

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

WRIT PETITION NO.8442 OF 2012

Jitendra Vasant Pise

...Petitioner

V/s.

State of Maharashtra & Ors.

...Respondents

Mr.G.J. Sabnis for the Petitioner.

Mrs.R.M. Shinde, AGP for the respondent Nos.1 & 2-State.

Mr.Rui Rodrigues for Respondent No.3.

Mr.Rahul Nerlekar for Respondent Nos.4 & 5.

**CORAM : S.C. DHARMADHIKARI &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 17th DECEMBER 2018

P.C.:

1. After this Writ Petition was heard for some time and we have perused all the orders impugned therein, on a suggestion from us, Mr.Sabnis says that though the entitlement of the petitioner is computed at Rs.41 lakhs and that amount should be recovered and paid over for these are the arrears of salary for March 2004 to December 2018, and Mr.Nerlekar's grievance that the Management is not in a position to bring such a huge sum even if time is granted to him, we then indicated to both sides to arrived at a amicable settlement. The matter was posted till today. The matter could not

be amicably settled. Thereafter we suggested a figure and round one of Rs.25 lakhs which will be accepted by the petitioner as full and final settlement of all his claims. Mr.Nerlekar took instructions and submitted that the institute before this Court is not a prosperous and financially stable one. The 5th respondent-Management runs 4th respondent- college affiliated to University of Mumbai. However, it is a Taluka level institution. It is located and situated in Rajapur, Taluka, District-Ratnagiri. The student strength as also fund position does not permit the Management to accept the proposal or the suggestion from the Court as well.

2. In the above circumstances when attempt was made to submit that it is not the obligation of the respondent No.4 and 5 but that of the State to compensate the petitioners by way of clearance of arrears, we are of the firm view that in light of the orders passed by this Court which bind the respondent No.4 and 5 such a stand or approach cannot be countenanced at all. It is undisputed that it is the respondent Nos.4 and 5 who employed the petitioner and there is master and servant relationship between them. The State Government only reimburses, by way of salary grant, the amounts spent and incurred towards payment of salary and arrears thereof the staff teaching and non-teaching. This happens only when the

Government aid is extended to institution of Higher education. Hence, the relationship is between the respondent Nos.4 and 5 and the petitioner. The grievance of Shri.Nerlekar that the Management has no obligation to pay the petitioner is unsustainable both on facts and law. As a result of the above discussion the Writ Petition succeeds. It has to succeed because there is no defence on merits of the claim of the petitioner and which could be raised by the respondent Nos.4 and 5. Every possible contentions on facts and law have been concluded by binding judicial orders of this Court.

3. We are therefore of the opinion the writ petition must succeed. We however, restrict the amount of arrears of salary for the aforementioned period to the figure of Rs.25 lakhs.

4. Let this amount be recovered from the monthly salary grant of respondent Nos.4 and 5 and that should be done by the respondent No.2. He shall ensure that this amount is deducted from the salary grant and paid over to the petitioner in installments and in any event before 31.08.2019. No extension will be granted. After deduction from the monthly salary grant the Joint Director shall insist on production of proof of disbursement of the amount directly to the petitioners bank account and retain such proof with him. In

other words this amount shall be deducted from the salary grant of the respondent Nos.4 and 5 and should be released to the petitioner directly and shall not be routed through the Management. The proof of such payment, as suggested, in the petitioner's account must however be forwarded to the Management. After the recovery of Rs.25 lakhs, no further recovery shall be made from the salary grant or the non-salary grant. The amount of Rs.25 lakhs shall be accepted towards full and final settlement of all claims by the petitioner.

5. With the aforesaid directions, the Writ Petition is disposed of.

(SMT.BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI,J.)