

SCC No. 724/2023
Ajazuddin Zahiruddin ..Vrs.. Nasir Ahmad+1

ORDER BELOW EXH-1
(01/03/2024)

Perused the complaint, verification statement, documents filed alongwith the complaint. It is submitted by the learned counsel for the complainant that, the accused despite the order of the School Tribunal did not get join the complainant in their school. As such they have committed the contempt of the order passed by the School Tribunal. Therefore, the accused are required to be punished. In support of his argument, the learned counsel for the complaint relied upon the decision in the case of Mrs. Fatma Zakaria & Ors Vs. The State of Maharashtra+1 Criminal Writ Petition No. 558 of 2018 decided on 11 Feb 2019.

2. I have considered the argument advanced on behalf of the complainant and also perused the documents filed alongwith complaint. The complainant has placed on record the copy of order passed by the Hon'ble School Tribunal Division, Amravati in appeal No. 06/2020 dated 22.04.2022 in which the order issued by the respondent management on 22.01.2020 terminating the service of appellant is quashed and set aside. It appears from the letter issued by the complainant to the President of the Public Education Society, Murtizapur dated 23.01.2023 that, the complainant has applied for the subsistence allowance granted to him by an order of Hon'ble School Tribunal for the period of 26.08.2019 to 05.07.2022. It also appears from the letter issued by the complainant to the accused No. 2 that, by the said letter dated 07.02.2023, the complainant asked the head master of the National Urdu High School, Naigaon, Akola (accused No. 2) to get joint him in the school. It appears from the said letter that, on 05.07.2022 the complainant by virtue of the order of Hon'ble School Tribunal had been to the school but the head master of the said school though get him join but did not allow him to sign on mostor and drove him out from the school. It also appears from document No. 5 that, the

education officer Zilha Parishad Akola on the complaint of the complainant issued letter to the President and Head Master of the National Urdu High School to act as per the order of the Hon'ble School Tribunal. The letter dated 20.02.2023 issued by the Education Officer, Zilha Parishad, Akola to the President and head master of the National Urdu High School would show that, the education officer asked the President and head master to follow the order of Hon'ble High Court passed in writ petition No. 3145/2022 and order of Hon'ble School Tribunal in appeal No. 6/2020 dated 18.01.2023.

3. Thus, there is sufficient material from which it can be gathered that, though the order of School Tribunal is in favour of the complainant, the same is not complied with by the accused. In the above cited decision, it is observed by the Hon'ble High Court that, though the offence is technical, it is indeed an offence which is made punishable if the order or direction of the School Tribunal is not implemented. It appears that, the complainant in the instant case has not been reinstated till the filing of this complaint. In the cited case, the petitioners were respectively the president and secretary of the Maulana Azad Educational Trust, Aurangabad. Petitioner No. 3 is the Head Master of the school run by that trust. The respondent No. 2 was serving as a teacher in that school. She was orally terminated from the employment w.e.f. 04.08.2014. She preferred appeal No. 21 of 2014 before the School Tribunal under section 9 of the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 1977. The petitioner were obviously the parties to the appeal. By the Judgment an order dated 08.07.2015 the appeal was allowed. The termination was quashed and set aside. The petitioner's were directed to reinstate her within 40 days from the date of the order, further she was declared entitled to 30% of back wages and arrears of salary from the date of termination till the date of reinstatement. She was also given continuity in service from the date of termination till the date of reinstatement. She was also given continuity in service. The petitioner preferred writ petition challenging the order of the School Tribunal, the writ petition was dismissed on 08.12.2015. In the mean

time, respondent No. 2 preferred Misc. Application No. 19 of 2015 before the Hon'ble School Tribunal seeking execution of the order. Simultaneously, she filed Criminal Misc. Application No. 6215 of 2015 in the Court of the Hon'ble Chief Judicial Magistrate under section 13 of the MEPS Act which provides for penalty in the form of imprisonment for 15 days and fine for disobedience of the order passed by the Hon'ble School Tribunal. Both these proceedings were initiated on 01.09.2015. The Chief Judicial Magistrate directed the process to be issued. The said order of the Chief Judicial magistrate was challenged in the writ petition for quashment of the criminal proceedings by the respondent No. 2 under section 13. The Hon'ble High Court was pleased to dismiss the said writ petition. In the cited case after filing the execution petition and criminal complaint, the order of the School Tribunal has been subsequently implemented by reinstating her. It is held that, the liability incurred can not be washed off. It would be easier for the management in such fact situation to save the skin by showing that, it has subsequently obeyed the direction. The Hon'ble High Court by dismissing the writ petition upheld the order of Hon'ble Chief Judicial Magistrate.

4. In the case in hand there is prima-facie material on record to show that, the accused persons did not join the complainant in the school despite there being the order of Hon'ble School Tribunal. Prima facie there is sufficient material to proceed against both accused persons. In the result, I pass the following order.

ORDER

Issue process against both accused for the offence punishable under section 13 of the Maharashtra Employees of Private Schools (Condition of Service) Regulation Act, 1977 on PF.

Sd/-

Murtizapur.
dated :01.03.2024

(M.Z.A.A.Q. Quraishi)
Judicial Magistrate, First Class,
(Court No. 1) Murtizapur,
MH02200

CERTIFICATE

I affirm that the contents of this P.D.F. File Order/Judgment are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	M.M.Dhapad
Name of the Court	CJJD & JMFC, Murtizapur.
Date of Order & Judgment	01/03/2024
Order/Judgment Signed by the P.O. on	01/03/2024
Order/Judgment uploaded on	02/03/2024