

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5962 OF 2008

Vitthal s/o Babasaheb Bhalerao, Aged 30
years, Occupation Service, Resident of
Nathnagar, Near Panchayat Samiti,
Killedharur, Taluka Killedharur,
District Beed

Petitioner

V E R S U S

- 1 The State of Maharashtra, Through
Secretary, Higher & Technical Education
Department, Mantrayala, Mumbai-32
- 2 The Secretary, Kisan Shikshan Prasarak
Mandal, Udgir, District Latur
- 3 The Principal, Shivaji Mahavidyalaya,
Udgir, District Latur
- 4 The Registrar, Swami Ramanand Tirtha,
Marathwada University, Nanded
- 5 The Joint Director, Higher Education
and Grants, Nanded Region, Nanded

Respondents

Mr. B.S. Shinde, Advocate for the petitioner
Mr. A.R. Kale, AGP for respondent no.1 & 5/State
Mr. V.D. Gunale, Advocate for respondent nos. 2 & 3
Mr. D./J. Choudhary, Advocate for respondent no.4

**CORAM : A. V. NIRGUDE &
V. K. JADHAV, JJ.**

DATE : 9th October, 2015

ORAL JUDGMENT [Per A.V. Nirgude, J.] :

1. This petition *inter-alia* seeks recovery of unpaid salary for a period of two years between 02.03.2005 to 09.03.2007.

2. The petitioner apparently worked as a Lecturer of Computer Science in the College managed by respondent no.2. The subject taught by of the petitioner was not provided grant-in-aid. Therefore, as per the Government Resolution, the Management was under obligation to pay consolidated sum of Rs.8,000/- per month, as salary. The petitioner stated that he received only Rs.2,000/- per month as a salary. He demanded the salary from the Management, but in-vain.

3. Sometime in 2007, the Management discontinued the services of the petitioner as Lecturer, and therefore, the petitioner filed appeal before the College Tribunal. In this Appeal, the petitioner also made similar allegation that full salary of Rs.8,000/- per month not paid to him for two years between 2005 to 2007. This Appeal however came to an end on 7th September, 2007, because the Management issued fresh appointment order to the petitioner w.e.f. 3rd June, 2007. The College Tribunal thereafter disposed of the petition without deciding the petitioner's claim in respect of unpaid salary.

4. The Secretary and Principal of the Society and School are made parties to the petition, but the Secretary did not choose to file reply. It is the Principal who filed reply, in which he made a bald statement that salary was paid to the petitioner. No receipts in respect of payment of salary are produced on record. We do not give any importance to the statement of the Principal, because as per the provisions of the Maharashtra employees of Private Schools [Conditions of Service] Rules, 1981, thereunder, payment of salary is the responsibility of the Society. In view of this, it was the Secretary who ought to have made statement that the salary was made. Adding that statement, he would have asked the petitioner to go in Civil litigation for recovery of amount if he had any grievance. But, the allegation made by the petitioner that he did not receive salary, had gone un-answered. Therefore, we hold that the petitioner deserved salary for two years @ Rs.8,000/- per month. Since the petitioner has admitted that he received Rs.2,000/- per month salary, the remaining amount of salary shall be paid by Kisan Shikshan Prasarak Mandal, Udgir of which respondent no.2 is the Secretary.

5. Respondent no.2 and the Trustees of Managing Committee/Trustees of the Society/Public Trust are directed to pay Rs.1,44,000/- to the petitioner within six months from today alongwith interest @ 6% per

annum from 9th March, 2007. If the arrears of salary is paid within two weeks, the respondent/Management shall not liable to pay interest on the said amount.

The Writ Petition stands allowed in above terms.

Rule is made absolute accordingly.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

SRM/9/10/15