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

901 WRIT PETITION NO.1813 OF 2021

**ARVIND PANDURANG JOSHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. P.S. Brahme, Advocate for petitioner;
Mr. S.G. Karlekar, A.G.P. for respondent nos.1 to 3;
Mr A.B. Girase, Advocate holding for Mr Y.B. Bolkar, Advocate for
respondent no.4;
Mr S.P. Shah, Advocate for respondent no.5

**CORAM : DIPANKAR DATTA, CJ
AND
MANGESH S. PATIL, J.**

DATE : September 30, 2021

PC:

1. Petitioner retired on superannuation on 31st May 2019 as Principal of Dhule Education Society's College of Education. He is aggrieved because his pensionary benefits have not been released.

2. We find that the petitioner having claimed retiral benefits, the Joint Director, Higher Education, Jalgaon Division, Jalgaon, Government of Maharashtra, by his communication dated 14th October 2020 called upon the petitioner to submit an explanation regarding his entitlement to pensionary benefits. The reasons for which the Joint Director, *prima facie*, appear to have expressed doubt with regard to the petitioner's entitlement to pension are : (i) he had served as Lecturer in Navalbhau Pratisthan College of Education, Amalner between 8th July 1991 and 14th July 1993

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but since such college is an unaided college, the service rendered therein is not to be counted for the purpose of computation of pensionary benefits; and (ii) in terms of Government Resolution dated 23rd October 1992, the petitioner has not passed the National Eligibility Test/State Eligibility Test.

3. This writ petition was presented by the petitioner soon after receiving the communication dated 14th October 2020 whereupon notice was issued to the parties and the pleadings have been exchanged.

4. However, we are of the considered opinion that the petitioner's claim for pensionary benefits not having been rejected by the Joint Director, the writ petition is premature. We feel that, in the interest of justice, it would be appropriate for us to direct the Joint Director to take a final decision on the petitioner's entitlement to pensionary benefits in accordance with law, upon granting the petitioner, the management of the college as well as the university [to which Dhule Education Society's College of Education is affiliated] reasonable opportunity of hearing, as early as possible but positively within six weeks of receipt of a copy of this order.

5. We leave it open to the petitioner as well as the college and the university to place such materials before the Joint Director as would be necessary for facilitating a proper decision on the question of the petitioner's entitlement to pensionary benefits. All contentions are left open.

6. Should the petitioner be entitled to pensionary benefits, no time shall be wasted in releasing the same in his favour. On the contrary, in the unlikely event of the petitioner not being found entitled to pensionary

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benefits, the Joint Director shall pass a reasoned order and communicate the same to the petitioner.

7. The writ petition, accordingly, stands disposed of. No costs.

(MANGESH S. PATIL, J.)

(CHIEF JUSTICE)

amj