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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.120 OF 2021
IN
WRIT PETITION NO.14242 OF 2018

D.Ed.A.T.D.A.M. Padvidhar

Madhyamic Shikshan Sangh Maharashtra & Ors. ...Petitioners

V/s.

Smt.Vandana Krishna & Ors. ...Respondents

...Contemnors

Mr.Alok Kumar with Mr.Piyush A. Singh i/b A. & S. Jurisprudentia for
the Petitioners.

Mrs.Pratibha Gavhane, AGP for the State - Respondent No.1.

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

**DATE : 20TH JULY, 2021.
(THROUGH VIDEO CONFERENCE)**

P.C. :-

1. Heard learned counsel for the parties.
2. By this contempt petition the petitioners have alleged that the respondents have committed contempt of the judgment passed by the Division Bench of this Court on 9th April, 2019.
3. The petitioners state that though they are the senior most teachers in their respective schools, the respondents are not

considering their seniority nor are they adding the qualifications of the petitioners in the Government Resolution dated 3rd May, 2019 for determination of their seniority as per the said the judgment dated 9th April, 2019.

4. The learned counsel for the petitioners has referred to paragraph 49 of the said judgment as well as the operative part of the said judgment. The Division Bench has in paragraph 49 stated thus :-

“As we understand categories A and B are post-specific; they have nothing to do with the qualification, barring the basic one. In other words, they are similar to the teachers in primary schools; their seniority counts from the date of appointment. On the other hand, categories C to H are qualification-specific. To put it explicitly, on their joining the service, based on their entry-level qualification, the teachers will, by default, belong to one particular category. In that default category, they will have their seniority reckoned based on the date of their joining”.

5. In paragraph 122 (a) of the operative part of the judgment, the Division Bench of this Court held that the two Government Circulars of 24th January, 2017 and 14th November, 2017 stand unaffected *vis-a-vis* primary teachers. Further in paragraph 122 (b) the Division Bench held that the these Government Circulars cannot

be sustained *vis-a-vis* secondary teachers to the extent those Government Resolutions mandate that the teachers seniority be reckoned from the date of their appointment and continuous service. The Division Bench in paragraph 122 (c) of the judgment directed the Government and the authorities concerned, including the school managements, to recalibrate the relative seniority of the secondary teachers based on the category they belong to and based on when they have entered that category.

6. Learned counsel for the petitioners states that the said judgment has not been complied with as the respondents have only prepared draft rules which have been notified on 8th June, 2020. He states that under the draft rules, Schedule “F” under which only category ‘C’ has been set out. However, the direction of the Division Bench as to the recalibration of the relative seniority of secondary teachers based on the category they belong to and based on which they have entered that category has not been complied with.

7. We have considered the submissions of the learned counsel for the petitioners and gone through the affidavit filed by the respondents dated 5th March, 2021 affirmed by Smt. Vandana Krishna, Additional Chief Secretary to the Government of Maharashtra, School Education & Sports Department, Mantralaya, Mumbai which is in reply to the contempt petition. In paragraph 4 of

the said affidavit, it is stated that pursuant to the directions given by this Court in the judgment dated 9th April, 2019, the State Government had issued the circular dated 3rd May, 2019 which superseded the earlier two Government Circulars dated 24th January, 2017 and 14th November, 2017. It is mentioned in the circular dated 3rd May, 2019 that seniority of teachers in primary and secondary school will be fixed in accordance with Schedule F of Rule 12, MEPS Rules, 1981. It is further stated that the seniority of a teacher in the primary school will be considered from the date they enter into the service, and seniority of a teacher in the secondary school will be considered from the date they acquire the necessary qualifications and enter into their respective category of graduates. It has been further stated in paragraph 5 of the said affidavit that pursuant to the directions given by this Court in paragraph 122 (a) and (b) of the judgment dated 9th April, 2019, these directions have been fully complied with. In addition to the said compliance, the State Government has issued a draft notification dated 8th June, 2020 and has published the same in the Government Gazette on the same day. The said draft notification dated 8th June, 2020 is regarding amendment to Schedule F, Rule 12 of MEPS Rules, 1981.

8. It is further stated in paragraphs 6 and 7 of the said affidavit that the directions given by this Court in paragraph 122 (a)

and (b) of the said judgment dated 9th April, 2019 have been fully complied with. We find from the said affidavit that the draft notification dated 8th June, 2020 which notifies the amendment to Schedule “F”, Rule 12 of MEPS Rules, 1981 is yet to be finalized and the suggestions / objections have been invited and pursuant thereto about 3000 suggestions / objections have been received to the said draft notification. The respondents have made it clear in the said affidavit that after scrutinizing the suggestions / objections, the Commissioner (Education) Pune has been directed to submit a detailed report to the State Government. It is only after receipt of the said report, further procedure will be adopted for amendment of Schedule “F”, Rule 12 of MEPS Rules, 1981, which will be completed expeditiously.

9. There is no rejoinder to the said affidavit dated 5th March, 2021 controverting the statements made therein. There is much substance in the statements made in the affidavit dated 5th March, 2021 and we find that there has been compliance with the judgment dated 9th April, 2019 including with the directions issued by the Division Bench of this Court in the said judgment. We find that there is no merit in the contempt petition of the petitioners as the petitioners have been unable to identify which part of the said judgment dated 9th April, 2019 has not been complied with.

10. Accordingly the contempt petition is dismissed. There shall be no order as to costs.

(R.I. CHAGLA, J.)

(R.D. DHANUKA, J.)