

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

50 WRIT PETITION NO.10170 OF 2022

JAYASHRI SOMNATH DOLAS
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Harsha Raosaheb Lomate.

AGP for Respondent/State: Mrs. R. P. Gaur.

...

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

DATE : 28th November, 2022.

Per Court:

1. The petitioner prays that respondent No.2, a private engineering college, should pay gratuity, which was payable to the husband of the petitioner, who passed away on 21st June, 2021. A writ of mandamus is sought against a private educational institution, which is not within the definition of 'State' under Article 12 of the Constitution of India.

2. The petitioner has not issued any notice for seeking payment of the gratuity, in Form 'I' under Rule 7 of the the Payment of Gratuity (Central) Rules, 1972, which according to her, is due and payable due to the demise of her husband, under the provisions of the Payment of Gratuity Act, 1972.

3. Since the employer of the deceased husband of the petitioner is not 'State' under Article 12 of the Constitution of India, a writ cannot be issued.

4. This petition is, therefore, disposed off.

5. Needless to state, the petitioner is not remediless as she can take recourse to the provisions of the Payment of Gratuity Act, 1972 and initiate a demand notice under Form 'I' of the Payment of Gratuity (Central) Rules, 1972 to the employer and if the employer fails to make the payment, she can approach the Controlling Authority, which is the Labour Court, by preferring an application for seeking payment of gratuity. As the husband of the petitioner has passed away, she would be entitled to take recourse to this remedy.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]

nga