

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11457 OF 2015

Bhausahab Nene Arts, Commerce and Science
College .. Petitioner
Vs.
Ramchandra Sukhdev Patil & Ors. .. Respondents

Mr. Neel Helekar, Advocate for the petitioner.
Mr. C.R.Sadashivan i/by N.M.Ganguli, Advocates for the respondent
no.1.
Ms. M.S.Bane, AGP for R.No.3.

CORAM : R.D. DHANUKA, J.
DATE : 25th July 2016

P.C.

. By this Petition filed under Articles 226 and 227 of the Constitution of India, the Petitioner has impugned the order dated 5.10.2015 passed by the learned Presiding Officer of the Mumbai University & College Tribunal. Some of the relevant facts for the purpose of deciding this writ petition are as under:

2 The Petitioner applied for starting new subjects of six units of being Geography, Economics and Political Science to the University of Mumbai in the month of August, 1996. The Petitioner called for candidates for the first part time post of Geography vide advertisement on 15.7.1999. It is the case of the Petitioner that University granted permission for starting three units of Geography and three units of Economics from the academic year 1997-1998. It is the case of the Petitioner that as per the demand for six units of Geography, most of the

students requested to continue six units of Geography instead of three units of Geography and three units of Economics and accordingly, the Petitioner continued with six units of Geography and again requested University to make necessary correction in the permission. It is the case of the Petitioner that university, however, did not issue necessary correction in the permission and did not permit the Petitioner to continue six units of Geography. The Petitioner, accordingly, stopped the admission of the students and decided to retrench teachers and issued notice of retrenchment to the first Respondent on 4.12.2012. This notice of the Petitioner came to be impugned by the Respondent No.1 before the University Tribunal.

3 The University authorized the Vice Chancellor to constitute a committee to make enquiry under Section 92(3) of the Maharashtra University Act, 1994.

4 Mr. Helekar the learned counsel appearing for the Petitioner submits that since the University did not grant permission for six units of Geography, the Petitioner was required to retrench services of the Respondent No.1. He submits that the committee which submitted report and considered by the University Tribunal was not appointed by the vice chancellor but was self appointed committee. He submits that after setting aside of the first termination order which was the subject matter of the earlier appeal filed by the Respondent No.1, the Petitioner had once again terminated services of the Respondent No.1 effective from 1.9.2015 which is the subject matter of the appeal preferred by the Respondent No.1 before the University Tribunal which is pending. He submits that

since the Petitioner is not at fault, the University Tribunal could not have passed an order for payment of salary to the Respondent No.1.

5 Mr. Sadashivan the learned counsel for the Respondent No.1 on the other hand invited my attention to the findings recorded by the University Tribunal and submits that University Tribunal has not awarded any back wages as canvassed by the Petitioner but has awarded payment of salary for the work done by the Respondent No.1. He submits that the University had not asked the Petitioner to stop admission of the students in the Geography Units but the Petitioner had stopped the admission and thus the Petitioner cannot refuse to pay salary for the work done by the Respondent No.1.

6 Perusal of the order passed by the Mumbai University and College Tribunal indicates that the Tribunal has considered a report submitted by the committee of experts which committee had prima-facie opined that the University had not asked the Petitioner to stop admission of students. The Tribunal has rendered a finding that services of the Respondent No.1 was illegally terminated by the Petitioner and has rightly directed the Petitioner to pay the Respondent No.1 for the work done by him.

7 In so far as second termination issued by the Petitioner is concerned, there is no dispute that the said termination is impugned by the Respondent No.1 by filing separate appeal before the University Tribunal and the same is pending. Question of any reinstatement at this stage of the Respondent No.1 did not arise. The impugned order passed

by the University and College Tribunal in so far as payment of wages for the work done is concerned since it is not disputed that the Respondent No.1 was working in the Petitioner's College, the Petitioner will have to pay wages to the Respondent No.1 for the work done by him. I am thus, not inclined to interfere with this part of the order passed by the University and College Tribunal.

8 Mr. Helekar the learned counsel appearing for the Petitioner at this stage states that wages directed by the University and College Tribunal shall be deposited by his client in this Court within a period of eight weeks from today. Statement is accepted. Mr. Sadashivan the learned counsel appearing for the Respondent No.1 seeks liberty to withdraw the said amount. Upon deposit of the amount by the Petitioner, the Respondent no.1 would be at liberty to withdraw the said amount.

9 Petition is dismissed. No order as to costs.

Parties to act on an authenticated copy of this order.

R.D. DHANUKA, J.