

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

BENCH AT AURANGABAD.

WRIT PETITION NO.3328 OF 2017

Ajay S/o Bapuappa Kurhe
and another. ... Petitioners.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.S.R.Barlinge, advocate for the petitioners.
Mr.S.G.Karlekar, A.G.P. for the State.
Mr.V.P.Latange, advocate for Respondent No.4.
Mr.S.K.Chavan, advocate for Respondent No.5.

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**CORAM : S.V.GANGAPURWALA AND
A.M. DHAVAL, JJ.**

Date : 03.05.2018.

PER COURT :

1. The petition is filed seeking directions against the Respondents to release the salary grants from 2013 onwards. It is submitted by Mr.Barlinge, learned counsel that the Science faculty of the Respondent institution was given grant in the year 1998 and gradually came on 100%

grant-in-aid in the year 2004-05. The petitioner No.1 was selected and appointed for the post of Lecturer in Computer Science by duly constituted Selection Committee after following selection procedure on 27.7.1999. On 30.8.1999, approval was granted to the petitioner No.1 as lecturer in Computer Science for one academic year. The approval was continued from time to time. The petitioner No.2 was selected and appointed as lecturer in Computer Science on 19.1.2006. The appointment of petitioner No.2 is also approved by the University as lecturer in Computer Science on 23.2.2006. The Respondent institute started receiving grant-in-aid for the subject Computer Science for the year 2004-05. Thereafter on 4.4.2012, the Government Resolution came to be issued sanctioning grant-in-aid to the subject of Computer Science to other Colleges. As the Respondent College was already getting grant-in-aid, there was no question of incorporating the name of Respondent College in the said GR. The salary was received by the petitioners from the grant-in-aid sanctioned by the Government every year, however, the same is abruptly stopped in

the year 2013. Even the Joint Director on 2.1.2014, requested the Additional Secretary to issue orders for continuation of salary of petitioners. According the learned counsel, Science faculty which is sanctioned grant-in-aid include subject Computer Science also. The Secretary, Higher and Technical Education also communicated to the Joint Director of Education that some Colleges were receiving grant-in-aid and some were not. To remove this anomaly, GR dated 4.4.2012 is issued. According to the learned counsel, the salary has been erroneously stopped by the Respondents.

2. Mr.Karlekar, learned A.G.P. submits that the name of the Respondent College is not included in the Government Resolution dated 4.4.2012, as such the petitioners are not entitled to receive the salary from the grant-in-aid. Though the Science faculty of the Respondent institution was sanctioned grant-in-aid, the subject was not Computer Science but Computer Maintenance. The grant-in-aid was wrongly paid. According to the learned A.G.P.

the University on 11.2.1999, had sought consent for change of subject from Computer Maintenance to Computer Science which was the subject approved for the year 1998-99. In the year 1999 Science faculty of Respondent No.5 College was brought on grant-in-aid. The Science faculty of Respondent No.5 College is brought on grant-in-aid on 3.7.1998 and the affiliation is granted to Computer Maintenance. The Respondent No.5 does not comply the condition of Government Resolution dated 4.4.2012. In view of that Respondent No.3 issued letter to the petitioner College on 18.6.2013 that their faculty of Computer Science is running on permanent non-grant basis.

3. We have considered the submissions.

4. It is not disputed that since academic year 2004-05 the salary of the petitioners were paid from grant-in-aid up to the year 2012.

5. It is also admitted by the Government in its affidavit-in-reply that the Science faculty of the Respondent No.5 College was

sanctioned grant-in-aid in the year 1998 and at that time affiliated subject was Computer Maintenance. The affidavit also states that on 11.2.1999, University had communicated and sought consent for change of subject from Computer Maintenance to Computer Science. The same was prior to 2000. The petitioner No.1 is appointed on 27.7.1999 for the subject Computer Science. His appointment is also approved as a Lecturer in Computer Science by the University initially on 30.8.1999 and thereafter on 9.9.2000. Subsequent approval is also granted on permanent basis on 30.8.2001. This would show that the subject Computer Science was recognised by the University prior to the year 2000. It is also to be noted that since the academic year 2004-05 100% grant-in-aid was paid for the subject Computer Science of Respondent No.5 College and the salary of the petitioners were paid from grant-in-aid up to the year 2012. The Government Resolution dated 4.4.2012 may not be relevant as far as petitioner's College is concerned. In view of the fact that the petitioner's College was already receiving grant-in-aid since 2004-05 and

the Science faculty of the Respondent No.5 College was given grant-in-aid from the year 1998-99. The subject Computer Maintenance was affiliated subject of Science faculty and the University had also on 11.2.1999 sought consent for the change of subject from Computer Maintenance to Computer Science and thereafter had granted approval to the appointment of petitioner as lecturer in Computer Science.

6. In view of all the aforesaid facts the Respondent would be estopped by conduct, so also the Respondent after having sanctioned grant-in-aid since the year 1998 to the Science faculty and the subject Computer Science was brought on 100% grant-in-aid in the academic year 2004-05, now can not be allowed to resile.

7. In light of the above, the Respondents shall release the grant-in-aid for the salary of the petitioners since the year 2013 and the further regular salary.

8. The Writ Petition is accordingly

allowed. No costs.

(A.M.DHAVALA, J.)

(S.V.GANGAPURWALA, J.)

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