

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CONTEMPT APPEAL NO.1 OF 2006
IN
CONTEMPT PETITION NO.5 OF 2005
IN
WRIT PETITION NO.2280 OF 2003 (D)

1. Vishwasrao Dashrath Wadafale,
President, The Yashwant Education
Society, Wardha, Opp. Nagar Parishad,
Hospital Road, Wardha
2. Gunwant Janardhan Wakade,
Vice-President, The Yashwant Education
Society, Wardha, Guru Colony,
East Station, Wardha

... Appellants.

-vs-

1. Sunil s/o Manoharrao Deshmukh,
aged 40 years, r/o c/o N. M. Jagtap,
State Bank Colony, Bachelor Road, Wardha
2. The Yashwant Education Society,
Ramnagar, Wardha, Thr. Its President
Vishwasraoji Dashrath Wadafale
3. Manohar Ramchandrarao Nishane,
Secretary, The Yashwant Education
Society Wardha, Kejaji Chowk,
Ward No.11 Wardha
4. Narendra Gopaldas Thute,
Joint Secretary, The Yashwant Education
Society, Gurukul Colony,
Near East Station, Wardha,
5. Madhukar Bapuraoji Bobhate,
Treasurer, The Yashwant Education
Society Wardha, Gond Plot, Opposite
Sukhakarta Medical, Wardha,
6. ~~Shankarrao Balaji Dhande~~
(Deleted)

7. Sharad Bapuraoji Deshmukh,
Director, The Yashwant Education Society,
Vaishalinagar, Sewagram Road,
Wardha
 8. Ashok Bhauraoji Zoting,
Director, The Yashwant Education
Society, Pradhyapak Colony, Nandori Road,
Hinganghat, District Wardha
 9. Madhukar Mahadeorao Ladhi,
Director, The Yashwant Education
Society, Yashwant Adhyapak Vidyalaya,
Ramnagar, Wardha.
 10. Narayan Shamraoji Satarkar,
Director, The Yashwant Education
Society Pradhyapak Colony, Nandori Road,
Hinganghat, District Wardha
 11. Pramod Jagannathrao Dhange,
Director, The Yashwant Education
Society, Bhamtipura, Wardha,
 12. Vasant Pandharinath Khadse,
Director, The Yashwant Education
Society, Behind Bidkar College, Hinganghat
District Wardha
 13. Suchita Bhanudasji Kanarkar,
Director, The Yashwant Education
Society, c/o Yashwant Adhyapak Vidyalay,
Ramnagar, Wardha.
 14. Vithal Tulsiramji Kanhalkar,
Director, The Yashwant Education
Society, Behind Ramnagar, Somnathe
Layout, Wardha.
 15. Mohan Y. Mohadure,
Principal, The Yashwant Junior College of
Education, Ramnagar, Wardha
- ... Respondents

Shri S. D. Abhyankar, Advocate for appellants.

Shri S. V. Sohoni, Advocate for respondent No.1.

Shri S. S. Deshpande, Advocate for respondent Nos.8,10 and 12.

CORAM : A. S. CHANDURKAR AND G. A. SANAP JJ.

DATE : August 23, 2021

Oral Judgment : (Per : A. S. Chandurkar, J.)

In this appeal filed under Section 19 of the Contempt of Courts Act, 1971 the order dated 08/07/2005 passed by learned Single Judge in Contempt Petition No.5/2005 is under challenge.

Facts relevant for adjudication of the Letters Patent Appeal are that the respondent No.1 herein was engaged as a Junior College Teacher in the Junior College run by Yashwant Education Society. He had approached this Court by filing Writ Petition No.2280/2003 making a grievance that the Deputy Director of Education had wrongly rejected the proposal seeking approval to his appointment. A further prayer was made in the said writ petition for release of arrears of salary from 03/07/1995. On 26/02/2004 that writ petition was decided and the Management was directed to pay salary to the original petitioner for the period for which he had actually worked. Since this order was not complied with, the original petitioner filed Contempt Petition No.5/2005. By the order dated 24/06/2005 the President and Vice President of the said Trust were directed to pay the arrears of salary to the petitioner. Despite such direction since there was non-compliance, the personal property of the respondents came to be attached through the Collector for recovery of that salary by the order dated 08/07/2005. The present appellants who were the then President and Vice President being

aggrieved by the aforesaid order have filed the present appeal. It may be stated that respondent No.7 herein had filed Contempt Appeal No.3/2006 challenging that order on the ground that the same was passed without issuing notice to him. This Court by judgment dated 26/02/2021 had allowed that appeal.

