IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7096 OF 2024
IN
CONTEMPT PETITION NO. 593 OF 2013
IN
WRIT PETITION NO. 1815 OF 2013

Kashyap Phulchand Shobnath ...Applicant
Versus
State Of Maharashtra and Ors. ...Respondents

SNEHA NITIN CHAVAN
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Mr. A.A. Maniyar for the Applicant.
Mr. Devendra Shukla for Respondent Nos. 4 and 5.

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CORAM : M.M. SATHAYE, J.
DATE : 7th OCTOBER, 2026

P.C. :

1. Heard learned Counsel for the parties.

2. This application is filed by Petitioner in Contempt Petition No. 593 of 2013. The said Contempt Petition is already disposed of by order dated 15.12.2026 (Coram: A.A. Sayed, J). Applicant is praying for permission to withdraw of Rs.2,87,703/- deposited by Respondent No. 1 Management along with interest from the date of deposit till withdrawal.

3. The Respondent/Management terminated the Applicant by order dated 11.11.2011 which led to filing Appeal No. 50 of 2011 in the concerned School Tribunal. This appeal, hereinafter is referred to as ‘earlier appeal’ was finally heard and allowed on 22.11.2012 thereby

setting aside the termination and ordering the Respondent/Management to reinstate the Applicant on the post of Assistant Teacher with continuity of service and full back-wages.

4. The Respondent/Management challenged the said order in earlier appeal, by filing Writ Petition No. 1815 of 2013 ('earlier petition' for short), which was heard and dismissed as withdrawn on 24.06.2013 by granting liberty to Respondent/ Management to take appropriate action against Applicant by completing procedure under section 4(6) of Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. The said order recorded a statement on behalf of the Respondent/Management that it is ready to reinstate the Applicant on the post of 'Assistant Teacher' with continuity of service and full back wages as directed by the Tribunal.

5. Since the Respondent/Management only reinstated the Applicant as part-time employee but did not pay back wages, the Applicant filed above contempt petition. Notice was issued to the Respondent/Management and on 29.01.2016, the contempt petition was admitted.

6. It appears that the Respondent/ Management took out Civil Application No. 22 of 2016 in the above contempt petition, making various prayers including prayer clause (c) about initiating criminal action against the Applicant. On 26.02.2016, this Court disposed of the said application filed by Respondent / Management observing that prayer clause (c) can be considered and initiation of appropriate action against the Applicant can always be considered by the Court in admitted contempt petition.

7. On 04.07.2016, this Court recorded that the Education Officer has submitted a report, according to which, total amount payable to the Applicant is Rs.4,27,703/- out of which Rs.1,40,000/- is deposited by the Respondent/Management. A grievance was raised that Education Officer has not taken into consideration increment in pay scale and the amount calculated by Education Officer was disputed. Considering the situation, this Court directed the Respondent/Management to deposit differential amount of Rs.2,87,703/- as calculated by the Education Officer and it was directed that the said amount shall be subject to outcome of the execution proceedings which may be filed by the Applicant for execution of the Tribunal's order in earlier appeal. The Executing Court was permitted to decide correctness of the order passed by Education Officer. On the said day, the Applicant was permitted to withdraw amount of Rs.1,10,000/- deposited by the Respondent/Management. Remaining amount was directed to be invested.

8. The Applicant was again terminated by Respondent / Management under Order dated 12.09.2016 after constituting inquiry committee and holding the Applicant guilty of various charges viz. deliberately and willfully making false complaint and representation, deliberately and willfully refusing to attend classes and misbehaving with co-teachers and acting in disordering manner amounting to professional misconduct, willful and deliberate refusal to accept communication, representing himself in false and fake name and concealing his real identity and failing to furnish accurate proof and correct personal information, working at two different places in two different names and operating bank account in two different names, not producing educational certificates and identity proof in the name in

which Applicant was working in the school and for fabricating certificates, working as LIC agent without permission of the Respondent/Management and on the charge of interference in the administration of the schools.

9. The second termination order dated 12.09.2016 was challenged by the Applicant by filing Appeal No. 23 of 2016 ('subsequent appeal' for short).

10. Thereafter, on 15.12.2016, this Court took note of the fact that after withdrawing the earlier petition, action has been initiated against the Applicant by the Respondent / Management and Applicant has been suspended and terminated (on 12.09.2016) which is subject matter of another Appeal No. 23 of 2016 and disposed of the contempt petition. At the time of disposal, the Respondent/Management pressed for an action against Applicant pursuant to observations in order dated 26.02.2016 in Civil Application 22 of 2016. However, this Court having regard to the facts and circumstances of the case, was not inclined to take any action. But, it was left open for the Respondent/Management to take appropriate proceedings against the Applicant, if so advised and permissible in law.

