

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

902 WRIT PETITION NO.4876 OF 2022

**DR ASHOK MANGESH CHAVAN
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS**

...

Advocate for Petitioner : Mr.Karad Atul M.
AGP for Respondents-State : Mr. S.B.Yawalkar
Advocate for Respondent Nos. 2 & 3 : Mr. S.S.Thombare

...

**CORAM : RAVINDRA V. GHUGE, &
ANIL L. PANSARE, JJ.**

DATE : 15.06.2022.

PER COURT :

1. By this petition, the petitioner has putforth prayer
clauses B, C and D as under :

B) By issuing appropriate Writ or directions the impugned Order dated 31.3.2022 passed by the Hon'ble Vice-Chancellor of Dr. Babasaheb Ambedkar Maharashtra University, Aurangabad directing recovery of Rs. 1.00 Lakh per month from salary of the petitioner which has been communicated to the Petitioner by the Registrar of the University be quashed and set aside;

C) By issuing appropriate Writ or directions the Respondents-authorities be directed not to deduct any amount from salary of the Petitioner against the impugned recovery of Rs. 17.00 Lakhs ;

D) By issuing appropriate Writ or directions the Respondents- authorities be directed to forth with refund the amount already deducted from salary of the Petitioner against the impugned recovery of Rs. 17.00 Lakhs ;

2. Considering the prayers, we are passing an order after a prolonged hearing on 14th June, 2022 and in the light of the assistance rendered by Mr. Thombare, the learned Advocate, who appeared on behalf of the University. We are not required to go into the contentious issues raised by the petitioner.

3. It needs mention that the petitioner has been directed to deposit Rs. 1,00,000/- p.m. from his monthly salary, in order to ensure the recovery of Rs. 17,00,000/-, which is alleged to have been misappropriated by him.

4. The learned Advocate for the petitioner submits that though the direct allegation of misappropriation is not levelled upon him, it is alleged by the University that the petitioner has not tendered the proper accounts/settlement, after having acquired Rs. 17,00,000/- as advance.

5. The petitioner was appointed as the Controller of Examinations in the Dr. Babasaheb Ambedkar Marathwada University, Aurangabad (hereinafter referred to as the 'University'), on 21.10.2008. His tenure lasted till 08.08.2014.

6. The Vice-Chancellor of the University, granted approval

for making payment to the Confidential Printer as per the policy of the each University, for printing the question papers of the examination in the various faculties. Rs. 17,00,000/- was the third installment to be paid to the Confidential Printer. The last installment was 10% of the total amount. The petitioner was granted a demand draft for making such payment for an amount of Rs. 17,00,000/-. This is an undisputed position. The said amount was shown as an advance payment, made to the petitioner, who was expected to tender the accounts of expenses. It is equally undisputed that the confidentiality of the identity of the Confidential Printer is to be maintained strictly.

7. The Proprietor of the Confidential Printer was Mr. Madhukar Kapur. The petitioner contends that the cheque of Rs. 17,00,000/- was deposited with the Bank of Maharashtra, in the personal account of the petitioner and accordingly, the Bank issued a demand draft on 13.06.2014 for an amount of Rs. 17,00,000/-, in the name of Mr. Madhukar Kapur. Mr. Kapur issued an acknowledgment in the token of receiving an amount vide demand draft, on 03.09.2014, when the petitioner was already appointed as the Controller of Examination with the Savitribai Phule Pune University.

8. The petitioner, being called upon to submit the account,

in order to settle the advances of Rs. 17,00,000/- received by him, was expected to do so immediately after the examination is over. According to the University, he failed to settle the advance, when he was called upon to do so. He submitted the settlement of advance in response to communications dated 02.12.2019 and 28.01.2021, from the Finance and Accounts Department of the University. The petitioner submits that he had already tendered the settlement of the advance amount. The petitioner canvases on the basis of documents at pages 46 to 48 of the petition paper book. He submitted that the settlement of accounts for an amount of Rs. 17,00,000/- by the document dated 26.09.2019 is at page No. 46. The details of expenditure are at page No. 47 and a copy of the receipt issued by Mr. Madhukar Kapur dated 03.09.2014 is at page No.48.

9. Since the petitioner was directed to deposit the amount of Rs.17,00,000/-, he approached the Grievance Committee of the University by preferring complaint No. 37 of 2021. He was aggrieved by the deductions commenced at Rs. 1,00,000/- per month from his salary and hence he lodged a complaint before the Grievance Committee.

10. Section 79 of the Maharashtra Public Universities Act, 2016, (hereinafter referred to as the 'Act') which defines the powers of

the Grievance Committee reads as under :

“79.(1) There shall be a Grievances Committee in each university to deal with all types of grievances; except grievances against the State Government including its officials, of teachers and other employees of the university, affiliated and autonomous colleges and recognized institutions, other than those managed and maintained by the State Government, Central Government or a local authority; which are not within the jurisdiction of the University and College Tribunal.

(2) The university shall establish a Grievances Redressal Cell headed by the officer of the university not below the rank of the Assistant Registrar for providing administrative assistance to the Grievances Committee.

(3) The Grievances Committee shall consist of the following members, namely :-

- (a) Retired Judge not below the rank of the District Judge, nominated by the Vice- Chancellor - Chairperson ;
- (b) One Dean, nominated by the Vice-Chancellor;
- (c) Chancellor's nominee on the Management Council;
- (d) Registrar;
- (e) One teacher belonging to Scheduled Castes or Scheduled Tribes or De-notified Tribes (Vimukta Jatis) or Nomadic Tribes or Other Backward Classes and one non-teaching employee nominated by the Senate from amongst its members;
- (f) Law Officer of the University-Member - Secretary.

