

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4769 OF 2019

Nashik Gramin Shikshan Prasarak Mandal
through its General Secretary ... Petitioner
versus
State of Maharashtra through its Chief
Secretary and Ors. ... Respondents

Mr.D.A.Nalawade a/w Mr.S.B.Deshmukh
for the Petitioner.

Mr.P.P.Kakade, Government Pleader a/w
Mr.B.V.Samant, AGP for State-Respondent
Nos.1 to 7.

Mrs.Anamika Malhotra for Respondent
No.8.

Mr.Sharad V. Dalvi, Under Secretary,
Tribal Development Department,
Mantralaya present.

Mr.V.G.Tambe, Assistant Director, DTE,
Mumbai present.

Mr.Sundar Bulani, OSD, DTE, Mumbai
present.

CORAM :- S. C. DHARMADHIKARI &
G.S.PATEL, JJ.

DATE :- AUGUST 8, 2019

P.C. :-

1. This petition concerns the pending scholarship amounts
and which have to be disbursed to the petitioner before us.

2. It is stated that the Vimukta Jatis and Nomadic Tribes (Vimukta Jatis and Bhatkya Jamatis) and the Department of Tribal Development, Government of Maharashtra are the concerned departments.

3. The Directors and Commissioners in these two Departments have certified before us and which certification also gets support from the communication addressed to Mr.Kakade, the learned Government Pleader, that the balance amount due from the Director of the Vimukta Jati and Nomadic Tribes Department is Rs.70,59,920/-. It is agreed that a sum of Rs.1,24,39,075/- is already deposited in this Court.

4. Insofar as the Tribal Development Department is concerned, the Additional Commissioner, Tribal Department, Nashik has stated that a sum of Rs.7,36,255/- out of the deposited amount in this Court is due and payable.

5. The petitioner's advocate Mr.Nalawade, has instructions, to say that this is not the accurate amount and it is Rs.9,64,959/-.

6. However, after some discussion and on instructions from the representative of the petitioner, who is present in Court, Mr.Nalawade says that the petitioner would be happy to accept Rs.7,36,255/- insofar as the Tribal Development Department is

concerned, and the petitioner would continue the claims as against these two departments in independent proceedings.

7. We, therefore, direct that the Registrar (Judicial), on the two representatives of the Departments and the petitioner remaining present and producing an authenticated copy of this order, shall allow withdrawal of a sum of Rs.70,59,920/- from the Vimukta Jati and Nomadic Tribes Department and a sum of Rs.7,36,255/- from the Tribal Development Department. In the presence of these two representatives and the petitioner's representative, the amount be handed over by the Registrar (Judicial).

8. Mr.Nalawade, on further instructions, says that if the Government has deposited, through these Departments/Commissioners, any sum over and above these amounts, then, the petitioner would have no objection to them being refunded with accrued interest to these Departments.

9. Zilla Parishad, Nashik, however, does not say that the sum of Rs.41,63,825/- claimed by the petitioner is due and payable. There is a dispute in regard thereto according to this Zilla Parishad, Nashik.

10. After taking instructions from the petitioner's representative, Mr.Nalawade says that the petitioner is not averse to appearing before the Chief Executive Officer of the Zilla Parishad, Nashik and produce before him such proofs, as are permissible in law in order to claim this amount. Zilla Parishad, Nashik can prove to the contrary by producing the official records.

11. The petitioner to appear before the Chief Executive Officer on 20th August, 2019. The Chief Executive Officer should, within two weeks from the date of appearance of the petitioner before him, render his decision on the amount due and payable.

12. We keep open all contentions of the petitioner insofar as this claim against the Zilla Parishad, Nashik. Equally, when we dispose of this writ petition, we do not say that the petitioner has accepted the amounts paid over to them in full and final settlement of its claim. It can, by appropriate proceedings, pursue its pending claims with the concerned Departments.

13. Needless to clarify that when this order was passed, we are aware of the stand taken by the Zilla Parishad, Nashik and Mrs.Malhotra says that the Zilla Parishad, Nashik has deposited Rs.59,98,542/- in this Court and that amount with accrued

interest is much above than the claim of the petitioner of Rs.41,63,825/-. We presently do not allow the Zilla Parishad, Nashik to withdraw any sums deposited in this Court. If dispute is settled by the Chief Executive Officer, parties are at liberty to apply for the withdrawal.

14. The calculations and the chart so also the communication tendered by the learned Government Pleader Mr.Kakade are taken on record and marked as "X (collectively)" for identification.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)