum, the period he was terminated from service till reinstatement, the settlement records that the Petitioner shall be paid back wages, as per law, if the Respondent No.6 is eligible to get it reimbursed from the State Government under the law. The salary bill of the Petitioner will be submitted by Respondent Nos. 5 and 6 within a period of two weeks from today.

5. Thus, the direction issued by the Division Bench was that if a request or a representation was made to the Education Department to release a grant-in-aid for the period in question so that wages would be paid to the Petitioner, the said request would be considered by the appropriate authority in accordance with law.

6. It was clarified that the direction is not to make the payment. The direction is to consider the request for payment to the Petitioner.

7. Challenge in the instant Writ Petition is to the decision dated 25 June 2015 communicated by the Deputy Director, Education, rejecting the representation for release of back-wages. The reason stated is that no such direction has been issued by the Division Bench as per the order dated 21 February 2013.

8. Suffice it to highlight that the direction issued in the order dated 21 September 2013 required the concerned Officer in the Education Department of the State of Maharashtra to consider the representation made in accordance with law. Instead it is rejected only on the ground that this Court has not clarified as to who should pay the amount. The issue to be decided by the Education Officer as to whether the School would be entitled to reimbursement. This question will have to be decided as per applicable Government Resolutions and the Rules.

9. The impugned order dated 25 June 2015 is quashed. The Officer concerned in the Education Department shall re-decide the representation in accordance with law required to be so

considered as per order dated 21 February 2013 and as clarified by us today in the present decision.

10. Necessary order would now be passed within eight weeks from today.

N.M. JAMDAR, J.

CHIEF JUSTICE