

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

8 CIVIL APPLICATION NO.9464 OF 2021
IN WP/6816/2017

UDAYKUMAR TULSHIRAM SONONE AND OTHERS
VERSUS
WOODRIDGE HIGH SCHOOL PAITHAN ROAD THROUGH
ITS HEAD MASTER

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Advocate for Applicants : Mr. G.K. Naik Thigle
AGP for the respondent – State : Mrs. R.P. Gour
Advocate for the respondents no. 1 and 2 : Mr. S.V. Adwant
Advocate for respondent no. 6 : Mr. S.B. Deshpande

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**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 22 AUGUST 2022

ORAL ORDER (SANDEEP V. MARNE, J.) :

This application is filed seeking the following prayers :

- “A) The Hon’ble High Court may graciously be pleased to allow the Civil Application.
- B) The Hon’ble High Court may graciously be pleased to suitably modify/clarity the order dated 04.04.2019 to the extent that undertaking is being given by applicant/petitioner No.2 in his personal capacity restricted to his case only & appropriate clarification about non acceptance of current fees may also be granted in the interest of justice.
- C) The Hon’ble High Court may graciously be pleased to modify/clarity the order dated 04.04.2019 to the extent that petitioner would deposit deficit amount if any in terms of the final decision of the Hon’ble Court.
- D) Any other equitable relief in favour of applicant may kindly be granted.”

2. The present civil application is filed by petitioner in the light of undertaking filed by petitioner no. 2 before this Court dated 14 March 2019 and which came to be accepted by this Court by order dated 4 April 2019, which reads thus:

“1. Heard Mr. Thigale, learned counsel for the petitioners. He invites our attention to certain documents referred in inquiry report.

2. Learned counsel for respondent - school submits that the daughter of the petitioner is taking education in its school. According to him though the others have paid the prescribed fees, the petitioner has not paid fees for last more than three years.

3. The undertaking given by the petitioner that the petitioner shall continue to deposit arrears and the current fees, is accepted.

4. In the wake of above, **Rule**.

5. Respective counsel waive service.”

3. The undertaking filed by petitioner no. 2 is as under :

“ UNDERTAKING

I Mr. Soni Shailesh Ananad Kumar, Age : 38 years, Occ : Business, r/o Flat No. 11 Nitin Apartment, Dashmesh Nagar Aurnagabad, do hereby furnish the undertaking as follows;

1. The deponent hereby makes deposit of Rs.20,000/- by D D dated 14.03.2019 drawn in favour of “Registrar High Court of Bombay Bench at Aurangabad”

2. The deponent further undertakes to deposit Rs.25,000/- on 30th of every three months towards deposit of Rs.1,75,000/-, which would be subject to the final outcome of the orders of the Hon’ble Court, & without prejudice to contentions raised in writ petition.”

4. The present civil application has been filed on 3 September 2021. It is the case of the respondent no. 2 that after filing of the undertaking, the petitioner no. 2 has not deposited any amount towards fees and petitioner no. 2 is in breach of the undertaking.

5. Mr. Thigale, learned counsel for the applicant submits that an amount of Rs.20,000/- was deposited by way of demand draft dated 14-03-2019 at the time of filing of the undertaking. Thereafter, admittedly, no amount has been paid by petitioner no. 2. As a matter of fact, during the period from 14 March 2019, till the date of filing of the present civil application, number of instalments were due and payable by the petitioner no. 2 as per the undertaking. Said instalments have admittedly not been paid. After committing the repeated breaches of the undertaking, the present civil application is filed.

6. The prayers in the civil application are also self-contradictory. In terms of prayer clause (B), it is prayed that the undertaking be restricted to only petitioner no. 2. By making this prayer, liability of petitioner no. 2 to make payment in terms of the undertaking is accepted. In prayer clause (C) it is prayed that the order dated 4 April 2019 be modified or clarified to the extent that petitioner shall deposit the deficit amount in terms of the final decision of this Court. Thus, in terms of prayer clause (B), the undertaking is stated to be made enforceable only in respect of the petitioner no. 2 whereas in prayer clause (C), all the petitioners are seeking to come out of the

obligations under the undertaking. Curiously the civil application is verified by petitioner no. 2.

7. On account of repeated breaches committed in respect of undertaking dated 14-03-2019, we are of the considered view that the conduct of the petitioner, in particular, of petitioner no. 2, is such that none of the reliefs prayed for in the present civil application can be granted.

8. We, therefore, reject the civil application.

[SANDEEP V. MARNE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/