

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 75 OF 2019 IN
WRIT PETITION NO. 2487 OF 2017

Malu S/o Sambhaji Palekar & others

Petitioners

Versus

Ashok Kakade & others

Respondents

Mr. G. J. Karne, Advocate for the petitioners.

Mr. N. S. Kadam, Advocate for respondents No. 1 to 3.

CORAM : MANGESH S. PATIL &

R. M. JOSHI, JJ.

DATE : 9 MARCH 2023.

PER COURT :

1. The petitioners are complaining about the alleged disobedience by the respondents – proposed contemnors, of the order of this Court in Writ Petition No. 2487/2017 dated 23 October 2018. The relevant portion of the order in paragraphs No. 11 to 13 reads as under :-

11. Learned Counsel for the petitioners submitted that the amount is recovered from the petitioners and a statement to that effect is made in the affidavit in a tabular form. Learned Counsel appearing for the Zilla Parishad submitted that this statement is not factually correct and the Zilla Parishad has recovered the amount only from petitioner Nos. 3, 12, 14 and 16.

Learned Counsel for Zilla Parishad submits that in the additional affidavit filed on 28th September, 2018 on behalf of District Animal Husbandry Officer, Zilla Parishad, Nanded, it is stated that the excess payment has not been recovered except petitioner Nos. 3, 12, 14 and 16. In view of this statement, we direct the Zilla Parishad to refund the amount recovered from petitioner Nos. 3, 12, 14 and 16 as expeditiously as possible and not later than eight weeks from the date of order of this Court.

12. We find considerable substance in the submissions of the learned Counsel appearing for the petitioners. Considering the aforesaid facts, we are of the clear opinion that the communication impugned herein is clearly unsustainable. Learned Counsel for the petitioners made out a case. Petition as such deserves to be allowed. Petition is accordingly allowed in terms of prayer clause (A).

13. It is not in dispute that the respondent Zilla Parishad recovered the amount from the petitioners as stated in the additional affidavit in the tabular form at page 79. As the petition is allowed by us, we direct the respondent Zilla Parishad to refund the amount recovered from each petitioner, which is referred to in the tabular form at paragraph 3 on page 79. The exercise of such refund be undertaken as expeditiously

as possible and preferably within eight weeks from the date of the order of this Court.

2. We have heard both the sides and perused the affidavit-in-reply. There is no dispute about the fact that pursuant to the directions of this Court, the petitioners, who were entitled to get refund, have already been refunded the amount regarding which, there is no dispute also.

3. The submission of the learned advocate for the petitioners is that even the respondents have illegally withheld the salaries pursuant to the increment and that has also not been paid to them.

4. Conspicuously, there is not even whisper much less any direction to the respondents in respect of the salaries plus increments to be paid to the petitioners. If the petitioners have not received the due increments, the remedies are always available to them to approach the Court of law. However, the direction of this Court was merely to the extent of unauthorised deductions made which were directed to be refunded.

5. There is compliance of the direction. The contempt petition is disposed of.

(R. M. JOSHI)
Judge

(MANGESH S. PATIL)
Judge

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