

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3670 OF 2021

Kerba D. Bagade

...Petitioner

V/s.

State of Maharashtra & Ors.

...Respondents

Mr.Vaibhav V. Ugle for the Petitioner.

Mrs.P.J. Gavhane, AGP for the State – Respondent Nos.1 to 3.

**CORAM : R.D. DHANUKA &
R.I. CHAGLA, JJ.**

DATE : 1ST SEPTEMBER, 2021.

P.C. :-

1. Rule. Learned AGP waives service for the respondent nos.1 to 3. None appeared for the respondent nos.4 to 6 inspite of the Court's order having been issued on 20th January, 2021 and the respondent nos.4 to 6 being served with the proceedings.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner is seeking directions against the respondent nos.4 to 6 to consider the representation dated 14th May, 2019 to 20th February, 2020 of the petitioner for giving retirement benefits to the petitioner considering the selection grade and pay scale as the petitioner retired from the post of Headmaster on 31st October, 1991.

3. Prior to filing of this writ petition, the petitioner had filed earlier Writ Petition No.12227 of 2018 before this Court. The petition came to be disposed of with a direction to the respondent no.4 to consider the representations of the petitioner within a period of six weeks from the date of communication of the said order.

4. The petitioner made the representations between 4th May, 2019 and 20th February, 2020. The respondents however paid the salary at the pay scale of Rs.1640-2900 instead of Rs.2000-3500 as well as retirement benefits to the petitioner.

5. Being aggrieved by the said inaction on the part of the respondent nos.4 to 6 in deciding the representations of the petitioner, the present writ petition has been filed.

6. Learned counsel for the petitioner has referred to the order dated 21st January, 2019 passed by this Court in Writ Petition No.12227 of 2018 which had been filed by the petitioner previously and wherein this Court had directed Education Officer to dispose of both the representations of the petitioner within a period of six weeks from the date of communication of the said order. He submitted that inspite of the said order dated 21st January, 2019, the respondent nos.4 to 6 have failed to decide the representation. The petitioner made further representation between 4th May, 2019 and 20th February, 2020 which were also not decided by the respondent nos.4

to 6. He has therefore submitted that the respondent nos.4 to 6 be directed to consider the representations made between 4th May, 2019 and 20th February, 2020. He states that though hearing on the representation has been conducted by the respondent nos.4 to 6, no order has been passed on the said representations.

7. In the order dated 5th August, 2021 this Court referred the previous order dated 21st January, 2019 passed by this Court in Writ Petition No.12227 of 2018 recording the statement made by the respondent nos.4 to 6 that the Education Officer will dispose of the representation with a period of six weeks from the date of communication of the said order. It was observed that in the said order dated 5th August, 2021 that order dated 21st January, 2019 passed by this Court had not been complied by the respondent nos.4 to 6. The respondent nos.4 to 6 were not present on that date to make a statement before this Court as to why the order dated 21st January, 2019 passed by this Court is not complied with by disposing the representations within the time prescribed.

8. We have noticed that though the said order dated 21st January, 2021 has been served upon the respondent nos.4 to 6, none appeared for the respondent nos.4 to 6. We accordingly direct the respondent nos.4 to 6 to consider the representations made by the petitioner between 4th May, 2019 and 20th February, 2020. The

respondent nos.4 to 6 shall also consider the Government Resolution dated 15th November, 2006 issued by the respondents within a period of four weeks from the date of communication of this order.

9. The order that would be passed by the respondent nos.4 to 6 shall be conveyed to the petitioner within one week from the date of passing such order. If this order is not complied with by the respondent nos.4 to 6, this Court will be compelled to take action under the provisions of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India.

10. The writ petition is disposed of in aforesaid terms. Rule is made absolute accordingly. There shall be no order as to costs.

(R.I. CHAGLA, J.)

(R.D. DHANUKA, J.)