

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11054 OF 2014**

Prakash Dyanu Lohar } **Petitioner**

Vs

Shree Warana Vibhag Shikshan }
Mandal and Ors. } **Respondents**

Mr.Aditya Raktade I/b Mr.Sunil Dighe for
the Petitioner.

Mr.Abhijeet A. Desai a/w Ms.Vrushali
Mendad for Respondent Nos.1 and 2.

Mrs.S.D.Vyas, 'B' Panel Counsel for the
Respondent-State.

**CORAM :- S. C. DHARMADHIKARI &
M. S. KARNIK, JJ.**

DATE :- FEBRUARY 27, 2019

P.C. :-

1. By this petition under Article 226 of the Constitution of India, the prayer of the petitioner is that this Court should call for record and proceedings and grant the relief in terms of prayer clause (a). Prayer clause (a) reads as under:-

(a) that this Hon'ble Court be pleased to issue a writ of certiorari or any other appropriate writ, or Order or direction in the nature of certiorari or direction in the like nature under Article 226 and 227 of the Constitution of India and calling for the records and proceedings in the above referred matter and challenging the communications/Letters/Orders dated 21.10.2013 (EXHIBIT "I"), 11.02.2014 (EXHIBIT "K") and 10.04.2014

(EXHIBIT “K-1”) communicated by Respondent No.5 and to quash and set aside the same and praying for modification of communication/order dated 21.10.2013 (EXHIBIT “I”) only to the extent of directing Respondent Nos.4 and 5 to specify the claim amount submitted by Petitioner vide his Application dated 20.02.2013 (EXHIBIT “G”) along with Letter dated 16.02.2012 (EXHIBIT “G-8”) and Table submitted for amount of Rs.18,64,792/- and all other consequential claim of additional amount till today after deducting the amount paid by Respondent No.1.”

2. After this matter was argued for some time and we perused the affidavit filed on behalf of the respondents and, particularly, respondent No.6, we were shocked and surprised that the Government feels that this is a *lis* between the private parties and that it has nothing to do with it.

3. Before the Government and Joint Director, the grievance was with regard to the prescribed pay scales and after the recommendations of several Pay Commissions have been accepted by the State Government and made applicable to the educational institutions, that the petitioner has not been paid this amount, but has been told to approach an authority under the statute of the University, and, particularly, the Maharashtra Universities Act, 1994. The petitioner approached to what is known as a Grievance Cell and that purported to settle the claims.

4. The Joint Director says that the administrative and financial matters of staff are under the purview of the private Management and not under the purview of Respondent No.6.

5. We are sorry. We are not telling him to determine as to who is under his purview or otherwise. We are simply calling him to find out whether the arrangement which has been carved out pursuant to some adjudication before the Grievance Cell of the Shivaji University is compliant with the law. In the event, the Government of Maharashtra has made the pay scales as determined by the Fifth and Sixth Pay Commission recommendations to its employees as also to the educational institutions, then, the Director/Joint Director cannot refuse to discharge his obligation and that obligation is to ensure that salaries and perquisites, so also attendant benefits in terms of the recommendations and Government directives are indeed disbursed even to the employees employed by private educational institutions. It is that obligation and being an officer of the State and in the position of a parent that we expect him to discharge in this case.

6. Let, therefore, the petitioner as also the representative of the Management appear before this Joint Director, Technical Education, Government of Maharashtra and he shall, on perusal of the records, determine the amount due and payable by the Management to the petitioner in terms of the pay scales as fixed after the Pay Commission recommendations were accepted and

made applicable to the educational institutions. From the effective date, the amount should be computed and thereafter the computation and calculation as made by the Joint Director will be accepted by both, the petitioner and the Management. In the event, anything more than what is claimed to have been paid by the Management is due and payable, then, within four weeks from the date the Joint Director communicates the calculations and computation made by him, the Management shall disburse and release the amount. We expect the Joint Director to complete this exercise as directed by us within four weeks from the date the order is communicated to him. The writ petition stands disposed of.

7. We clarify that the Joint Director shall not go into the issue of entitlement of the petitioner, but proceed on the footing that the petitioner is entitled to the pay scales as determined and finalised after the Pay Commission recommendations are accepted and made applicable to the education institution in question.

(M.S.KARNIK, J.)

(S.C.DHARMADHIKARI, J.)