

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2557 OF 2002

Sayyed Hakim S/o. Syed Kasim,
Age-42 years, Occu-Service,
as Watchman, at Vidhyabhuvan
Shikshan Prasarak Mandal's
Handicapped Sheltered workshop
MIDC, Parbhani,
R/o. Bahaddurshah Jaffar Road,
Near Police Quarters,
Parbhani, Dist. Parbhani.

..PETITIONER

VERSUS

1. The State of Maharashtra.
2. The Social Welfare Officer,
Grade-A, Zilla Parishad,
Parbhani, Dist. Parbhani.
3. The President,
Vidyabhuvan Shikshan Prasarak
Mandal's, Handicapped Sheltered
Workshop, MIDC, Parbhani,
Dist. Parbhani.
4. The Secretary,
Vidhybhuvan Shikshan Prasarak
Mandal's Handicapped Sheltered
Workshop, MIDC, Parbhani,
Dist. Parbhani.

..RESPONDENTS

Mr.Sujeet D. Joshi, Advocate for the petitioner.
Mr.S.K.Kadam, AGP for the respondent / State.

**CORAM : A.V. NIRGUDE &
A.M. BADAR, JJ.
DATED : 13.07.2015**

ORAL JUDGMENT : [PER : A.V. NIRGUDE, J.]

1. The facts leading to this petition can be stated as under:-

2. The petitioner was appointed as a "Peon" by respondent No.4 in March, 1994. He was appointed in Class-IV cadre as a Watchman. The appointment was lawfully made and was approved by the concerned department. The institution of respondent No.4 was getting 100% grant-in-aid from the Government. On 11 September, 2000 the State of Maharashtra issued one Government Resolution by which pay and allowance of Class-IV employees was directed to be borne by the institution itself. In other words the Government of Maharashtra decided not to provide grant-in-aid for the salary of the Class-IV employees of institution. With the effect the Government stopped paying grant-in-aid for the payment of salary of the petitioner. The Government also did not disburse grant for arrears of salary which accumulated on account of application of recommendations of 5th Pay Commission to the petitioner.

3. The petitioner does not challenge the legality of Government Resolution of September 2000. This petition is filed mainly for recovery of his dues from his employer-respondent Nos. 3 & 4. The respondent Nos. 3 & 4 are served but have not submitted any reply. The Government of Maharashtra also did not submit any reply.

4. The question that arises in such situation before the court is whether the respondent Nos.3 & 4 are under obligation to pay salary to the petitioner from issuance of Government Resolution of 2000 and arrears accumulated due to application of 5th Pay Commission. Since the statement made in the petition are not rebutted by the employer-respondent. We assume that they have accepted their liability to pay this amount. Since the petitioner did not challenge the resolution, we would refrain from making any observation regarding its propriety. In any case the petitioner is on one hand entitled to pay from his employer who are respondent Nos. 3 & 4. On the other hand the institution to whom grants were provided earlier could have had grievance for withdrawal of part of the grant. Since they did not come before this Court, the petitioner does not have locus to challenge the resolution. In view of this petition stands allowed in terms of prayer clause "B".

5. Rule made absolute accordingly. In view of this, the writ petition is disposed of.

[A.M. BADAR,J.]

[A.V. NIRGUDE,J.]