

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CAW NO. 1857/2015 IN WRIT PETITION NO. 6230 OF 2005

(Sunil s/o Onkarrao Udapurkar & Ors. vs. The State of Maharashtra thr. its Secretary,
Department of Technical and Higher Education & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
SEPTEMBER 30, 2015.**

Heard Shri Parsodkar, learned counsel for the applicants/ petitioners, Mrs. Hiwase, learned AGP for respondent Nos. 1 & 5 and Shri Madkholkar, learned counsel for respondent Nos. 2 to 4.

Perused the order of this Court dated 02.03.2006. This Court has directed the Municipal Council to continue to pay monthly salary of the petitioners regularly and in default to pay interest @ 6%. The direction is to pay wages on or before 10th of each month.

From the arguments, it appears that the petitioners were not receiving salary regularly but as it was being paid with small gaps of 2 to 3 months, the applicants/ petitioners did not make any grievance and did not demand any interest. On this occasion, their salary for last 11 months has not been paid.

Shri Parsodkar, learned counsel, while inviting attention to the orders dated 02.03.2006, mentioned supra, submits that even today the applicants are not claiming any interest from the Municipal Council. He submits that wages should be directed to be paid immediately. He points out

that arrears on account of 6th Pay Revision payable to other Municipal employees have been released by the Municipal Council but regular salary of present applicants has not been paid.

Shri Madkholkar, learned counsel relies upon the reply affidavit. He submits that the College was started with pious object of providing Technical education to the students in Hilly and difficult as also Tribal areas. Between 1985-86 till end of 2013-14, Municipal Council has contributed amount of Rs.1,40,69,834/- out of its funds for said purpose. Between 1997-98 till 2012-13, the said amount works out to Rs.1,09,92,726/-.

After hearing respective counsel and perusing records, we find that total intake capacity of Polytechnic College is about 810 students. The students are expected to pay Rs.42,000/- each as fees and if this entire amount is received, the college earns Rs.3,50,00,000/-. Its expenditure on running college is Rs.3,25,00,000/-. However, day-by-day number of students are dwindling. In the year 2015-16, there are 329 admissions. According to the applicants, there are 435 admissions. It is only important to note that the students admitted are about 50% of the total intake capacity. With reply, the resolution passed by the Municipal Council on 04.09.2015 requesting the State Government to take over the management and entire college or than to sanction 100% grant to it, has been placed on record. A letter is also sent to the State Government (Respondent No. 1) on 15.09.2015 for the said purpose.

It is reported that there is no Polytechnic College

in the vicinity and technical education is available at Amravati, which is district town and nearest place at a distance of about 55 km. Thus, the aim and object of Municipal Court for starting a college and administering it till date, cannot be doubted.

Shri Madkholkar, learned counsel submitted that the admissions in Polytechnic Colleges or even in Engineering Colleges have been reduced and number of seats are going vacant everywhere.

We do not want to go into that controversy. The Municipal Council is still running the College and about 329 or 435 students are taking education in it. This fact cannot be ignored. In this situation, we direct Respondent No. 2 to disburse 50% of the arrears of the salary payable to the petitioners till date, within a period of one month from today. The remaining amount shall be disbursed within next one month.

The State Government (Respondent No. 1) as also Respondent No. 5 are aware of the financial condition of Municipal Council and also all efforts made by it. If the Municipal Council is not in a position to arrange said funds, we direct Respondent Nos. 1 & 5 to see that the necessary funds are released with appropriate arrangement and this order is complied with. It is apparent that the Municipal Council is not in a position to run the College. It is open to the State Government, therefore, to find out whether closure of College will be in public interest or then it should accept the responsibility to run and administer it. It can also in the alternative find out any other suitable College in

the vicinity where existing students in the petitioner – College can be transferred.

The applicants are mostly permanent employees who have put in long service and had it been a Polytechnic College managed by a private management, as defined in Maharashtra Employees of Private Schools (Conditions of Service) Act, 1977, the State Government would have been required to take appropriate steps to declare them surplus or for their absorption. The State Government, therefore, shall in this situation, considering all these facts, attempt to find out whether the petitioners or such of them as found surplus, need to be and can be absorbed elsewhere in accordance with law so as to protect their bread and butter. The Municipal Council has already sent a communication to Respondent No. 1 on 15.09.2015.

We direct the State Government to take suitable decision upon it, keeping in mind this order and interest of all concerned within next four months.

With this, we partly allow the civil application and dispose of the same.

Writ Petition be placed for further consideration of this Court on 01.02.2016.

An ordinary copy of this order be furnished to the parties.

JUDGE

JUDGE