

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3156 OF 2014

Rajendra P. Bhalerao

.... Petitioner

Vs.

The Principal,
Shri Bhausahab Vartak Arts, Commerce
and Science College & Seth Kanji Parek
Arts & Commerce Jr. College & Others

.... Respondents

Mr. S.P. Sarnath for the Petitioner.

Mr. V.S. Talkute for Respondent Nos.1 & 2.

Mr. Kedar Dighe, AGP, for Respondent Nos.3 & 4.

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

DATE : FEBRUARY 15, 2019

P.C:

1. Heard. This is an entirely frivolous petition. The writ petitioner knew fully well that if he brought an appeal to the School Tribunal against the dismissal or termination from service, then, when that is disposed of by the Tribunal, it could have not only granted relief of backwages but arrears of salary/emoluments as well. The consequential reliefs could have

been claimed and granted in full or otherwise, but not having claimed them, or claimed or granted them in part and not entirely to the satisfaction of the petitioner, does not enable him to get over his inaction and file a fresh action not in the Tribunal, but a writ petition in this Court.

2. That a claim or relief which is deemed to have been considered and refused is now sought in this writ petition. In the meanwhile, the order passed by the Tribunal was accepted by the petitioner. It was allegedly not complied with and the petitioner moved a contempt petition, which the Tribunal disposed of as not maintainable. The petitioner brought another proceeding in this Court but styled as contempt petition which the petitioner knew from inception was never maintainable.

3. There is a difference between a petition seeking action in contempt, and proceedings in execution of a decree or an order of a Competent Court. The latter keeps open all the avenues so as to obtain the fruits of a decree or a favourable order. Knowing fully well that the said procedure is slightly

cumbersome, but relief can be granted therein provided one continues the fight by attaching the properties and assets of the Management. None, including educated persons, like to wage such a prolonged battle. That writ petition is a shortcut, irrespective of whether that can be held to be maintainable and in the above circumstances, it is still pursued. Having found that this is nothing but an attempt to get over earlier binding orders, we dismiss this writ petition.

4. Merely because the petitioner is a teacher does not mean that he should not be visited with costs for having wasted the time of this Court. We refrain from doing so simply because we do not wish to send a message to everybody. We only warn every litigant, be it a teacher or a peon, that if he/she brings frivolous cases and wastes our time, we would not hesitate to impose heavy costs and to be recovered by coercive means from such litigant.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)