

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

Writ Petition No. 2371 of 2023

[Lokseva Shikshan Sanstha, Sirsi, Tq. Umred, Dist. Nagpur through its Working President Dr. Avinash H. Dekate **..vs..** The State of Maharashtra through its Secretary for Education Department and anr.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. B. Patil, Advocate for the petitioner
Mr. N.S. Rao, AGP for the State

**CORAM : ROHIT B. DEO AND
M. W. CHANDWANI, JJ.**

DATED : 15-6-2023

Heard.

2. The petitioner is aggrieved by the order dated 23-11-2022 rendered by respondent 2 – Education Officer(Secondary), Zilla Parishad, Nagpur whereby the petitioner – management is directed to pay the arrears of salary to the reinstated employee (who is not impleaded as party respondent) from the non salary grant. It is further ordered that till the management does not make the payment of the amount due, the non salary grant shall not be released.

3. While learned counsel for the petitioner Mr. Amol Patil did endeavor to demonstrate that the

Education Officer fell in error in directing that the unpaid salary shall be paid from the non salary grant, we are not inclined to consider the submission in view of the conduct of the petitioner – management, which in our considered view is clear defiance of the directions issued by the High Court in the earlier round of litigation.

4. Mr. Gangadhar Baliram Hedau was working as Teacher on the establishment of the petitioner. He was terminated from service only on the ground that the certificate of Halba tribe was invalidated by the scrutiny committee. Mr. Gangadhar Hedau approached the school tribunal contending that the invalidation of the Halba Caste Certificate was of no relevance in as much as he was appointed from the Open category.

5. The school tribunal held, after examining the relevant rosters, that Mr. Gangadhar Hedau was appointed from Open category. The school tribunal allowed the appeal and directed reinstatement with back wages.

6. The management approached the High Court in Writ Petition 1544/2022. The High Court considered not only the rosters but also the fact that the seniority list published clearly refers to the appointment of Mr. Gangadhar Hedau as from Open category. Before the High Court, the learned counsel for the management did not dispute that no material was placed on record by the management to suggest that the appointment of Mr. Gangadhar Hedau was against reserved category. The High Court did not interfere.

7. However, the learned counsel for the management submitted that the entire fault lies at the doorstep of the scrutiny committee and it would inequitable to burden the management with the liability to pay the back wages. In view of the said submission, the management was permitted to prefer appropriate representation to the Education Department seeking salary grant. It is this representation which is rejected by the order impugned.

8. However, while granting leave to the management to prefer the representation, the High Court made it abundantly clear that it shall be the duty of the management to comply with the judgment of the school tribunal, and to pay the monetary benefits to Mr. Gangadhar Hedau and further that the pendency of the representation or application which may be made to the Education Department shall not be a reason to delay the payment to the teacher. We may extract the relevant paragraph in the judgment.

“7. The learned counsel for the management, Mr. Amol Patil would, however, submit that entire fault lies at the door step of the scrutiny committee and that it would be inequitable to burden the management with the liability to pay the back wages. I am not required to delve deeper since it is open for the management to prefer an appropriate representation to the Education Department seeking salary grant. However, it is clarified that it shall be the duty of the management to comply with the judgment of the School Tribunal and to pay the monetary benefits to the teacher. Pendency of the representation or application which may be made to the Education Department shall not be a reason to delay the payment to the teacher.”

9. Apart from the fact that Mr. Gangadhar Hedau is not made party to the petition, in view of the irrefutable position on record that the directions issued by the High Court, which are extracted supra, are not complied with, we do not see any reason to interfere in writ jurisdiction.

10. The petition is dismissed.

11. Registrar(Judicial) shall forward copy of this order to Mr. Gangadhar Baliram Hedau.

(M. W. Chandwani, J.)

(Rohit B. Deo, J.)

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