

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

WRIT PETITION NO.4423 OF 2003

Dilip Machindra Jarag
and another

... Petitioners

vs.

The President
Maratha Mandal, Ichalkaranki
and others

... Respondents

....

Prof. Rohini M. Dandekar for the Petitioners.
Mr. T.S. Ingale for the Respondent No.1.

....

Coram : **A.A.Sayed &
M.S. Karnik, JJ.**

Date : 5 July 2017

P.C. :

1. The Petitioners, by this Petition, under Article 226 of the Constitution of India, are challenging the Notice dated 13th May, 2002 issued by the Respondent-Management terminating their services.

2. The Petitioners were serving in the Polytechnic Institution run by the Respondent-Management. The case of the Petitioners is that, they are entitled to get same benefits as other similarly situated employees who are governed by the order dated 27 September 2002 passed by this Court in Writ Petition No.3793/2002. In the said Writ Petition, the Petitioners therein had challenged the closure of the Polytechnic Institution and the Division Bench of this Court had set aside the closure notice and termination notices issued by the Respondent-Management and the Respondent-Management was directed to pay

salary to the teaching and non-teaching staff as per the prescribed rates. The Respondent-Management was granted liberty to make an application for closure of the polytechnic Institution in accordance with law. It is not in dispute that the Polytechnic Institution stands closed as on 31 December 2014.

3. Learned Counsel for the Respondent-Management has pointed out that pursuant to the termination notice issued to the Petitioner No.1 and Petitioner No.2, they have accepted their dues and were paid an amount of Rs.81,000/- and Rs.99,703/- respectively. Significantly, the fact that they have received the aforesaid amount is nowhere mentioned in the Petition. On this ground alone, the Petition is liable to be dismissed. Moreover, having voluntarily accepted the amount as indicated above the Petitioners further have given writings stating that they have no claim against the Respondent-Management and the Petitioners therefore would cease to be in employment of the Respondent-Management. The Petitioners cannot be said to be similarly circumstanced as the Petitioners in Writ Petition No.3793 of 2002. The Petitioners also did not challenge the closure of the Institution. In these circumstances, we are not inclined to grant any reliefs to the Petitioners.

4. The learned Counsel for the Respondent-Management, however, on our request and on instructions from the Respondent-Management

fairly stated that the Respondent-Management is ready and willing to make payment of the total sum of Rs.1,50,000/- to each of the Petitioners subject to adjustment of the amount already paid to them. It is pointed out that the Petitioner No.1 was paid an amount of Rs.81,000/- and Petitioner No.2 was paid an amount of Rs.99,703/-.

5. In the circumstances, we record the statement of the learned Counsel for the Respondent-Management that the Respondent-Management shall pay an amount of Rs. 69,000/- (i.e. Rs.1,50,000 – Rs.81,000) to the Petitioner No.1 and an amount of Rs.50,297/- (i.e. Rs.,1,50,000 – Rs.99,703) to the Petitioner No.2 within a period of four weeks from today.

6. Subject to the above, the Petition is dismissed. Rule to stand discharged.

7. List the Petition “for Directions” on 31 July 2017 for reporting compliance.

(M.S. Karnik, J)

(A.A.Sayed, J.)