

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

WRIT PETITION NO.634 OF 2016

Maharashtra Federation of
Principal's Associations
of Non-Government Colleges,
Having its office at Marathwada
Mitra Mandal College of Commerce,
Near Deccan Gymkhana, Pune,
Through its President,
Nandkumar Shrirangrao Nikam

..Petitioners

Versus

The State of Maharashtra and others

..Respondents

Mr. Uday Warunjikar, Advocate for the Petitioner.
Mr. M. M. Pabale, AGP for the Respondent - State.

**CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATE : 6th SEPTEMBER, 2019

P.C.

- 1] Heard learned counsel for the parties.
- 2] Marching under the banner of the Petitioner are the Principals of Non-Government Colleges recognized by the Education Department of the State Government. The Colleges of which the members of the Petitioners are the Principals are affiliated to various

Universities in the State of Maharashtra.

3] When the 5th Pay Commission's recommendations were accepted and implemented all over India, University Grants Commission (UGC) had directed that as regards the Principals of Colleges who were placed in the pay scale ₹ 16400 – 22400, the entry level basic pay would be fixed at ₹ 17,300/-. Reason thereof we would note at the appropriate stage of our decision. The directive of UGC was implemented.

4] Undisputed position is that Principals of Colleges recruited when recommendations of the 5th Pay Commission were implemented were given entry level basic pay of ₹ 17,300/- notwithstanding the pay-scale being ₹ 16,400 – 22,400.

5] As is known, the 6th Pay Commission replaced pay-scales with pay bands with grade pay. The undisputed position is that the posts of Principals of Colleges were placed in the pay band ₹ 37,400 – 67,000 with grade pay of ₹ 10,000/-. On 30.06.2010 the UGC notified the revised norms for appointing Principals and stipulated that to be appointed as a Principal, Master's Degree with at least 55% marks from a recognized University, a Ph.D. Degree with evidence of published work and research guidance would be the necessary academic qualifications. Experience stipulated was in the capacity as Associate Professor/Professor for 15 years minimum Academic Performance Indicator based Performance Appraisal having minimum

score as stipulated in Appendix III was also provided for. In view of the fact that the academic and experience norms were made higher, on the issue of initial pay, notwithstanding the Principal being placed in the pay band ₹ 37,400 - 67,000 it was provided that entry level pay would be ₹ 43,000 + the grade pay.

6] The dispute centers on this recommendation of the UGC.

7] In the State of Maharashtra, the State Government agreed to implement all the recommendations of the UGC's sans recommendation of placing Principals at entry level with pay fixed at ₹ 43,000/-. The effect thereof is that at entry level the Principals are paid ₹ 37,400/-.

8] The only defence of the State is financial implication.

9] This is not a defence justified in law.

10] As noted above, the UGC norms lay emphasis on higher academic qualifications, length of service as Professor/Associate Professor, research papers and above all minimum API score.

11] Service jurisprudence recognizes that persons with more experience and higher academic qualifications should be placed in the appropriate pay-scale or pay band with increments given while fixing salary at the entry level.

12] The State Government cannot accept the UGC recommendations vis-a-vis the norms prescribed for higher educational qualifications, more experience and more stringent appraisal in the form of API scores and reject the complimentary part of higher wages. The action/decision is obviously arbitrary.

13] We dispose of the Petition issuing a mandamus that the Principals in Colleges would be paid salary as prescribed by the UGC norms i.e. the minimum basic pay at entry level of Principal would be ₹ 43,000/- and not ₹ 37,400/-

14] The decision would be treated as a decision in rem and the arrears would be paid to the Principals who may not even be the members of the Petitioner. The arrears would be paid within six months from today failing which the arrears would bear simple interest @ 8% p.a. reckoned from six months hereinafter till the date payment is made.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE