

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

CIVIL APPLICATION NO.896 OF 2014 IN
WRIT PETITION NO.4352 OF 2005

Teachers Association for Non-aided
Polytechnics ... APPLICANTS

VERSUS

Hindi Seva Mandal, Bhusawal
and others ... RESPONDENTS

.....
Shri S.S. Bora, Advocate for applicant
Shri S.B. Yawalkar, Advocate for respondent No.1
Shri S.V. Adwant, Advocate for respondent No.6
.....

CORAM: S.V. GANGAPURWALA AND
A.I.S. CHEEMA, JJ.

DATED: 5th May, 2015.

ORAL ORDER :

1. This is a Civil Application for withdrawal of amount deposited by the respondent institution as per the directions of this Court. Mr. Bora, learned counsel for the applicant submits that the Joint Director of Education has made calculations, wherein it is clear that the petitioners are entitled for an amount of Rs.98 Lakhs. The respondent has deposited only Rs.35 Lakhs.

The applicant be allowed to withdraw the same along with accrued interest, if any.

2. Mr. Yawalkar, learned counsel for respondent No.1 submits that the applicants are not entitled for the said amount as the said amount is disputed by the respondent. The calculations are also disputed. In 2000 itself resolution was passed by the management to close down the College. According to the learned counsel, this Court in 1999 itself has restrained the respondent from admitting the fresh students. According to the learned counsel, in case the amount is allowed to be withdrawn by the applicant, then it will be difficult for the respondent management to recover the said amount in case the writ petition is dismissed.

3. We have also heard Mr. Adwant, learned counsel for respondent No.6.

4. We have considered the submissions canvassed by learned counsel for the respective parties. The Joint Director has given the calculations wherein amount approximately of Rs.98 Lakhs is shown to be due and payable to the members of the

petitioner Association as per the chart. This Court, vide order dated 25.7.2003, in Writ Petition No.3208/1999, has made following observations :

"12. We, therefore, allow the petition and hold that the petitioner Nos.2 to 31 were illegally replaced by fresh hands in the month of June, 1999 onwards and the petitioners shall be treated to be in service all along. They shall be paid their salary in the pay scales applicable to the aided polytechnics till 31st May, 2000. For the period 1st June 2000 onwards, the Deputy Director, Technical Education or the Assistant Director, Technical Education may prepare a list of the petitioners who could be retained in service by taking into consideration the total strength available in the academic years 2000-2001 and 2001-2002 and on the basis that they were not replaced by fresh recruits. This shall be done by the Assistant/ Deputy Director, Technical Education within a period of three months after considering the seniority as well as subjects vis-a-vis the total strength retained in the respective years and listed in Sheet Nos.5, 6 and 7 annexed to the report dated 2nd November, 2002. The salary payment from June, 1999 onwards shall be made within a period of three months. The amount deposited with the registry of this Court towards the salary up to 31st May, 1999 shall be allowed to be withdrawn on the basis of the specific claim statements to be filed by the petitioners and confirmed by the Assistant/ Deputy Director of Technical Education.

13. Rule is made absolute accordingly with no orders as to costs.

5. Considering the above, we do not find that there would be any impediment to allow the applicant to withdraw the

amount subject to the rights of the parties and without prejudice to the respective rights of the parties.

6. In the result, we pass the following order :

7. The applicant, its members, as shown in the chart annexed with the additional affidavit to this Civil Application, be allowed to withdraw the amount. The individual persons shall remain present before the Nazir/ registry while withdrawing the amount. The Nazir shall get himself satisfied about the genuineness and the authenticity of the parties and then as per the amount detailed in the chart, the applicant, its members be allowed to withdraw the amount. The applicant, through its individual members, shall file an undertaking/s to this Court that, in case they are directed to redeposit the amount, they will redeposit the same within one month. Civil Application accordingly stands disposed of. No costs.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)