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

907 WRIT PETITION NO.4499 OF 2017

**NAVNATH RAMDAS BODKHE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. Vilas P. Savant, Advocate for petitioner;
Mr. S.G. Karlekar, A.G.P. for respondent nos.1 & 8;
Mr K.B. Jadhavar, Advocate for respondent nos.2 & 3

**CORAM : DIPANKAR DATTA, CJ
AND
MANGESH S. PATIL, J.**

DATE : September 29, 2021

PC:

1. The prayers in this writ petition read as follows :-

“(B) Issue writ of Mandamus, or any other writ, order or direction in the nature of writ of Mandamus thereby direct the respondents to give the establishment of the petitioner in respondent no.6 school by confirming order dated 23.07.2014 expeditiously and for that purpose issue necessary orders.

(C) Issue writ of Mandamus, or any other writ, order or direction in the nature of writ of Mandamus thereby direct the respondents to pay the salary arrears of the petitioner for the period 01.07.2014 to 31.05.2016 along with interest expeditiously and for that purpose issue necessary orders.

(D) Issue writ of Certiorari, or any other writ, order or direction in the nature of writ thereby quash and set aside the order/letter dated 27.01.2015 & 29.01.2015 issued by respondent no.4 & 5 and for that purpose issue necessary

orders.”

2. The respondent no.7, by filing an affidavit-in-reply, has objected to the maintainability of this writ petition. According to him, the petitioner had earlier invoked the writ jurisdiction of this Court by presenting Writ Petition No.3151 of 2015 wherein relief was claimed on similar terms as in prayer clauses (B) and (D) extracted supra. Such writ petition came up for consideration before a Division Bench of this Court on 3rd December 2015. The petitioner unconditionally withdrew the writ petition. Based on submission of the petitioner’s advocate, the writ petition stood disposed of as withdrawn without grant of leave by the Court to the petitioner to file a fresh writ petition with the selfsame prayers.

3. The objection is reiterated before us. Having regard to the decision of the Supreme Court reported in AIR 1987 SC 88 (**Sarguja Transport Service vs. State Transport Appellate Tribunal, M.P., Gwalior & ors**), we find the objection to be of substance. Prayers (B) and (D) cannot, therefore, be granted. Insofar as prayer (C) is concerned, it is admitted at the Bar that presently six months unpaid salary remains to be paid to the petitioner. It is submitted that the Chief Executive Officer, Zilla Parishad, Beed has approached the State Government seeking guidance for release of arrears of salary to 199 employees including the petitioner.

4. In view of the aforesaid facts and circumstances, we direct the State Government to appropriately advise the Chief Executive Officer to act in accordance with law as early as possible but not later than eight weeks from date of receipt of the copy of this order. Once advice is received,

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follow-up steps be taken without undue delay.

5. We may also note that by an order dated 30th March 2021 issued by the Chief Executive Officer, the prayer of the petitioner for transfer has been rejected and he has been granted liberty to apply in course of next annual general transfers.

6. It is not disputed at the Bar that such an order of the Chief Executive Officer dated 30th March 2021 is an appellable order. In view thereof, we leave it open to the petitioner to explore his remedies in accordance with law.

7. The writ petition stands disposed of. No costs.

(MANGESH S. PATIL, J.)

(CHIEF JUSTICE)

amj