

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

**CONTEMPT PETITION NO. 214 OF 2018
IN
WRIT PETITION NO. 7410 OF 2005**

Madhukar Shrawan Patil and Others ..PETITIONERS

VERSUS

State of Maharashtra and Others ..RESPONDENTS

**WITH
CONTEMPT PETITION NO. 261 OF 2018
IN
WRIT PETITION NO. 1420 OF 2002**

Deelip Dangalrao Chavan and Others ..PETITIONERS

VERSUS

State of Maharashtra and Others ..RESPONDENTS

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Mr. S.P. Brahme, Advocate for petitioners

Ms. R.P. Gaur, A.G.P. for respondent nos. 1 and 2

Mr. A.G. Talhar, Advocate for respondent nos. 3 to 6

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**CORAM : PRASANNA B. VARALE AND
R.G. AVACHAT, JJ.**

DATED : 05th AUGUST, 2019

PER COURT :

Contempt Petition No. 261 of 2018 was not on board. As both contempt petitions raises a common grievance of non-compliance of order of this Court, same is also taken up for hearing.

2. Heard Mr. Brahme, learned Counsel for petitioners in both contempt petitions. The grievance of these petitioners was of non-compliance of order of this Court dated 11nd June, 2017 in Writ Petition Nos. 7410 of 2005 and 1420 of 2002. Our attention was invited to order dated 11th June, 2017. It was the submission of Mr. Brahme that first clause of order, whereby respondent – institute was directed to fix pay and allowances of petitioners as prescribed by 4th, 5th and 6th Pay Commission with effect from 01st January, 1986, 01st January, 1996 and 01st January, 2006 respectively and pay them the arrears thereof in respect of the period of three years preceding the respective dates of filing of the said writ petitions till they were serving with the respondent – institute, is not duly complied with. Mr. Brahme invited our attention to the representation dated 01st November, 2017 submitted by these petitioners to the principal, as well the documents placed on record at page nos. 137, 139 and 141 which are in respect of petitioner – Madhukar S. Patil and there are similar representations by other petitioners. It was the submission of Mr. Brahme that respondent – institute failed to undertake the exercise of pay fixation of these petitioners and respondent – institute though states that order of this Court is complied, it is a partial compliance.

3. Per contra, Mr. Talhar, learned Counsel for respondent – institute and more particularly for Respondent Nos. 3 to 5 vehemently submitted that in the order of this Court, Division Bench of this Court specifically observed

that petitioners cannot claim arrears of pay and allowance for a period of three years preceding the respective dates of filing writ petition, since the claim beyond three years would be barred by limitation. Mr. Talhar, learned Counsel then submitted that representation dated 01st November, 2017 was specifically replied by reply dated 21st November, 2017, wherein respondent – institute informed petitioners that the claim, as put forth by these petitioners, is not admissible. It was the submission of Mr. Talhar that the claim put forth by these petitioners is beyond the benefit granted by this Court. It was also the submission of Mr. Talhar that exercise of appropriate pay fixation of these petitioners and the benefits consequently for the 5th and 6th Pay Commission be undertaken by an independent authority like Director of Technical Education or Joint Director of Technical Education. It is also submitted that in the earlier round, exercise of quantification of amount was done by Court Commissioner i.e. Joint Director of Technical Education.

4. Perusal of order of this Court dated 11th July, 2017 shows that this Court was not inclined to accept the calculations made by the Court Commissioner, As such, Division Bench of this Court was pleased to observe thus “in the circumstances, the calculations made by Court Commissioner cannot be acted upon”. Now, as there is dispute in so far as exercise of pay fixation, in our opinion, we deem it appropriate that such an exercise be undertaken by Director of Technical Education, Maharashtra State, needless to

state by giving an equal opportunity of hearing to parties i.e. petitioners and Respondent Nos. 4 to 7.

5. Both learned Counsel for respective parties submit that the parties would appear before Director of Technical Education, Maharashtra State on or before 19th August, 2019. Director of Technical Education is accordingly directed to hear the parties, who would remain present before him on or before 19th August, 2019 and pass appropriate order within eight weeks from appearance of parties. Director of Technical Education also to inform the decision so taken to the parties viz. petitioners and respondent – management institute. Needless to state that parties having grievance of decision taken by Director of Technical Education, will be at liberty to avail appropriate remedy as available under law to challenge the said decision. With these directions, both the contempt petitions are disposed of.

(R.G. AVACHAT, J.)

(PRASANNA B. VARALE, J.)

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