



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 CONTEMPT PETITION NO.33 OF 2018
IN WP/9032/2015

SHAKIL AHAMED MOHD KASIM AND ANOTHER
VERSUS
THE DEPUTY DIRECTOR OF EDUCATION, AURANGABAD AND ANOTHER

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Mr. G.R. Syed, Advocate for petitioners
Mr. V.K. Kotecha, AGP for respondent No.1
Mr. P.B. Vikhe, Advocate for respondent No.2
Mr. C.B. Chaudhari, Advocate for respondent Nos.3 and 4

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CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.

DATE : 03rd SEPTEMBER, 2024

ORDER :

1 Heard learned Advocate Mr. G.R. Syed for petitioners, learned AGP Mr. V.K. Kotecha for respondent No.1, learned Advocate Mr. P.B. Vikhe for respondent No.2 and learned Advocate Mr. C.B. Chaudhari for respondent Nos.3 and 4.

2 Present petition has been filed with a prayer to punish respondent Nos.1 and 2 as per Section 12 of the Contempt of Courts Act,

1971 for disobeying the order dated 16.11.2016 passed by this Court in Writ Petition No.9032 of 2015.

3 Perusal of the said order would show that following directions were given.

“4. When the petitioners are appointed in non grant inaid school, it is not the liability of the Education Department to make payment of salary to the petitioners. The petitioners, if were in service and have performed their duties with the respondent Institution, it is for Respondent Institution to pay salary of the petitioners.

5. It is submitted that now the said school is also closed down. The Education Officer shall ask for the record of the Institution and may pass order with regard to the approval.

6. As far as payment of salary is concerned, the petitioners may approach the Deputy Director of Education with regard to the salary, if payable to the petitioners and arrears, if any.

7. The Deputy Director of Education, on receipt of such application, if any, shall take decision with regard to the payment of salary to the petitioners from the Institution after hearing the petitioners and the Institution and considering the record that may be submitted by either of the parties and decide the same, expeditiously, preferably within a period of 6 months from the date of receipt of the application.”

4 It appears that thereafter in view of the liberty granted to petitioners, petitioners had approached Deputy Director of Education in respect of their salary and arrears by making communication on 25.11.2016 and 02.12.2016. It appears that thereafter Director of Education had taken hearing. Calculations in respect of salary were got done through Superintendent, Salary and Provident Fund Unit (Primary) and thereafter Director of Education has passed an order which appears to be in consonance with the order passed by this Court that since the school was not receiving Government grants, it was the duty of the institute to make payment of the salary to petitioners. Accordingly, the communication is made on 13.07.2018 to the President, Kaumi Ekta Education and Welfare Society, Bazar Line, Jalna. Now, petitioners contend that in spite of communication their salary has not been paid.

5 It is to be noted that in the order passed by this Court on 16.11.2016 directions were given to Deputy Director of Education only to get the salary calculated which is due towards petitioners and to decide on that point within a period of six months from the date of receipt of application by petitioners. Now, that part is over. Directions were not given to the institute to pay the salary and, therefore, those directions cannot be given in contempt petition. However, it is to be noted that in the said communication dated

13.07.2018 Deputy Director of Education had given directions to education institute to pay salary and calculation sheets were also attached along with said communication. Therefore, we are of the opinion that the remedy of petitioners to get the said salary recovered is elsewhere. Therefore, petitioners may adopt the said procedure.

6 As regards the action under Contempt of Courts Act is concerned, it is not necessary in this proceedings. Therefore, contempt petition stands disposed of.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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