

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

WRIT PETITION NO.9666 OF 2014

1. Madhukar Bhagwat Chaudhari,
Age-56 years, Occ. Service,
2. Umakant Rupchand Patil,
Age-48 years, Occ. Service,
3. Pingala Hemchandra Dhande,
Age-49 years, Occ. Service,
4. Smt. Shashikala Soma Mahajan,
Age-46 years, Occ. Service,

All are working with
Women's College of Education,
Faizpur, Tq. Yawal,
Dist. Jalgaon

..Petitioners

Vs.

1. The State of Maharashtra,
Through its Secretary,
Education Department,
Mantralaya, Mumbai – 32
2. The Director of Education,
(Higher Education), Maharashtra
State, Central Building,
Pune – 1
3. The Joint Director of
Higher Education,
Jalgaon Region,
Jalgaon,
Behind Jalgaon District
Consumer Forum, Jalgaon

4. The North Maharashtra University, Jalgaon through its Registrar
5. The Tapi Parisar Vidyamandal Faizpur, Tq. Yawal, Dist.Jalgaon, through its Chairman
6. Women's College of Education, Faizpur, Dist. Jalgaon Through its Principal
7. Shikshan Shulka Samiti, 305, Government Polytechnic Building, 49, Kherwadi, Ali Yawar Jung Marg, Bandra (E), Mumbai ..Respondents

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Mr.A.G.Talhar, Advocate for petitioners
Mr.S.B.Joshi, AGP for respondent nos.1 to 3
Mr.Y.B.Bolkar, Advocate for respondent no.4
Mr.V.D.Hon, Advocate i/b. Mr.A.V.Hon, Advocate for respondent nos.5 and 6

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**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.
DATE : FEBRUARY 10, 2017**

ORAL JUDGMENT :

Heard.

2. Rule. Rule made returnable forthwith.
With consent of the parties, heard finally.

3. This petition is filed by four employees of respondent nos.5 and 6 – Institution. Out of four petitioners, three are Lecturers and one is Librarian. It is contended that the appointments of the petitioners were approved by the University. The grievance of the petitioners is that since March, 2012, salary has not been regularly paid to them and when the petitioners insisted respondent nos.5 and 6 – Institutions for making payment of salary, in the month of December, 2013, 70% of the total salary amount has been paid and the remaining salary amount is not yet paid. It is contended that even thereafter, respondent nos.5 and 6 are not regularly paying the salary. The petitioners, therefore, pray for directions to respondent nos.5 and 6 for making payments of salary which has become due to the petitioners.

4. Respondent nos.5 and 6 filed their reply. They contended that present Writ Petition is not

tenable as it is filed against private institutions. It is contended that respondent nos.5 and 6 are not getting sufficient number of students and their financial position is not such that they can pay the entire salary of the teachers and other staff.

5. The learned Counsel for the petitioners opposes the submissions made on behalf of respondent nos.5 and 6 – Institutions regarding tenability of the present Writ Petition. He relies on the observations made by this Court in the case of **Mrs.Vaishali V. Chandekar and ors. Vs. State of Maharashtra, 1998(1)Bom.C.R.227**, wherein this Court has made it clear that it is the statutory obligation for the educational institution to pay salary to the teachers and if the educational institution does comply with the said statutory obligation, this Court can exercise its jurisdiction under Article 226 of the Constitution of India. The learned Counsel for the petitioners

has also relied on the decision of the Hon'ble Apex Court in the case of **Secretary, Mahatma Gandhi Mission and anr. Vs. Bhartiya Kamgar Sena and ors., 2017 SCC OnLine SC 22.**

6. It cannot be disputed that as per the provisions of the Maharashtra Universities Act, 1994, unless the conditions laid down for affiliation are satisfied by the educational institution, affiliation to such educational institution cannot be granted or continued by the University. One of the conditions is to make salary as per the Rules to the teachers and non-teaching staff members. Thus, it is the statutory obligation for respondent nos.5 and 6 – Institutions to make payments of salary. In view of this, this Court holds this petition is tenable.

7. Respondent nos.5 and 6 have not disputed that some amount of salary is due to be paid to

the petitioners. In view of this admitted fact, this Court holds that direction needs to be given to respondent nos.5 and 6 to clear the arrears of salary and go on making payments of salary regularly as per the Rules.

8. In the result, the Writ Petition is allowed. Respondent nos.5 and 6 are directed to pay the arrears of salary to the petitioners within a period of six months from today. Respondent nos.5 and 6 are also directed to pay to the petitioners the salary from the present month onwards.

9. Rule is made absolute accordingly.

10. Respondent nos.5 and 6 – Institutions are at liberty to take appropriate steps against the petitioners in respect of whom, approval is rejected by the University.

[SANGITRAO S. PATIL, J.]

[T.V. NALAWADE, J.]

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