

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

WRIT PETITION NO.1483 OF 2022

1. Sunil s/o Shriram Hatekar,
Aged about 54 years,
Occupation – Business.

2. Anil s/o Anant Dharulkar,
Aged about 54 years,

Both R/o 'Torna', Near Paris Bakery,
Tapadia Nagar, Akola,
Tah. and District Akola.

..... **PETITIONERS**

...V E R S U S...

1. Shri Tirupati Tantra Niketan, through
its Director, Shri Sachin Keshav Joshi,
Aged about 52 years, R/o 27 Keshav
Nagar, Akola, Tah. and District Akola.

2. Shri Tirupati Tantra Niketan,
Keshav Nagar, Akola, through its
Principal, R/o 27 Keshav Nagar, Akola,
Tah. and District Akola.

3. The Director of Technical Education,
Maharashtra State, 3, Mahapalika Marg,
Post Box No.1967,
Mumbai – 400 001.

..... **RESPONDENTS**

Mr. S. T. Harkare, Advocate for Petitioners.
Mr. J. B. Gandhi, Advocate for Respondent 1.
Ms. K. S. Joshi, Additional Government Pleader for
Respondent 3/State.

CORAM: **ROHIT B. DEO AND Y. G. KHOBRAGADE, JJ.**
DATE: **9th JANUARY, 2023.**

ORAL JUDGMENT: (PER ROHIT B. DEO, J.)

The grievance in the petition is that the order rendered by the School Tribunal in Appeal 60/1990-A and 61/1990-A dated 20.11.1992 is not complied with by the private respondents and consequently the petitioner has not received the back-wages w.e.f. 21.11.1992.

2. Our attention is invited to the order dated 18.07.2008 in Contempt Petition 43/2006 in Writ Petition 316/1993 which reads thus:

None for the parties.

Perusal of the judgment and order of this Court shows that no directions were issued by this Court. The petitioner is complaining on the ground that the order of the School Tribunal regarding reinstatement and full back wages was not complied with and, therefore, this contempt petition.

In my opinion, the petitioner has remedy elsewhere. The Contempt Petition cannot be entertained. The same is, therefore, dismissed. No order as to costs.

3. The review applicant, who is the petitioner sought review of the order dated 18.07.2008 and by order dated 24.09.2008 the review application came to be dismissed.

4. We further note that while deciding Writ Petition 1124/2012 preferred by the management, the learned Single Judge considered the challenge to the order issued by the School Tribunal directing the transfer of execution proceedings, thus:

9. In that view of the matter, I do not find any jurisdictional error committed by the learned Presiding Officer while directing transfer of the execution proceedings before it to the Court of learned Civil Judge, Senior Division, Akola. The order dated 25.01.2012 is therefore confirmed. It is directed that the Executing Court shall proceed to consider the objections filed by the petitioners under Section 47 of the Code in accordance with law. However by virtue of the present adjudication, the Executing Court shall not go into the aspect of transferability of the execution proceedings which aspect stands adjudicated by holding that the School Tribunal had jurisdiction to transfer the proceedings for executing the order passed by it to the Civil Court. The petitioners are free to pursue the objections a raised in paragraphs 6 to 11 of the

said objections filed under Section 47 of the Code. The writ petition thus stands dismissed. Rule stands discharged with no order as to costs. Pending civil application is also disposed of.

5. We further note that vide order dated 16.03.2005 in Writ Petition 316/1993, the learned Single Judge upheld the order of the School Tribunal including the direction that the petitioner be absorbed and be paid the arrears of pay from the date of termination till absorption.

6. We further note that the Special Darkhast 34/2022 which is preferred by the petitioner is fixed on 27.01.2023.

7. We direct the respondents 1 and 2 in the present petition to appear before the Executing Court on 27.01.2023 without waiting for formal notice and further to file their response on that date.

8. Considering that despite the decision of the School Tribunal which is upheld by the High Court in the year 2005, the petitioner is running from pillar to post for redressal of his grievance, we direct that the Executing Court shall conclude the

hearing in the execution and shall pass final order/s on or before 28.02.2023 if necessary, the Executing Court shall decide the execution on its own merit, and consistent with the judicial orders referred to *supra*.

9. The petition is disposed of in the aforestated terms.

(Y. G. KHOBRAGADE, J.)

(ROHIT B. DEO, J.)

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