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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12274 OF 2017

Gadekar Vishnu Tukaram	...Petitioner
<i>Versus</i>	
The State Of Maharashtra, Through Its Secretary School Education Dept. And Ors.	...Respondents

Mr.S.S. Kanetkar i/b Mrs.Shivani S. Samel for the Petitioner.
Ms.K.N. Solunke, AGP for the State – Respondent Nos.1 and 2.
Mr.Amol Dhumal i/b Mr.Umesh Kumud for the Respondent Nos.3
and 4 – Management.

CORAM : R.D. DHANUKA &
ABHAY AHUJA, JJ.
DATE : 21ST SEPTEMBER, 2021.

P.C. :-

1. Mr.Kanetkar, learned counsel appearing for the petitioner invited our attention to the order dated 29th November, 2016 passed by the Division Bench of this Court in Writ Petition No.13226 of 2016 filed by the petitioner. By the said order, this Court directed the Education Officer to consider and decide the proposal dated 30th May, 2016 submitted by the Management for modification in regard to the teachers' strength due to increase in the students' strength expeditiously. He also invited our attention to the impugned order annexed at Exhibit-J passed by the Education Officer (Secondary) dated 27th January, 2017 and would submit that the impugned order

is not in compliance with the said order dated 29th November, 2016 passed by the Division Bench of this Court in the writ petition filed by the petitioner.

2. It is submitted by the learned counsel that though the petitioner vide letter dated 20th April, 2017 had requested the Education Officer (Secondary) to direct the Management to send the proposal for approval of the petitioner to the post of Assistant Teacher on full time basis, the Management has not sent any proposal till date.

3. In view of the fact that the Education Officer (Secondary) has passed an order not in compliance with the order dated 29th November, 2016 we quash and set aside the said order dated 27th January, 2017 annexed at Exhibit-J to the petition and remand the matter back to the Education Officer (Secondary) with a direction to comply with the order dated 29th November, 2016 and to consider and decide the proposal dated 30th May, 2016 submitted by the Management before him for modification in regard to the teachers' strength due to increase in the students' strength.

4. The Education Officer (Secondary) shall pass a fresh order without being influenced by the observations made and the conclusion drawn in the impugned order dated 27th January, 2017 and in accordance with laws and also in accordance with the

directions issued by this Court by an order dated 29th November, 2016 within four weeks from the date of communication of this order. The order that would be passed by the Education Officer (Secondary) shall be communicated to the petitioner as well as to the Management within one week from the date of passing order.

5. Insofar as the claim made by the petitioner for appointment on the post of Assistant Teacher on full time basis is concerned, the Management is directed to submit a proposal to the Education Officer (Secondary) for approval of the petitioner to the said post in accordance with law within four weeks from today. The Education Officer (Secondary) upon receipt of the said proposal shall consider the said proposal in accordance with law within four weeks thereafter. The Education Officer (Secondary) shall consider whether such proposal can be considered independently or whether the proposal can be considered depending upon the out come of the order that would be passed by the Education Officer (Secondary) in compliance with the order dated 29th November, 2016 and this order.

6. The writ petition is disposed of in aforesaid terms. If the order that would be passed by the Education Officer (Secondary) is adverse against the petitioner, the petitioner would be at liberty to file appropriate proceedings.

(ABHAY AHUJA, J.)

(R.D. DHANUKA, J.)