11. During pendency of the subsequent appeal, the execution filed in respect of earlier order of back wages, was finally disposed of on 28.06.2023, thereby finalizing the amount of back wages at Rs.4,27,703/- and recording that the Applicant has received Rs.1,40,000/- out of the said amount and also recording that the remaining amount is deposited with this Court. Liberty was granted to the Applicant to approach this court for obtaining further orders in

respect of the remaining amount.

12. After hearing parties on merits, by a detail order, the subsequent appeal has been dismissed by the School Tribunal on 01.08.2023.

13. Since the execution has finalized the amount, the Applicant has filed present application.

14. Learned Counsel for the Applicant has submitted that since the execution is over and the amount is finalized, the amount deposited in this Court be released in favour of the Applicant. He submitted that the second order of termination confirmed in the subsequnet appeal is subject matter of another Writ Petition No. 1601 of 2024 which is pending for adjudication. He submitted that the subject matter of subsequent appeal or second writ petition and subject matter of present contempt petition are completely different, because this contempt petition is arising out of confirmed order of School Tribunal in earlier appeal.

15. On the other hand, learned Counsel for Respondent/ Management contended that the Applicant, after order of this Court dated 04.07.2016 (permitting partial withdrawal) has got his name changed in the government gazette which is produced on record. He submitted that the Applicant has changed his name from Phulchand Shobnath Jaiswal to Phulchand Shobnath Kashyap. He submitted that this act itself shows that the Applicant was continuing in the false name and which was one of the charges alleged against the Applicant. He therefore opposed the prayer of withdrawal strongly. He contended that

the subsequent appeal is dismissed and his second termination has been found to be valid on charges including that of false representation about identity.

16. Learned Counsel for the Applicant however submitted that the final order passed in the execution is not challenged by Respondent/ Management and the aspect of false name has already been considered and held in favour of the Applicant, by the Tribunal in the subsequent appeal.

17. I have considered the rival submissions and perused the record.

18. At the outset, it is necessary to note that the earlier order passed by the Tribunal directing reinstatement and setting aside the earlier termination dated 11.11.2011, though challenged, the petition was withdrawn by the Respondent / Management and a statement was made that Respondent/ Management is ready to reinstate the Applicant with back wages. Therefore, the amount involved is calculated pursuant to earlier order of the Tribunal which has attained finality. Under order dated 04.07.2016 in above Contempt Petition, deposit of the amount was made subject to outcome of execution proceedings and Executing Court was directed to decide correctness of the calculation made by Education Officer about back wages.

19. It is not disputed that the execution has been finally decided on 28.06.2023 thereby crystallizing the balance amount to be paid to the Applicant, which is deposited in the Court. Since final order passed in execution is not challenged by the Respondent/ Management and

challenge to the earlier order of Tribunal granting back wages is withdrawn, the Applicant is entitled to withdraw the amount.

20. The argument that the Applicant has made changes to his surname and has tried to change identity and that he was working at two places and that he has misled the Respondent/Management about identity, all these contentions are covered in the charges that were considered by the inquiry committee before the second termination and which is also considered by the Tribunal in the order dated 01.08.2023 passed in subsequent appeal. Those objections regarding change of identity or misleading the Management about identity, was not the issue involved either in earlier appeal before the Tribunal or earlier petition. The said contentions are clearly subject matter of second termination, subsequent order of the Tribunal and pending Writ Petition No. 1601 of 2024. In that view of the matter, I do not see any difficulty in permitting the Applicant to withdraw the amount.

21. At this stage, learned Counsel for the Respondent/Management submitted that assuming that there are findings in favour of the Applicant in the order in subsequent appeal, since the appeal is ultimately dismissed, the Respondent/Management had no occasion to file Writ Petition challenging those findings. However, he asserted that affidavit-in-reply is filed in the pending Writ Petition and contentions about change of surname and concealing identity are already taken.

22. Therefore, by way of abundant precaution, since the aspect of change in surname and concealing two identities was subject matter of the subsequent appeal before the Tribunal and also subject matter in

pending Writ Petition No. 1601 of 2024, it is necessary to direct the Applicant to file undertaking about the amount to be withdrawn.

23. In the aforesaid facts and circumstances and for reasons indicated above, the application is allowed by passing following order.

(A) Subject to Applicant filing an undertaking in this Court stating that he will bring back the withdrawn amount with interest, if so directed by this Court in (OS) Writ Petition No. 1601 of 2024, the Applicant is permitted to withdraw the amount of Rs.2,87,703/- deposited by Respondent/ Management in this Court with interest accrued, if any.

(B) Rival contentions of parties about change of surname and concealing identity, are kept open to be decided in accordance with law.

(C) The Interim Application is disposed of in above terms.

24. All concerned to act on duly authenticated or digitally signed QR verifiable copy of this order.

(M.M. SATHAYE, J.)