

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

WRIT PETITION NO.4853 OF 2021

**AJAY GUJABA JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

The Petitioner in person.

AGP for Respondents 1 and 2 : Shri S.G. Sangle

Advocate for Respondents 3 and 4 : Shri Kadam Vikram S.

...

**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 15th December, 2022

Per Court :-

1. The petitioner initially has put forth prayer clauses B and C as under :-

“B) By issuing a writ of mandamus, orders, directions or any other appropriate writ in the like nature, Respondent Nos.3 and 4 may kindly be directed to release the salary of the petitioner from May 2018 to December, 2018 and to pay salary from January-2020 onwards regularly;

C) Pending hearing and final disposal of this writ petition, the respondents be directed to pay the outstanding salary to the petitioner with immediately effect and for that purpose, issue necessary orders.”

2. After this Court granted leave to amend, the petitioner has put forth prayer clauses B-1, C-1, C-2 and C-3 as

under :-

- “B-1) By issue of appropriate writ, order or direction, the respondent No.3 and 4 be directed to pay the outstanding salary with interest, salary of days of illegal breaks given at that time, salary of illegal without pay days and salary of illegal decrease days of Summer and Winter vacations from 2010 to till today with interest to the petitioner and further the cost of the petition be awarded.*
- C-1) That pending hearing and final disposal of this Writ Petition, the respondent No.3 and 4 be directed to pay the outstanding salary as per sixth pay and seventh pay with AGP with interest, salary of days of illegal breaks given at that time, salary of illegal without pay days and salary of illegal decrease days of Summer and Winter vacations from 2010 to till today with interest to the petitioner, within specified period.*
- C-2) The pending hearing and final disposal of this Writ Petition, the respondent No.3 and 4 be directed to pay monthly salary to the petitioner or in the alternate, the respondents be directed to deposit the monthly salary of petitioner to official salary bank account of petitioner from the month of Writ Petition submitted i.e. March 2021 and submit details in this Hon’ble High Court.*
- C-3) That pending hearing and final disposal of this Writ Petition, the respondent No.3 and 4 be directed to pay the monthly salary of the petitioner w.e.f. 01.01.2020 till February 2022 or the same be ordered to be deposited before this Hon’ble Court within specified period.”*

3. When this Court issued notice on 18.03.2021, it was recorded that the petitioner seeks payment of unpaid wages of salary from May, 2018 to December, 2018.

4. On 06.12.2022, after hearing the petitioner, we had

made our observations in paragraphs 3 to 5 as under :-

- “3. *The petitioner is an approved faculty member in the respondent No.4 college at Shrigonda, District Ahmednagar. The grievance is as regards unpaid salaries and some issue pertaining to alleged threats to the petitioner due to which he is not reporting for duties after the Covid period.*
4. *Leave to add the present address of the petitioner in the cause title.*
5. *Mr.Kadam, the learned advocate representing the management and the college graciously submitted that he would take instructions from the college authorities and pin-point the issue between the petitioner and the college. He would make an effort to find a resolution to the dispute before Court.”*

5. The learned advocate representing respondent Nos.3 and 4/ Private Educational Institution, has placed on record an affidavit in reply dated 15.12.2022.

6. We have perused the said reply and we find that there are host of disputed issues in between the petitioner and the private management.

7. The petitioner now contends that he has not been paid proper salary from 2010 till today. He claims that the outstanding dues are Rs.90,85,628/-.

8. The learned advocate for the respondents/ Management submits that the outstanding salary of the petitioner is for the period June, 2018 to December, 2018 and January, 2020 till March, 2020. Taking into account the pay difference as

per the sixth pay and seventh pay commission recommendations, the dues are Rs.3,13,276/-. Two cheques bearing Nos.158140 and 158141, drawn on the Union Bank of India, Kasthi Branch, Ahmednagar, for amounts of Rs.2,52,916/- and Rs.60,360/-, respectively, both dated 13.12.2022 in the name of the petitioner, are handed over to the petitioner in the presence of the Court and the learned counsel. Photostat copies of the said two cheques are taken on record and marked as “X-1” and “X-2” for identification. The petitioner has accepted the said cheques without prejudice to his rights and claims against the Management.

9. It calls for no debate that this Court should not issue a Writ of Mandamus against a private institution unless the fundamental rights of the petitioner are involved. We cannot dispute that the claim of unpaid wages can be gone into. However, if there are disputed issues as regards the quantum of payment, pay fixation, difference of pay in the light of the sixth pay and seventh pay commission recommendations and if such issues are accompanied by several other disputed questions, this Court should not get into those issues and initiate an enquiry in the matter as if this Court has jurisdiction to deal with such disputed issues.

10. The Director of Technical Education, Maharashtra State, is the authority, which is the nodal body. The dispute raised by the petitioner can be addressed to the said authority and after considering the rival contentions, the said authority can draw statistical conclusions as regards the unpaid wages of the petitioner from the date he claims such deficit in payment.

11. Insofar as the claim of the petitioner that he desires to join respondent No.4/Institution since he is on the approved faculty, we called upon him to report for duties. Initially, the petitioner stated that as there is a threat to his life, he would join duties and perform his functions, online. We would not deal with this issue since it is for the Management to consider.

12. The learned advocate for the Management submits that the faculty members are physically present in the Institution and are physically conducting classes.

13. We leave this issue to be resolved by the petitioner and the Management.

14. The petitioner keeps on repeating that he has threats to his life and he has lodged complaints with the Offices of the Superintendents of Police at Aurangabad and Ahmednagar. His grievance is that these complaints are not looked into. We do not have to advise the petitioner. He has a remedy available in law to

deal with this issue.

15. In view of the above, this Writ Petition is disposed off with the following directions:-

- (a) We permit the petitioner to tender a comprehensive representation consisting of all his grievances against the Management, including non payment of wages and address the said representation to respondent No.2/Director of Technical Education. Let such representation reach respondent No.2 on or before 05.01.2023.
- (b) Respondent No.2/Director of Technical Education shall deal with each of the grievances of the petitioner and seek response from respondent Nos.3 and 4.
- (c) After giving a reasonable opportunity of hearing to the parties, respondent No.2 shall draw a conclusion on each of the grievances of the petitioner and shall issue appropriate directions as are permissible in law. Let this exercise be completed on or before 28.02.2023.
- (d) Respondent No.2 is at liberty to indulge in correspondence for the hearing of the representation, on email addresses of the petitioner as well as

respondent Nos.3 and 4, which are as under:-

Petitioner's email ID :- ajayjadhav.pp@gmail.com

Email ID of Prof.Anil S. Pund for respondent Nos.3 and 4 :-

dr.asp_2011@rediffmail.com

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)