

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

WRIT PETITION NO.678/2019

Shankar s/o Narayan Umate and three others

Vs.

The State of Maharashtra through its Secretary, Social Justice and Special
Assistance Department, Mantralaya, Mumbai and six others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.S.Dashputre, Advocate for petitioners.

Shri N. R.Patil, Assistant Government Pleader for respondent nos. 1 to 4.

CORAM :- A.S.CHANDURKAR AND SMT. M.S.JAWALKAR, JJ.

DATE :- APRIL 06, 2022.

Heard.

The petitioners claim that they were working at Shri Sai Chhaya Deaf and Dumb School, Hinganghat, District Wardha. By an order dated 06.02.2013 the licence that was granted to the said School to operate from 11.03.1999 was not renewed after 31.03.2012. Hence by that order the recognition of the aforesaid School came to be cancelled from 01.04.2012. It is the case of the petitioners that despite having discharged services from 01.04.2012 to 06.02.2013, they were not paid their salaries. Hence the petitioners had filed Writ Petition No.6438/2016. This Court on 21.03.2021 disposed of the aforesaid writ petition by permitting the petitioners to make a representation with the Commissioner, Handicapped Welfare Department, Pune. By the order dated 29.06.2018 the representation made by the petitioners came to be rejected on the ground that the duties had been discharged during the period when the recognition certificate of the said School was not in operation. Being aggrieved, the petitioners have filed this writ petition.

After hearing the learned counsel for the parties, we find that in Writ Petition No.6438/2016 this Court has made the following observations :

*“As the recognition is cancelled by competent authority
acting under a statutory provision from 01.04.2012, it is apparent*

that unless and until that order is quashed and set aside, the State Government cannot be asked to release salary grants for period after 01.04.2012. The order cancelling recognition retrospectively is not questioned before us in this case.

Moreover, if from 01.04.2012 the petitioners have worked regularly, their salary bills ought to have been submitted every month by respondent no.4 school to the office of respondent no.3 normally. In that event the question of verification may not have cropped up. However, it appears that in present matter no such bills were regularly submitted. The pendency of proceeding for de-recognition may be the reason for not submitting salary bills.

When employer is not before this Court, in above background, no cognizance of demand for arrears as made can be looked into”.

Thereafter on the representation made by the petitioners the impugned order has been passed. It is seen that even today the order dated 06.02.2013 cancelling recognition of Shri Sai Chhaya Deaf and Dumb School, Hinganghat has not been challenged by that Management. It is not impleaded as party in the present proceedings. The question whether the petitioners have actually worked during the period from 01.04.2012 to 06.02.2013 can only be ascertained by that Management. Unless the order withdrawing the recognition is challenged by the aggrieved party, the prayers made in this writ petition cannot be adjudicated.

The learned counsel for the petitioners has referred to the decision in Writ Petition No.8033/2017 (*Vijay Namdeorao Chopade and ors. vs. State of Maharashtra and ors.*) decided on 05.02.2020. In that writ petition the prayer for grant of salary for the period when the petitioners therein had discharged duties after the withdrawal of recognition was considered. It was held that there was no reason to deprive the employees therein of the salary for the period for which they had worked. We find that in the present case the order of withdrawing recognition has not been challenged by the concerned Management. Till that order operates, the liability to pay salary cannot be saddled on the respondent nos. 1 to 6 in the light of Government Resolution dated 27.01.2004.

In these facts, the observations in the aforesaid judgment cannot be applied to the present case. The petitioners are free to recover their salary for the period from 01.04.2012 to 06.02.2013 from the Management which was running Shri Sai Chhaya Deaf and Dumb School, Hinganghat.

The writ petition is accordingly dismissed. No costs.

(SMT. M.S.JAWALKAR, J.)

(A.S.CHANDURKAR, J.)

Andurkar..