

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

WRIT PETITION NO. 12894 OF 2016

Mohan Kanyalal Chhajed

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Sanket S. Kulkarni, Advocate for the Petitioner.

Shri S. W. Munde, A.G.P. for the Respondent No. 1.

Shri Y. B. Bolkar, Advocate for the Respondent No. 3.

None present for the Respondent No. 2, though served.

**CORAM : S. V. GANGAPURWALA AND
S. M. GAVHANE, JJ.**

DATE : 06TH DECEMBER, 2017.

FINAL ORDER :

. Mr. Bolkar, the learned advocate on instructions of the respondent No. 3/University makes a statement that the grievance committee is not yet constituted.

2. Mr. Kulkarni, the learned advocate for the petitioner states that, the petitioner has retired from service on attaining age of superannuation on 31.07.2011. The petitioner made an application to the respondent No. 2/college to pay the amount for encashment of earned leave as per the rules in view of Statute 424(3) and 424(C). The petitioner is entitled for the encashment

of earned leave on retirement.

3. Initially this Court had issued notice to respondents on 23.01.2017. In spite of service of notice before admission none appeared for respondent Nos. 2 and 3. In fact, under orders of this Court dated 23.01.2017, the respondent No. 2 was directed to produce the original record of the leave register.

4. As the respondent No. 2 did not appear in spite of service of notice, this Court on 19th September, 2017, issued notice of final disposal to the respondent Nos. 2 and 3. The office endorsement shows that, the notice of final disposal issued to respondent No. 2 is served upon the respondent No. 2, still nobody appears for the respondent No. 2.

5. The application of the petitioner is rejected on the ground that, there is no record with the institution as to how much leave the petitioner had availed. In fact, it is duty of the institution to maintain the record. The order also does not state that, as to how the petitioner is not entitled for encashment of earned leave in view of statute 424(3).

6. The averments of the petitioner in the writ petition are not controverted by the respondent No. 2.

7. It has been held by the Apex Court in the case of **Khandesh College Education Society, Jalgaon and another Vs. Arun Hari Narkhede and others** reported in (2011) 7 SCC 172 that institution is liable to pay the amount towards the encashment of earned leave in view of Statue No. 424(3) and 424(C).

8. In the light of the above, we pass the following order.

9. The respondent No. 2 shall pay the petitioner the amount, which the petitioner is entitled to on account of encashment of earned leave in accordance with the statute No. 424(3) and 424(C) of the university statutes, expeditiously and preferably within a period of four (04) months from today. The writ petition accordingly is disposed of with above said observations and directions. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]