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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12696 OF 2019

Ms. Pinky B. Japee .. Petitioner
v/s.
Shri. Vile Parle Kelavani Mandal's
Through its Secretary/President & Ors. .. Respondents

....
Ms. Anupama Shah, a/w. Mitaau Shah, for the Petitioner.

Mr. A.P. Singh, i/b. S.K. Srivastav & Co., for Respondent Nos. 1 and 2.

Mr. V.M. Mali, AGP, for State.

....
CORAM: SUNIL B. SHUKRE &
G.A. SANAP, JJ.

DATE : 8 APRIL 2022

P.C:-

By way of last chance, two weeks' time is granted to Respondent Nos. 1 and 2 for filing of reply. The entire responsibility to pay the back wages and other benefits, apart from granting continuity of service to the Petitioner, has been placed upon the shoulders of Respondent Nos. 1 and 2 as per school tribunal's order dated 10 February 2012. School Tribunal's order has been confirmed by this Court in Writ Petition No.1489 of 2012, when it dismissed the petition challenging the school tribunal's order. The disposal of the

writ petition of Respondent Nos. 1 and 2 came on 25 March 2013. Thereafter, Respondent Nos. 1 and 2 have not initiated any proceedings to question the legality and correctness or otherwise of the school tribunal's order. Thus, school tribunal's order has attained finality and that would mean that Respondent Nos. 1 and 2 are obliged to pay the salary, together with arrears of salary and other benefits to the Petitioner.

2. Respondent Nos. 1 and 2 have not paid the salary and the arrears of salary in terms of school tribunal's order dated 10 February 2012 is a fact not in dispute. Respondent Nos. 1 and 2, it appears, are looking upon the State Government to release the salary grants for payment of salary and arrears of salary to the Petitioner. But, it is seen from the communication dated 15 March 2018 addressed to the Education Inspector, Greater Mumbai by Deputy Director of Education, Mumbai Region that the Deputy Director of Education has given his opinion in a firm manner that it is the responsibility of the society and Principal only to pay to the Petitioner the arrears of salary due to her.

3. Such being the factual scenario, no purpose is going to be served by granting any further time to Respondent Nos. 1 and 2 and Respondent Nos. 1 and 2 would be in an obligation to comply with the order of School Tribunal dated 10 February 2012 passed in Appeal

No.20 of 2009.

4. There is also a provision made in Section 11(3) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. This provision reads as under :

“11. Powers of Tribunal give appropriate reliefs and directions. -

(3) It shall be lawful for the Tribunal to recommend to the State Government that any dues directed by it to be paid to the employee, or in case of an order to reinstate the employee any employments to be paid to the employee till he is reinstated, may be deducted from the grant due and payable or that may become due and payable in future, to the Management and be paid to the employee direct.”

5. It would be clear from the above referred provision of law that power has been conferred upon the Tribunal to recommend to the State Government, in a case like this where the dues and emoluments to be paid to the employee are not paid to the reinstated employee, to deduct the same by the State Government from the grant due and payable or, which may become payable in future to the management and pay the same directly to the concerned employee.

6. In view of above, we direct Respondent Nos. 1 and 2 to pay the salary, together with full back wages, and make available all other service benefits to the Petitioner in terms of the School

Tribunal's order dated 10 February 2012 within two weeks from the date of receipt of Respondent Nos. 1 and 2 a copy of this order, failing which, the Petitioner may approach the School Tribunal under Section 11(3) of M.E.P.S. Regulation Act, 1977, and in case the Petitioner approaches the School Tribunal under Section 11(3) of M.E.P.S. Regulation Act, the School Tribunal shall consider making of suitable recommendations in view of the provisions made in the said section, with a view to execute its order in terms of Section 11(3) of M.E.P.S. Regulation Act, 1977.

7. Rule is made absolute in the above terms. No costs.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)