

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3408/2019

Mrs. Kalpana Dilip Mungale ... Petitioner

- Versus -

The Deputy Director of Education,
Nagpur Division, Nagpur and others ... Respondents

Mr. A.Z. Jibhkate, Advocate with Mr. P.A. Jibhkate, Advocate for
Petitioner.

Mr. N.S. Rao, Assistant Government Pleader for Respondent
Nos.1 and 2.

Mr. G.M. Shitut, Advocate for Respondent No.3.

Mr. F.T. Mirza, Advocate for Respondent No.4.

CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.

DATE : 12 APRIL 2022

P.C. :

Heard learned Counsel for the parties.

2. The Petitioner has sought following reliefs:-

“(i) Direct the Respondents i.e. the Deputy Director of Education, Nagpur Division, Nagpur, the Education Officer (Secondary), Zilla Parishad, Nagpur, Late Shri Vitthalrao Chamat Smruti Sewa Sanstha, Nagpur through its Secretary Shri Dnyaneshwar Vitthalrao Chamat, Vitthalrao Chamat High School, Dighori Naka, Nagpur through its In-charge Head-Mistress Smt. Lalita w/o Vijayrao Halmare, to release unpaid salary of the Petitioner from July 2018 till date and continue to release as an Assistant Teacher by a suitable and appropriate writ or directions.

(ii) Respondent Nos.1 to 3 i.e. the Deputy Director of Education, Nagpur Division, Nagpur, the Education Officer (Secondary), Zilla Parishad, Nagpur, Late Shri Vitthalrao Chamat Smruti Sewa Sanstha, Nagpur through its Secretary Shri Dnyaneshwar Vitthalrao Chamat may kindly be directed to take appropriate action against the In-charge Head-Mistress of the Respondent No.3 (sic 4) i.e. Smt. Lalita w/o Vijayrao Halmare for her deliberate and intentional refusal to comply with the directions regarding release of salary of the Petitioner, by a suitable and appropriate writ or directions”

¹(v) Direct the Respondent Nos. 3 & 4 i.e. Late Vitthalrao Chamat Smruti Sewa Sanstha through its Secretary and Vitthalrao Chamat High School, Dighori through its In-charge

1 Prayer clause (v) of the petition is added as per Court's order dated 29 April 2022 passed on Civil Application (CAW) No.901/2022.

Head-Mistress to submit accurate and correct pension case papers of the Petitioner to the Respondent Nos.1 & 2 i.e. Education Officer (Secondary), Z.P., Nagpur and Deputy Director of Education, Nagpur Division, Nagpur and also direct to release provident fund and other retirement benefits to the Petitioner by a suitable and appropriate writ or directions, in the interest of justice.”

3. On 22 March 2022 following order came to be passed:-

“Heard learned Counsel for the parties.

2. A request is made on behalf of the learned Counsel for Respondent No.4 for adjournment.

3. We have perused the reply filed by the Education Officer [Secondary], Zilla Parishad, Nagpur. In the reply, the Education Officer has categorically stated that if Respondent No.4 does not pay salary, the Education Officer can take action against Respondent No.4 as per Rules. If that is the stand of the Education Officer, we fail to understand as to why the Education Officer is not taking action as per Rules and requires order from this Court. If Respondent No.4 is not complying with the directions of the Education Authorities, the Education Authorities have all the powers to take coercive measures and they need not to wait for the orders of the Court. If any coercive action is taken against Respondent No.4,

Respondent No.4 can always take recourse to the action in the Court of law.

4. Same stand is taken by Respondent No.3 - Education Society that Respondent No.4 In-charge Headmistress is not obeying the orders. Again we fail to understand as to why Respondent No.3 is not taking any action against Respondent No.4.

5. While we defer the hearing of this petition, we make it clear that it is open to Respondents to take necessary steps, as per law and for the Respondent No.4 to take appropriate action, if any action is to be taken. Stand over to 12 April 2022.”

4. Learned Counsel for the Management and learned Assistant Government Pleader have reiterated their stand.

5. As regards the position of Respondent No.3 is concerned, learned Counsel for the Management points out that Respondent No.4, who is employee of Respondent No.3-Management, cannot take a different stand from the Management. This submission is correct. Ultimately, Respondent No.4 is not an independent authority but employee working with Respondent No.3.

6. Learned Counsel for Respondent No.4 states that since Respondent No.4 is made party Respondent, Respondent No.4 i.e. In-charge Head-Mistress has put forth her stand.

7. Learned Counsel for the Petitioner states that since position is clarified by the Management and the School, the Petitioner will delete the reference to Respondent No.4 In-charge Head-Mistress as it is not necessary for the reliefs sought in this petition.

8. We permit the Petitioner to retain the Respondent No.4 as an entity of Respondent No.3 but permit the Petitioner to delete the name of In-charge Head-Mistress.

9. Since relief as sought for by the Petitioner is not being objected to by the Respondent Management and the State, the relief as sought for above is granted. Necessary steps be taken by the Respondents within a period of eight weeks subject to completion of necessary formalities. Needless to state that if the Education Officer or the Management of Respondent No.3 directs the In-charge Head-Mistress to submit the papers to comply with the order of the Court and if In-charge Head-Mistress does not obey, it is always open for them to initiate

necessary proceedings as they are entitled to law in respect of any other employee.

10. Writ petition is accordingly disposed of.

(ANIL L. PANSARE, J.)

(NITIN JAMDAR, J.)

Lanjewar / Tambaskar.