IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10658 OF 2018

Bismilla Begum Gaibusaheb Hulkund] Petitioner
versus
The State of Maharashtra and others] Respondents

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Mr. Samir Kumbhakoni a/w Ms. Vaishnavi Mali, Advocate for Petitioner.

Ms. Savita A. Prabhune, A.G.P, for Respondent – State.

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SHAILAJA SHRIKANT HALKUDE
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CORAM : SHARMILA U. DESHMUKH &
ABHAY J. MANTRI, JJ.

DATE : NOVEMBER 03, 2026.

P. C. :

1. By the present Petition, the challenge is to the order dated 28th June, 2018 by which the present Petitioner has been held liable for recovery of the sum of Rs.65,37,171/- on the ground that without any grant-in-aid being sanctioned to the Institution in which the Petitioner was serving as a Headmistress, the pay bills were submitted and Government funds were released.

2. Learned Counsel appearing for the Petitioner would submit that based on the complaint by one Sathi Bashir Ahmad to the Hon'ble Lokayukta, the action has been initiated. He would submit that the complaint was that there is no order sanctioning grant-in-aid in respect

of two schools run by Muslim Chapparband Samajseva Sangh and Nural Trust Education Society. He submits that no notice was issued to the Institutions and the responsibility of the Petitioner was submission of pay bills. He submits that in any event, the order has been passed without issuing any show cause notice. He submits that similar order was issued to Respondent No.4 herein which was challenged by her before the Maharashtra Administrative Tribunal. Pointing out to the order dated 7th September, 2018 passed in Original Application No.576 of 2018, he submits that the order came to be set aside on the sole ground that the same was not preceded by any show cause notice or inquiry. He submits that similarly in the case of the present Petitioner as the order is not preceded by any show cause notice and no opportunity of submitting an explanation has been given to the Petitioner, the impugned order be set aside.

3. Per contra, learned A.G.P would submit that the allegations are grave inasmuch as without any grant-in-aid being sanctioned, pay bills were submitted and amounts have been disbursed. She would further submit that the Petitioner was responsible for submission of the pay bills and was required to ascertain the authenticity of the sanction orders and as there is inaction/ misconduct on the part of the Petitioner, the liability of recovery is fixed upon the Petitioner.

4. We have considered the submissions and perused the record. Admittedly, before passing the impugned order dated 28th June, 2018, no show cause notice has been issued to the Petitioner. There does not appear to be any fact finding inquiry fixing the liability on the Petitioner who was Headmistress in the Schools run by the aforesaid two institutions. We also do not find any notice being issued to the institutions. As the amounts were disbursed in the bank accounts of the institutions, the recovery, if any, could be initiated against the Institutions. Order dated 7th September, 2018 by Maharashtra Administrative Tribunal *qua* Respondent No.4 herein would apply to the Petitioner's case also as no show cause notice was given and the principles of natural justice were violated. Without giving opportunity of hearing to the Petitioner, substantial sum of Rs.65,37,171/- is directed to be recovered.

5. As the order is passed without giving any opportunity of hearing to the Petitioner, the impugned order dated 28th June, 2018 is hereby quashed and set aside. It is open for the State Government to give show cause notice to the Petitioner and after conducting proper inquiry to fix the liability in accordance with law.

6. The Petition is allowed in terms of prayer clause (b) with the liberty as mentioned above.

[ABHAY J. MANTRI, J.] **[SHARMILA U. DESHMUKH, J.]**