2. When this appeal was taken up for hearing it was informed that appellant No.1, the then President had since expired. Shri S. D. Abhyankar, learned counsel appearing for appellant No.2 had urged that when the order dated 08/07/2005 was passed, the appellant No.2 was not the Trustee. Though the Change Report to that effect was filed in the year 1992, it was only by order dated 13/02/2004 that the name of appellant No.2 was included in Schedule-I of the Public Trust Register. After hearing the learned counsel for the parties, the following order was passed on 09/08/2021 :

“ We have heard the learned counsel for the parties for some time.

Shri S. D. Abhyankar, learned counsel for the appellants submits that the respondent No.1 was appointed in service in the year 1995. By change report filed in the year 1992, the appellant No.1 (since deceased) and appellant No.2 were inducted as Trustees. The change report proceedings as filed came to be rejected and it is only by the order passed on 13/02/2004 that the names of the appellants were included in Schedule-I of the Public Trust Register. He submits that in Writ Petition No.2280/2003, the direction to pay arrears of salary to the respondent No.1 pertains to the period when the appellants were not in management of the affairs of the Trust. It is on that count that the appellants have

challenged the order passed on 08/07/2005. He further submits that the personal property of the appellant could not have been attached for satisfying the liability of paying arrears of bak wages to the respondent No.1. The liability would be of Trust and it would not be the personal liability of the Trustees.

Before adjudicating the aforesaid contentions, we find on perusal of the order dated 26/02/2004 passed in the Writ Petition No.2280/2003 that the liability to pay arrears of salary was on the Yashwant Education Society, the respondent No.3 in the said writ petition. Since this direction was not complied with by the Trust through its Trustees, Contempt Petition No.5/2005 was filed by the respondent No.1. Since it is the liability of the Trust to pay the arrears of salary to the respondent No.1, we grant an opportunity to the said Trust through the present Trustees to pay the amount of arrears of salary of the respondent No.1 as per the order passed in Writ Petition No.2280/2003.

It is open for the Trust to take a decision in that regard and inform the Court accordingly.”

3. Today an affidavit has been filed on behalf of appellant No.2 Shri Gunwant Janardhan Wakade, Vice President who is present in Court today. In the said affidavit it has been stated that the respondent No.1 had worked as a Part Time Teacher from 03/07/1995 till 30/06/1997 and thereafter as Shikshan Sewak from 01/07/1997 to 31/07/2004. It is further stated that respondent No.1 is entitled for amount of Rs.3,16,232/- and the Management is ready to pay the same. An amount of Rs.2,00,000/- is available with the Trust. Alongwith appellant No.2, the respondent Nos.3 and 4 are present in Court today being members of the said Trust and have

signed documents expressing therein readiness to make the payment. On instructions it is submitted that amount of Rs.3,16,232/- would be paid to the petitioner within period of four weeks from today.

Shri S. V. Sohoni, learned counsel for the respondent No.1 disputes the amount of dues as calculated by the appellant No.2. He submits that the respondent No.1 is entitled for more amount than what has been calculated by appellant No.2. Be that as it may, it is to be noted that the present appeal was filed since the properties of the appellants were directed to be attached. Now as the appellant No.2 along with respondent Nos.3, 4, 5 and 11 have agreed to pay the respondent No.1 his dues, there is no reason to keep the appeal pending. We are inclined to grant that opportunity to the appellant No.2 to comply with the directions issued on 08/07/2005 by paying dues of the respondent No.1. Since Contempt Petition No.5/2005 is still pending it is open for the respondent No.1 to urge that the entire amount of arrears have not been paid by the Management. It is open for the Court in that contempt petition to take cognizance of such grievance if so raised.

4. Accordingly the following order is passed :

The appellant No.2 along with respondent Nos.3 to 5 and 11 to pay an amount of Rs.3,16,232/- to the respondent No.1 within period of four weeks from today. The affidavit filed by appellant No.2 in that regard is taken on record. Accepting the

statements made therein, Contempt Petition No.01/2006 stands disposed of. It is made clear that if on expiry of period of four weeks the aforesaid payment is not made to the respondent No.1, the present proceedings would be liable to be revived. Grievance regarding any shortfall in the amount of arrears of Rs.3,16,232/- can be raised in Contempt Petition No.5/2005.

The Contempt Appeal is allowed in aforesaid terms leaving the parties to bear their own costs.

JUDGE

JUDGE