(4) The nomination of a retired Judge as the Chairperson and of a Dean as the member of the Grievances Committee, shall be for such period, not exceeding three years in aggregate, as the Vice-Chancellor may from time to time, in each case decide.

(5) The retired Judge nominated as the Chairperson of the Grievances Committee shall be entitled for remuneration and conveyance charges, as may be

determined by the university.
Grievances

(6) The Grievances Committee shall hear, settle and decide grievances as per the law, as far as may be practicable, within three months, from the date of filing of the complaint.

(7) It shall be lawful for the Grievances Committee to entertain and decide grievances or complaints relating to service of the employees, which are not within the jurisdiction of the Tribunal, after giving reasonable opportunity of being heard to both the parties.”

11. The petitioner is before this Court in view of the order passed by the Vice Chancellor dated 31.03.2022, in which it has been held that an amount of Rs. 17,00,000/- needs to be recovered from the petitioner. He has passed the said order in view of the directions of the Grievance Committee. This controversy before us is in relation to the powers of the Grievance Committee in directing the Vice Chancellor to decide the issue and pass an order.

12. It is obvious from Sub Section 3 of Section 79 of the Act that the Vice Chancellor nominated a retired District Judge as his nominee to be the Chairman of the Grievance Committee and one Dean amongst various Deans of the faculties. There are further nominees on the Committee, who are not relevant for the purpose of deciding this petition.

13. The issue that emerges from this petition is, as to whether the Grievance Committee can issue directions to the Vice Chancellor, to pass a particular order. Sub Section 6 of the Act indicates that it shall hear, settle and decide the grievances as per the law, as far as may be practicable within three months, from the date of the filing of the complaint. Sub Section 7 indicates that it shall be lawful for the Committee to entertain and decide the grievances or complaints relating to the service of the employees, which are not within the jurisdiction of the Tribunal, after giving reasonable opportunity of being heard to both the sides. Sub Section (1) forms a Committee to deal with all types of grievances, except the grievance against the State Government including its officials, teachers and other employees of the university, affiliated autonomous colleges and recognized institutions.

14. The petitioner had therefore raised a grievance before the Committee which was neither directed against the State nor falling within the ambit of Section 81 of the Act, which defines causes of action which are to be considered and adjudicated upon by the University and College Tribunal, under Section 80 of the Act.

15. The impugned order before us is passed by the Vice Chancellor. Sub Section 6 of Section 79, empowers the Committee to

decide the said issue. However, instead of doing so, the Committee referred the matter to the Vice Chancellor, by order dated 04.12.2021. In the said order, some observations have been made below paragraph No. 2, that the petitioner had obtained advances and also incurred expenditure and it would not be proper for the Finance and Accounts Department to recover the amount from him. However, it is directed that the petitioner would submit the details of expenditure before the Vice Chancellor. Hence the Vice Chancellor was requested to take it's own decision by ascertaining the record and pass appropriate orders.

16. The learned Advocate for the University has strenuously canvassed that neither the Committee ever intended to create a picture that it could direct the Vice Chancellor, nor did the Vice Chancellor deal with the matter as if he was subordinate to the Committee. It appears that the Grievance Committee felt that the Vice Chancellor should look into the matter, and directed the petitioner to approach the Vice Chancellor.

17. We find that the Committee probably misunderstood that it could dispose off the complaint without arriving at any decision. The Vice Chancellor considered the case of the petitioner since the petitioner approached him. The petitioner approached the Vice

Chancellor since he was directed by the Committee.

18. We find that Section 79 of the Act was not appropriately looked into and this led to a confusion in the minds of the Grievance Committee members. Section 79 (6) of the Act empowers the Committee to hear and decide the grievances. If there is a settlement, it has an opportunity to settle the issue. There is no scope under Section 79 of the Act for the Committee to abdicate its powers to refer the matter to the Vice Chancellor. Needless to state, the Vice Chancellor is neither subordinate to the Grievance Committee, nor is he bound to consider any instructions or directions given by the Committee, to exercise jurisdiction, on behalf of the Committee.

19. In view of the above, this petition is partly allowed.

The order dated 31.03.2022, passed by the Vice Chancellor of Dr. Babasaheb Ambedkar Maharathwada University, Aurangabad, which was communicated to the petitioner by covering letter dated 31.03.2022, received by him by 08th April, 2022, is quashed and set aside. The complaint No. 37 of 2021 is restored to the Grievance Committee of the Dr. Babasaheb Ambedkar Maharathwada University, Aurangabad, under Section 79 of the Act.

20. The learned Advocate for the petitioner submits that as

an amount of Rs. 1,00,000/- p.m. has been deducted from the salary of the petitioner, an aggregate amount of Rs. 10,00,000/-p.m. has been deducted till today. He prays that the next deduction, which is likely to occur on 01st July, 2022, may be stayed.

21. An amount of Rs. 7,00,000/- was deducted till November 2021. After he approached the Grievance Committee, further deduction was stopped till the Vice Chancellor passed an order dated 31.03.2021. The further deductions will be commenced from 01st July, 2022 onwards.

22. In the light of the above, the petitioner shall appear before the Grievance Committee at 11.00 a.m. on 23rd June, 2022.

The hearing in the matter would be completed by the Grievance Committee, of the Dr. Babasaheb Ambedkar Maharathwada University, Aurangabad, by the end of 24th June, 2022. The Grievance Committee, shall then decide the complaint of the petitioner on it's merits, considering the contentions of the petitioner,

Complainant as well as the explanation of the University and arrive at a conclusion, based on reasons, as to whether the

petitioner is liable to repay the amount from his salary or whether he has properly explained the expenditure of Rs. 17,00,000/-.

23. In the event, the Grievance Committee holds in favour of the petitioner, the amount recovered from his salary till today would be refunded to him, within two months with interest.

(ANIL L. PANSARE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

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