

ORDER BELOW EXH. 18 IN EXECUTION PETITION No. 03/2019 (Gopichand Janardhan Barsale Vs. Mahatma Phule Shikshan Sanstha, Panewadi & two Others.)

1] This is an application filed by appellant (Decree holder) for seeking directions to reinstatement of applicant.

2] It is submitted that, this is contempt petition for non-compliance of the judgment and order delivered in Appeal No. 02/2015 passed on dated 14/02/2018. Many times appellant approached to the school authority, but they have not responded him and not followed the order of this Tribunal. Hence, the application for directions to the Education Officer, Zilla Parishad, Jalna to remain present in the school at the time of resumption of the appellant.

3] Say filed by respondent no.1 and resisted the application. He has further submitted that, there is no vacancy in the school to accommodate the appellant. Moreover, this authority has no power to appoint the Commissioner for execution of the decree under Section 13 of Maharashtra Employees of Private Schools (Conditions of Service) Act, 1977.

4] Heard both side. This is contempt petition filed under Section 13 of Maharashtra Employees of Private Schools (Conditions of Service) Act, 1977. No say filed by respondent no.3. Admitted facts of the matter are appeal is allowed. Respondents preferred

Writ Petition Stamp No.15223/2019, before Hon'ble High Court. No circulation has been taken yet. No stay order or any adverse order has been granted by Hon'ble High Court. Appellant approached the management time to time, but no action has been taken by the management.

5] It is argued by advocate Shri D.J.Choudhary, there is no vacancy as per the instructions given in the judgment, so the management is unable to reinstate the applicant. Moreover, as per Section 13 of Maharashtra Employees of Private Schools (Conditions of Service) Act, 1977, this authority can only impose the penalty and cannot appoint Court Commissioner for execution of decree. Only Civil Court has such kind of powers. On the contra, it is submitted in the argument of Learned Counsel Shri Wakade that, when the order to accommodate the appellant, it is in existence and no adverse order is communicated, then respondent cannot take stand that, there is no vacancy in the school. Further, as per Section 11, this authority can pass the consequential order hence, there is no bar to appoint the Commissioner and execute the order. I am of the opinion that, the appellant can choose any of the modes of execution available to him and merely because, appeal is pending and the vacancy is not in the school, the argument that, Section 13 cannot be applied here, has no foundation of law. Further, executing authority

can provide clarity, interpret or construe the decree, while keeping the decree as passed by the Court of competent jurisdiction, intact and undisturbed.

6] Till today, no say is filed by the Education Officer (Secondary) Jalna. The documents submitted by the appellant shows that, appellant was approaching the management time to time. He is ready and willing to resume the duties. It is the fit case to appoint Commissioner to execute the decree passed by this authority. Hence, I pass following order:-

ORDER

1.	Application is allowed.
2.	Education Officer (Secondary), Zilla Parishad Jalna is hereby directed to remain present personally or to depute any competent officer on his behalf in the school viz. Mahatma Phule Vidyalaya Boranjani Tal. Ghansawangi, Dist. Jalna, when the appellant would go to resume the duties in the light of Judgment and order dated 14/02/2018 passed in Appeal No.02/2015.
3.	Education Officer (Secondary), Zilla Parishad Jalna is at liberty to set the time and date and communicate it to the appellant.
4.	Education Officer (Secondary) Zilla Parishad, Jalna is hereby directed to prepare a report of reinstatement and accordingly submit the said report within eight weeks.

Date:-25.09.2024

Sd/-
(Smt. S.D. Kankanwadi)
Presiding Officer
School Tribunal, Aurangabad.

Certificate

I affirm that, the contents of this P.D.F file & order are same, word to word as per the original Judgment.

Name of the Stenographer : S.H.Kulkarni.

Court : Smt. S.D.Kankanwadi,
Presiding Officer, School
Tribunal, Aurangabad.

Date of Order : 25/09/2024

Order signed by the P.O. : 25/09/2024

Order made PDF on : 25/09/2024