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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 105 OF 2014**

Nutan Hindi Sahitya Mandal
& anr.

..Petitioners

Vs.

The Deputy Director of Education,
Mumbai Region & ors.

..Respondents

.....

Mr. Arvind G. Kothari for petitioners.

Mr. Kedar Dighe, AGP for respondent Nos. 1 to 3.

Mr. C.R. Sadasivan for respondent No.4.

Dr. Mushak Shaik, Education Inspector, North Zone, Chembur
and Mr. Rajendra Ahire, Deputy Director of Education, Charni
Road, present.

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**CORAM : S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.**

DATE : 23rd JANUARY, 2019

P.C. :

On this Writ Petition we had passed following

order :-

“P.C. :

1 After this writ petition was argued for some time and we brought to the notice of Mr.Dighe, the error in the understanding of the officers instructing him, he seeks time to take instructions. Mr.Dighe assures that he will speak to high level officials so as to clarify the impression given to the Court that for the period during which the appeal of the added respondent was pending before the School Tribunal, though the post of Head Master was held by one Pushpa Pande, her salary or the difference or the

arrears thereof should not be released in the light of the circular, copy of which is at Exhibit 'A' to the affidavit-in-reply filed by respondent No.4. We would like to know from Mr.Dighe on the next occasion as to how the private respondent's understanding and interpretation of this Circular needs the approval of the Government.

2 At the request of Shri Dighe, we post this matter for "Passing Orders" on 23rd January, 2019. The Education Inspector and Deputy Director of Education of North Zone, Mumbai shall remain present in this Court with all original record."

2. Pursuant to that order, this matter is listed today.

3. Despite reliance by fourth respondent on a circular, copy of which is at Exhibit 'A' (page 159 of the paper-book), on instructions, Mr. Dighe states that the Education Inspector and Deputy Director of Education of North Zone, Mumbai, will release the salary so as to enable the petitioners to pay the salaries of Smt. Pushpa Pande appointed as Head Master by the petitioners. In the event the petitioners do not succeed and the fourth respondent succeeds in the challenge to the order of termination passed by the petitioners, then, in the event that respondent has to be appointed as Head Master, the petitioners will bear the burden of the salaries that would be required to be

disbursed and the differential amount for the period during which the respondent No.4 is appointed as Head Master. Meaning thereby, in the event there was order of restoring the position of fourth respondent with attendant benefits including monetary gains, then, monetary liability would be borne by the petitioners and they would not seek any adjustment of the amounts expended by them in meeting these liabilities. It is, therefore, clear that respondent Nos. 1 and 2 will bear this burden is the understanding given to us voluntarily by the petitioners through Shri Kothari.

4. This stand of the petitioners is reiterated in the affidavit tendered today by Mr. Kothari. That is taken on record. A copy thereof has been given to all the parties.

5. It is apparent that what we have recorded above is set out in paragraph 2 of this affidavit of the petitioners. In view thereof this Writ Petition is disposed of with following directions:-

(a) Within four weeks from today, respondent Nos. 1 and 2 shall release the amount of salaries admissible to the post of Head Master so as to enable the petitioners to pay the salary to Smt. Pushpa Pande. This would include the amounts which are required to be released in favour of the petitioners from 7/8/2009 to 31/12/2016.

(b) The amount shall be released by respondent Nos. 1 and 2 on the clear understanding as set out in paragraph 2 of the affidavit of the petitioners.

(c) If the amount is released within four weeks as stated above, then, no further obligation or liability shall be borne by respondent Nos. 1 and 2 in-so-far as differential salaries.

(d) The respondent Nos. 1 and 2 shall also approve the appointment of the Smt. Pushpa Pande made by the petitioners from 7th August, 2009.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)