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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 1134 OF 2022

SHRI. YASHAVANT BAPU PAWAR

....PETITIONER

V/s.

**SHRI. AMIT CHANDRAKANT KHANAVARE RESPONDENTS
AND ORS**

Mr. Yashavant B. Lengare Advocate for the Petitioner

Mr. Laxman S. Deshmukh Advocate for Respondent nos. 1 & 2

CORAM : NITIN W. SAMBRE, J.

DATE: APRIL 4, 2022.

P.C.:

1) Heard. The Petition is directed against the order impugned dated 10/12/2021 whereby in execution proceedings arising out of Judgment passed by School Tribunal dated 30/10/2014, Civil Court has held that Petitioner is not entitled for reinstatement, as the Petition questioning the Judgment of the School Tribunal is pending at the behest of management.

2) I have heard rival parties.

3) On perusal of Judgment of School Tribunal which reads thus:

“1. The appeal is allowed as under.

2. The impugned termination order dated 29/12/2013 is hereby declared, illegal, and invalid and same is hereby quashed and set aside.

3. The respondents are hereby directed to reinstate the appellant to his original post and allow him to sign the muster roll and discharging duties regularly.

4. The respondents are hereby directed to give all the service benefit including full back wages and continuity of service to the appellant with effect from 29/12/2013.”

It is apparent that Petitioner employee was granted reinstatement with back wages. Though Management has questioned the same before this Court, this Court has refused to grant interim relief in the matter. As a sequel, it was expected of the Management to comply with the directions given by the School Tribunal.

4) Amongst other directions, Petitioner was directed to grant reinstatement.

5) Respondent-Management has questioned the aforesaid order of the School Tribunal before this Court in Writ Petition No. 827/2015 which is pending for final hearing. In said Writ Petition, though

Respondent-Management has prayed for interim relief thereby stay to the Judgment and order dated 30/10/2014 passed by School Tribunal, this Court has not granted any interim relief.

6) In the wake of above, pendency of Writ Petition at the behest of Respondent-Management, in absence of any interim relief in express terms will not operate as an embargo on the right of the Petitioner to claim compliance of the Judgment and Order of the School Tribunal dated 30/10/2014.

7) As such, the Court below committed an error in observing that Petitioner is not entitled for the relief as claimed in Exh. 42 as Writ Petition of the Respondent-Management is pending.

8) As such, order impugned dated 10/12/2021 passed below Exh. 42 is hereby quashed and set aside. Application Exh. 42 as such stands restored to the file of Court below with directions to decide Exh. 42 expeditiously in the light of observations made herein above.

9) As far as the challenge to order passed below Exh. 40 wherein the prayer of the Petitioner for production of document at Serial No. 2 came to be rejected is concerned, it will be appropriate in my opinion to direct the Education Officer to calculate entire back wages which

are payable to the Petitioner as directed by the School Tribunal in its order dated 30/10/2014. Let the aforesaid exercise to be completed by Education Officer within 5 weeks from the date of service of this Order on him.

10) Once such calculations are tendered before Executing Court, the Executing Court shall proceed ahead with the execution proceedings forming to be basis for working out back wages payable to the Petitioner.

11) Petition is allowed and disposed of in the above terms.

[NITIN W. SAMBRE, J.]