



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

902 WRIT PETITION NO. 15644 OF 2023

CHAYA NAGORAO GADEKAR  
**VERSUS**  
THE STATE OF MAHARASHTRA  
THROUGH ITS JOINT SECRETARY AND OTHERS

...  
Advocate for the Petitioner : Mr. Gunale Vishwamber Digamberrao  
AGP for Respondents/State : Mr. P.K. Lakhotiya  
...

**CORAM : RAVINDRA V. GHUGE &  
Y.G. KHOBRAGADE, JJ.**  
**DATE : 17<sup>th</sup> January, 2024**

**PC. :-**

1. On 20.12.2023, we had passed the following order:

"1. The Petitioner put forth payer clauses (C) and (D) as under:

*"(C) By writ of certiorari or any other appropriate writ or directions, the order dated 22.08.2023 passed by respondent No. 1, thereby directing the petitioner to deposit Rs. 5,39,093/- in the office of the respondent No. 2 towards the 50% salary of the respondent No. 5 be quashed and set aside and for that purpose necessary orders be passed;*

*(D) Pending, hearing and final disposal of this writ petition, the effect, execution, operation and implementation of the order dated 22.08, 2023 passed by respondent No. 1, thereby directing the petitioner to deposit Rs. 5,39,093/- in the office of the respondent No. 2 towards the 50% salary of the respondent No. 5 may kindly be stayed in the interest of justice."*

2. *Issue notice to the Respondents, returnable on 05.02.2024.*

3. *The learned AGP waives service of notice on behalf of Respondent Nos. 1 and 2.*

4. *We have considered the submissions of the learned Advocate on the point of interim relief. He prayed that the entire impugned order of deducting Rs.5,39,093/- from the salary of the Petitioner to the extent of 50% of the salary to be paid to Respondent No.5, should be stayed without imposing any condition.*

5. *We called upon the learned Advocate for the Petitioner to take instructions, in the light of M/s Shewalkar Developers Ltd. Vs. Rupee Co-operative Bank Ltd., reported in 2016 (1), Mh. LJ. 382, as to whether the Petitioner would deposit 50% of the amount which is 50% of the total salary to be paid to Respondent No.5. The learned Advocate for the Petitioner has taken instructions and submits that the Petitioner refuses to deposit any amount in the Court.*

6. *We have perused the order passed by this Court [Coram: S.V. Gangaurwala, J. (as His Lordship then was) and V. L. Achliya, J.] dated 2nd February, 2015 in W.P. 9418/2011 with WP No. 850/2012. It is obvious from Paragraph 5(a) to the extent of the present Petitioner that she was granted an opportunity to consider the proposal of the those Petitioners in the said Petition and if they were considered favourably, an appropriate order be passed. This presupposes that the present Petitioner was expected to apply her mind to the entire proposal before her and then arrive at a appropriate decision.*

7. *Respondent No.5 herein approached this Court in Writ Petition No. 6434 of 2015 aggrieved by the decision taken by the present Petitioner dated 17.06.2015. Since the grievance of that Petitioner (present Respondent No. 5) was redressed and he was absorbed in another institution, the question arose as regards payment of salary to that Petitioner for the period from 01.06.2015 till 23.04.2017 and for the period 30.09.2011 till 25.03.2012. This Court [Coram: S.V. Gangaurwala, J. (as His Lordship then was) and S. M. Gavhane, J.], considered the issue of payment of*

*salary for the period 01.06.2015 till 22.04.2017 and drew a conclusion that the same was on account of that Petitioner ( Chandrakant Umakanatrao Hulsulkar ) having been relieved by Respondent No.4. Respondent No.4, Headmaster, was faulted for having relieved the said Petitioner. Though that Petitioner was directed to be absorbed by Respondent No.4, he had relieved him. The present Petitioner, that time, was Respondent No.2, who was the incharge authority to deal with the issue of granting approval to the absorption of another person causing prejudice to that Petitioner ( Chandrakant Umakanatrao Hulsulkar ). The Deputy Commissioner for the Persons with Disabilities filed an affidavit and stated on oath that Respondent No.2 (i.e.the present Petitioner) and Respondent No.4 Headmaster, were equally liable. It was specifically mentioned that the present Petitioner, who was incharge District Social Welfare Officer at the Relevant Time, was responsible for accommodating another person.*

*8. This Court relied upon the affidavit of the then Deputy Commissioner for Persons with Disability, who has clearly stated in paragraph No. 10 that the present Petitioner was equally responsible. It was observed in Paragraph No. 11 that, on the one hand, the employee would be entitled for continuity and salary, even for the period 01.06.2015 and 23.04.2017 and on the other hand, Respondent No.2 the present Petitioner ) and the head master would be liable to pay the said salary. Once such a verdict is delivered by this Court and the said verdict has not been challenged by the present Petitioner before any Court, the impugned order merely indicates that the present Petitioner is responsible to pay half of the salary because the another officer is also held liable and responsible along-with her to pay 50% component of the salary.*

*9. The Present petitioner was holding the charge of the District Social Welfare Officer and discharging her function in that capacity. The Department has, therefore, held the present Petitioner and another person responsible for what has been considered by this Court in the above referred order and the amount is directed to be recovered from their salaries. Ex- facie, we do not find that the said order could be termed as being perverse.*

*10. In view of the above, we are not granting interim relief to the Petitioner. Needless to state, the amount recovered from the Petitioner's salary would be subject to the result of this Petition."*

2. Today, the learned advocate for the Petitioner places on record a print out of the WhatsApp message which is a communication by the Petitioner to the learned advocate, dated 16.01.2024. The learned advocate for the Petitioner submits that he can identify the signature of the Petitioner and it is the Petitioner herself who had sent the said message to the learned advocate, which is placed before the Court in the form of a print out. The copy of the said letter is marked as 'X' for identification.

3. In view of the above, **this petition is disposed off** as withdrawn on instructions of the Petitioner.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]