

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

WRIT PETITION NO.6836 OF 2016

Shri Dilip Anandrao Pawar & Ors.

..Petitioners

vs.

State of Maharashtra & Ors.

...Respondents

Mr.Saurabh Pakale i/b Mr. S.M. Katkar for the Petitioners.
Mr.Sandeep L. Babar, AGP for the Respondent No.1 to 3.

**CORAM : R.M. BORDE &
V. M. DESHPANDE,JJ.
DATE : 3rd AUGUST, 2018.**

ORAL JUDGMENT:

. Heard. Rule. Rule is made returnable forthwith. Mr. Sandeep L. Babar, Learned AGP waives service for Respondent Nos.1 to 3. By consent of parties, petition is taken up for final hearing.

2. The petitioners have approached this Court seeking writ of mandamus and/or a writ in the nature of mandamus directing the Respondents to act upon the order passed on 31/3/2009 and release salary receivable by the petitioners with effect from 2007-2008 within the prescribed time. It is not a matter of dispute that the Petitioners are functioning as non teaching employees in Respondent No.4 institution which is eligible to receive grant-in-aid. The Petitioners submits that though the institution has become eligible to receive 100% grant since 2007-2008 salary grant receivable by the institution and payable to the Petitioners has not been released since 2007 until the year 2018 on account of pendency of

criminal complaint bearing FIR No.3345/2013 recorded on 11/9/2013 against the office bearers of the institution registered at Yerwada Police Station, Pune for commission of offence punishable under the Scheduled Castes and Scheduled Tribes, (Prevention of Atrocities) Act, 1995.

3. Mr.Sandeep L. Babar, learned counsel for the Respondents contends that one of the condition for release of the salary grant is that there shall not be any pending prosecution or a complaint pending against the institution.

4. On perusal of FIR dated 11/9/2013 it transpires that there is FIR lodged against the Chairman of the institution in his personal capacity and same is not directed against the institution. Since the alleged criminal act is directed against the office bearers of the institution that in itself shall not constitute ground for withholding salaries receivable by the employees of the institution. It is further informed by the learned counsel appearing for the Petitioners that Special Atrocity Case No.9/2014 initiated against the chairman of the institution has resulted in his acquittal and as such at present there is neither any pending criminal case nor any other complaint against the institution or its office bearers and as such there shall be no impediment for the Respondents to release salary receivable by the Petitioners. The Petitioners contend that since January 2018 the employees are being paid regular salary. However, it is contended that the salary receivable by the employees during the academic year 2007-2008 onwards till December 2017 has not been released.

5. Considering the reasons as recorded above, we are of the opinion that impugned action of withholding the salary of employees of institution deserves to be quashed. We therefore direct the Respondent Nos.2 and 3 to verify the claim of the Petitioners as regards the arrears of

salary receivable by them for the year 2007-2008 till December 2017 and release salary receivable by them as expeditiously as possible and preferably within a period of 4 months from today.

6. Rule is made absolute in the above terms with no order as to costs.

(V. M. DESHPANDE, J)

(R.M. BORDE, J)

Rajeshwari
Subodh
Karve

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signed by
Rajeshwari
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