

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 10224 OF 2022

THE EDUCATION OFFICER PRIMARY ZILLA PARISHAD NANDED

VERSUS

BABURAO RAMRAO PAWAR AND OTHERS

...

Advocate for Petitioner : Mr. Kadam Nitin S.

AGP for Respondent No.4/State : Mr. S. G. Sangale

Advocate for Respondent No.1 : Mr. Dr. Godbole R. J.

Advocate for Respondent No.2 and 3 : Mr. B. L. Sagar (Killarikar)

...

CORAM : KISHORE C. SANT, J.

DATE : 27th JULY 2023.

Per Court :

1. This petition is by the Education Officer (Primary), Zilla Parishad, Nanded, challenging the orders dated 01.02.2022 and 02.08.2022 passed in Execution Proceeding filed by respondent no.1 pursuant to the order passed by the School Tribunal, Latur in Appeal No.57/2006 dated 17.04.2009.

2. Vide order dated 17.04.2009, the Presiding Officer, School Tribunal, Latur allowed the appeal of respondent no.1 directing the

respondents therein including the present petitioner, to pay the backwages to Respondent No.1 and the termination order came to be set aside. Further direction was issued to pay the backwages. Clause No.4 of the order reads as under.

“4. The respondents are directed to pay the backwages and other consequential benefits to the appellant ordered above within 40 days from this order. If the respondent Nos. 1 & 2 failed to comply the above order within the prescribed period then the respondent No.4 Education Officer shall withhold the non salary grants of the respondent school and pay the same to the appellant for the satisfaction of his arrears of backwages.”

3. The said order however was not complied with. Since the order was not obeyed to the extent of backwages, the respondent filed an application for execution before the School Tribunal, Latur under Order 21 Rule 11 of the Code of Civil Procedure. The learned Presiding Officer, School Tribunal, Latur by order dated 01.12.2022 directed the Education Officer to pay the amount of backwages from 01.12.2003 to 31.01.2010 to respondent no.1 within one month. Thereafter by order dated 02.08.2022, the learned Presiding Officer, School Tribunal, Latur clarified that the present respondent no.2 is a grant in aid School and

directed all the respondents therein to pay backwages and report compliance by 06.09.2022. These are the orders challenged in this petition.

4. The submission of the petitioner in this petition is that it is primarily responsibility of the management of the School to pay the amount of backwages and the management therefore has to pay the amount. Since at present no non-salary grants are paid to the schools in the State, even if petitioner pays the amount, it would not be possible to recover the said amount. This Court finds that this apprehension is misconceived in view of clause no.4 in the order dated 17.04.2009, wherein the learned Presiding Officer has made it clear that in case the management and Head Master failed to pay the amount of backwages, then the Education Officer shall withhold the non salary grants of the respondent School and pay the same to the appellant for the satisfaction of his arrears of backwages.

. The petitioner relies upon Government decision dated 19.01.2013 wherein it is stated that the Government had decided to stop giving non-salary grants to school from year 2004-2005. It is decided by way

of the above decision to start paying non-salary grants from year 2013. In the said decision it is made clear that for the year 2004-2005 till 2012-2013 no grants would be applicable.

5. The learned Advocate Mr. Sagar Patil (Killarikar) submits that the Education Officer can very well deduct the amount from non-salary grants in view of Section 11(3) of the the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977.

6. On considering the submissions, this Court finds that though primarily it is responsibility of the management to pay the salary the Education Officer can very pay the amount and thereafter can deduct the amount from non-salary grant. In the judgment of the School Tribunal since direction is given to all the respondents including Education Officer and as the same is not challenged by him the order is binding even upon the Education Officer. So far as Government decision is concerned, this Court finds that it is look out of the petitioner as to how to comply with the order passed by the Court. When there is a direction by the Tribunal and Civil Court petitioner

needs to comply with the order of the Court. This Court therefore does not find any merit in the petition and the same deserves to be dismissed. The petition therefore, is dismissed.

[KISHORE C. SANT, J.]

Najeeb.