

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION NO. 666 OF 2019
IN WRIT PETITION NO.4003 OF 2018

(Smt. Muktai Bahu-uddeshiya Shikshan Sanstha and others vs. State of Maharashtra and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri Anand Parchure, Advocate for petitioners.

Smt. K.R. Deshpande, Assistant Government Pleader for
respondent nos.1 and 2.

Shri Gopal Mishra, Advocate for respondent no.3.

CORAM : A.S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATED : AUGUST 3, 2022

In the writ petition a challenge has been raised to the order dated 3/5/2018 that has been passed by the Deputy Director of Education, Nagpur Division, Nagpur holding that excess grant to the tune of Rs.33,13,041/- has been disbursed to the Management – petitioner no.1 during the period from June 2015 to May 2017. Recovery of aforesaid excess amount has been directed by the said order. It has also been observed that the amount of Rs.88,610/- has been deposited by the Management with the State Exchequer and, therefore, the balance amount recoverable is Rs.32,24,431/-.

2) On 9/7/2018, this Court had directed the respondents not to release any grants in favour of the Management. By the subsequent order dated 2/2/2021 this

Court found that the order passed in Writ Petition No.2413/2018, which had raised the same question of law as involved in this petition, had been challenged before the Hon'ble Supreme Court and the special leave petition was pending. By the subsequent order dated 29/3/2022, this Court observed that the present writ petition should be kept pending till special leave petition is decided. It is informed that even today, the said proceedings are pending before the Hon'ble Supreme Court.

3) In the aforesaid background, by the present application, the petitioners seek vacation of the interim order dated 9/7/2018 restraining the respondents from releasing any grant. It is stated that pursuant to the interim order, the grants have been withheld. For the period from 2014 till academic session 2021-22, the Management is entitled to receive Rs.2,59,46,587/- towards grants. The amount to be recovered as per the impugned order is Rs.32,24,431/-. Since the amount withheld exceeds the amount that is to be recovered, it is prayed that from the current academic session, the grants admissible may be directed to be released.

4) This prayer is opposed by Smt. Deshpande, learned Assistant Government Pleader for the respondent nos.1 and 2, and Shri Mishra, learned Counsel for the respondent no.3. It is submitted that since the impugned order is under challenge and the interim order directs withholding of grants, the same does not call for any modification.

5) On hearing the learned Counsel for the parties and on perusing the documents on record, it is clear that as per the impugned order, an amount of Rs.32,24,431/- has to be recovered from the Management. The amount pursuant to the interim order that has been withheld exceeds that amount. According to the affidavit filed by the petitioner no.1, dated 15/7/2022, it is entitled to receive Rs.2,59,46,587/- towards grants from 2014 to 2021-22. In that view of the matter, since we find that the interest of respondents is sufficiently secured, the interim order dated 9/7/2018 is partly modified by directing that the grants admissible to the petitioners from the current academic session starting from 1/4/2022 shall be released. Accordingly, there shall be interim order in terms of prayer clauses (iv-a) and (iv-b) of the petition. The interim order dated 9/7/2018 stands modified accordingly. The civil application is disposed of accordingly.

WRIT PETITION NO.4003 OF 2018

Since the Special Leave Petition challenging the judgment of this Court in Writ Petition No.2413/2018 is pending, Rule. Rule is made returnable early.

2) Smt. Deshpande, learned Assistant Government Pleader waives notice for respondent nos.1 and 2, and Shri Gopal Mishra, learned Counsel waives notice for respondent no.3.

3) Liberty to move after the Special Leave Petition is disposed of.

JUDGE

JUDGE

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