

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

WRIT PETITION NO. 9997 OF 2015

Jayesh Tushar More

.. Petitioner

Versus

The State of Maharashtra and another

.. Respondents

Mr. R. D. Biradar, Advocate for the Petitioner.

Mr. S. K. Tambe, AGP for Respondent No. 1.

Mr. A. D. Soman, Advocate h/f Mr. D. V. Soman, Advocate for
Respondent No. 2.

**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATED : 10th AUGUST, 2021.

PER COURT:-

. The petitioner is assailing the order passed by the Principal Judge, Family Court, Aurangabad thereby granting interim maintenance to the daughters of Rs. 3000/- per month (aggregate Rs. 6000/- per month) and further directing the petitioner to pay the school fees, bus fees if any, for books, uniforms, shoes, bag, water bottle and other miscellaneous expenses of the daughters, on production of the actual bills by the respondent No. 2, till the hearing and final disposal of the main petition.

2. Mr. Biradar, learned counsel for the petitioner submits that the petitioner is unemployed as on the date. Because of various complaints

filed by the respondent No. 2, the petitioner had to leave his service and he is unemployed. According to the learned counsel, the respondent No. 2 is in service and earning handsome salary per month. These aspects ought to have been considered by the Family Court. The learned counsel further submits that the petitioner is ready to cohabit with respondent No. 2. The respondent No. 2 is avoiding the petitioner. The learned counsel further submits that the petitioner is not given custody of the daughters by the respondent No. 2. If the custody of the daughters is given to the petitioner, the petitioner would maintain the daughters. The learned counsel relies on the judgment of the Apex Court in a case of *Rajnish Vs. Neha & Anr.* in *SLP (Crl.) No. 9503 of 2018 in Criminal Appeal No. 730 of 2020*.

3. Mr. Biradar, learned counsel further submits that the application for custody of the daughters is withdrawn by the petitioner on the say of respondent No. 2.

4. Mr. Soman, learned counsel for respondent No. 2 submits that the application filed by the petitioner for custody of daughters is pending. The petitioner has got landed properties. The shop at Chhavani from which the petitioner receive rent. The petitioner has 35 acres of land and the petitioner is working as H.R. with M.G.M. Hospital. All theses aspects are rightly considered.

5. We have considered the submissions canvassed by the learned counsel for respective parties.

6. There cannot be any dispute with the proposition that the father has to maintain the daughters. The issue in the present matter is not regarding payment of maintenance to the wife. The issue is about maintenance to the daughters. The petitioner being father cannot run away from his responsibility and duty to maintain the daughters.

7. The order is passed against the petitioner to pay maintenance of Rs. 3000/- per month to the daughters and also the educational expenses. The Apex Court in a case of ***Rajnesh*** (supra) has observed thus :

(d) Maintenance of minor children

The living expenses of the child would include expenses for food, clothing, residence, medical expenses, education of children. Extra coaching classes or any other vocational training courses to complement the basic education must be factored in, while awarding child support. Albeit, it should be a reasonable amount to be awarded for extra-curricular / coaching classes, and not an overly extravagant amount which may be claimed.

Education expenses of the children must be normally borne by the father. If the wife is working and earning sufficiently, the expenses may be shared proportionately between the parties.

8. The petitioner and respondent No. 2 both are contending that today they are without job. The petitioner contends that the respondent No. 2 is still serving and the respondent No. 2 contends that she was employed temporarily and now she is not in service.

9. Be that as it may, we are not inclined to disturb the order of the Family Court to the extent directing the petitioner to pay Rs. 3000/- per month for each daughter i.e. in aggregate Rs. 6000/- per month towards the maintenance and other expenses.

10. We would only modify clause (04) of the order dated 21.08.2015 in Pet. No. D-9/2014 passed by the Principal Judge, Family Court, Aurangabad. The petitioner is directed to pay all the school expenses. We would modify the order to the extent that the petitioner and respondent No. 2 shall bear equally the educational expenses as detailed in clause (04) of the impugned operative order. Clause 1 to 3 of the impugned operative order remains the same and are upheld.

11. With the aforesaid modification to the extent of clause (04) as detailed above, the writ petition is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.