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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 5265 OF 2018

SHIVAJI UNIVERSITY

....PETITIONER

V/s.

SMT. SULABAI SHRIPATI KAMBLE AND ORS

..RESPONDENTS

Mr. Vikram N. Walawalkar Advocate for Petitioner

Mrs. V. S. Nimbalkar AGP for Respondent no. 3

CORAM : NITIN W. SAMBRE, J.

DATE: JUNE 7, 2022.

P.C.:

1) 2nd Labour Court, Kolhapur allowed the Application (IDA) No. 4 of 2008 preferred by Respondent no. 1 employee to which Respondent no. 2 State Government was a party with following directions.

“1) The application is allowed.

2) Both Opponents are directed to pay Rs. 69,745/-(Sixty Nine Thousand Seven Hundred Forty Five only) within two months from today. If opponent no. 2 is not ready to release the grant within that period, it is the responsibility of Opponent no. 1 University to pay said amount to the applicants from his own different funds as per Sec. 102 of the Maharashtra Universities Act, 1994 and then to

recover the said amount from Opponent no. 2 by taking appropriate action.

3) Due amount of applicant shall be paid to him with interest @ 12% per annum from today.”

2) Fact remains that directions were issued to the State Government to release the grants, else Petitioner was directed to pay and recover from the Respondent-State Government.

3) As the grants are not released by Respondent-State, Petitioner-University is under threat of prosecution for breach of order of the Labour Court, moved this Petition seeking directions to State Government to release the amount and comply the order of the Labour Court.

4) Contentions of counsel for the Petitioner-University are, the issue as regards liability of the Respondent-State to release the funds can be inferred from the very operative part of the order of the Labour Court to which State Government was a party. According to him, the State since has not challenged the said order, State is duty bound to release the funds so as to honour the Judgment of the Labour Court. In addition, he has invited attention of this Court to

the order dated 26/06/2018 passed in Writ Petition No. 6015 of 2013 whereby this Court on identical issue has issued directions to the State Government to discharge financial liability as is reflected in the order of the Labour Court. Apart from above, he has also drawn support from the order of the Apex Court in the matter of Special Leave to Appeal (C) No. 3135/2014 decided on 13/01/2017 so as to support the aforesaid arguments.

5) Learned AGP has strenuously urged that liability to honour the Judgment of the Labour Court is primarily that of Petitioner-University as the Respondent-employee was in the employment of the Petitioner-University. According to her, under Section 102 of the Maharashtra Universities Act, certain funds are at the disposal of the Petitioner-University from which Judgment of the Labour Court can be honoured. She would further urge that even otherwise, sufficient grant is released in favour of Petitioner-University and that being so, Petition is liable to be dismissed.

6) I have appreciated the said submissions.

7) Labour Court vide its order dated 04/07/2013 directed that in case if the State fails to release the grant, Petitioner-University shall

pay the same from its own grants which appears to be stand of the Respondent State Government.

8) Before this Court, University has come out with a case that in similar situation, Apex Court so also this Court has issued directions whereby State was directed to release grant so as to honour orders of the Labour Court.

9) Rightly so pointed by Mr. Walawalkar that the issue is squarely covered by order passed by this Court on 26/06/2018 in Writ Petition No. 6015 of 2013 so also in Special Leave to Appeal (Civil) No. 3135 of 2014 and 614/2017.

10) In that view of the matter, objection raised by learned AGP is overruled. Petition as such stands allowed to the extent of Respondent State Government is directed to release the grants so as to facilitate the Petitioner to comply with the order of the Labour Court dated 04/07/2013 in its true letter and spirit. Let the State Government comply with the said order within period of 12 weeks from today.

[NITIN W. SAMBRE, J.]