

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 9594 OF 2023

The State of Maharashtra

... Petitioner

V/s.

Varesh Dhyanu Kamane

... Respondent

Mr. N.K. Rajpurohit, AGP for the Petitioner - State

Mr. K.S. Jadhav with Mr. V.G. Panchal for the Respondent

***CORAM : NITIN JAMDAR &
MANJUSHA DESHPANDE, JJ.***

DATE : 07 NOVEMBER 2023

P.C. :-

This is one more petition by the State of Maharashtra, where inspite of direction by the Tribunal to comply with its order within stipulated time neither the Petition is filed within that time period nor the order is complied with within three months nor any extension is sought by the Tribunal. The Petitioner – State paid the amount to the Respondent, after the contempt petition was taken out. This is not a way the State should prosecute the challenge if it is serious about it.

2. In this Petition, the Tribunal has allowed the Original Application No. 1224 of 2022 filed by the Respondent directing the

Petitioner – State to release the withheld benefits within two months from the date of the order i.e. 14 February 2022. The issue was regarding two amounts i.e. amount of penal interest of Rs.1,55,772/- as against the housing loan advanced and Rs.1,63,592/- in respect of a loan obtained from a Co-operative Bank. The Tribunal has recorded that the Respondent had returned the principal amount along with interest which is even accepted by the Presenting Officer of the Petitioner before the Tribunal.

3. Reliance was sought to be placed by the Petitioner on Clause 14 of the Government Resolution dated 20 February 2015 stating that if the loan amount disbursed towards housing loan is not utilized for that purpose and if there are terms and conditions, breach of penal interest would be leviable. The Tribunal has recorded that the Tribunal has called upon the Petitioner showing the documents setting out the terms and conditions. However, the same was not coming forth. The only ground for charging penal interest was non submission of the utilization certificate of housing loan. The Tribunal has recorded that it is not the case of the Petitioner that the amount has been not used for purchase of house or it is misused. Therefore, the Tribunal has gone by the Principle of substantial compliance.

4. Considering this position, the manner in which the Petition has been moved, the quantum, and that the Petitioner has

also retired from the services, we are not inclined to interfere with the order passed by the Tribunal in the equity jurisdiction of this Court. As to the question of law sought to be raised is kept open in appropriate case.

5. Writ Petition is rejected.

MANJUSHA DESHPANDE, J.

NITIN JAMDAR, J.

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