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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 8338 OF 2015
WITH
INTERIM APPLICATION NO.17586 OF 2022**

Chavhan Rahul Bhagwan and Anr. Petitioners

Vs.

Vidya Prasarak Mandal
Through Its Chairman and Ors. Respondents

WITH

WRIT PETITION (ST.) NO.9651 OF 2022

Vidya Prasarak Mandal's Art and
Commerce Science College Petitioners

Vs.

The Registrar University of
Mumbai and Ors. Respondents

Mr. C.R.Sadasivan a/w Mr.Abdul Karim Mr.Narayana M. Ganguli for
the Petitioners in Writ Petition No.8338/2015 and Respondent nos.3
and 4 in Writ Petition (ST) No.9651/2022

Mr.A.R.Gole for the Petitioners in Writ Petition (ST) No.9651 of
2022

Mr.R.S.Apte, Sr.Advocate, Mr.Girish J. Paryani for the Applicant in
Interim Application No.17586/2022 in Writ Petition No.8338/2015
and for Respondent no.1 in Writ Petition No.8338/2015

Mr.Rui Rodrigues for Respondent no.3 in Writ Petition
No.8338/2015 and for Respondent no.1 in Writ Petition (ST)
No.9651/2022

**CORAM: S.V.GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : AUGUST 24, 2022

P.C.

1 The Petitioners in Writ Petition No.8338 of 2015 are the employees of the Petitioners in Writ Petition (St.) No.9651 of 2022. For the convenience, parties would be referred to as employees and employer.

2 The employees had approached the Grievance Committee for payment of salary as per the pay scale. The Grievance Committee passed order directing employer to pay salary as per the pay scale. Aggrieved thereby, the employer has filed Writ Petition. The employees have also filed Writ Petition seeking implementation of the order of the Grievance Committee of the University.

3 Mr.Apte the learned Senior Advocate for the Petitioner employer submits that the College is in a tribal area. College does not have financial capability to pay salary as per the pay scale. College is unaided. Employees had also at the relevant time accepted the salary paid by the employer. In the year 2012, employees had made representation that amount of Rs.10,000/- per

month is very less and the same ought to be increased to Rs.15,000/- per month. College now is paying Rs.22,000 to the Assistant Professor.

4 The learned Senior Advocate further submits that some of the employees are suspended.

5 The learned Counsel for the employees submit that employer is duty bound to pay salary as per the pay scale. The employer on erroneous premise has suspended the Petitioner employees.

6 There is no dispute that the employees herein are appointed by following due procedure. They are regularly appointed and are not appointed on contractual basis. These employees certainly would be entitled for the salary as per the 6th pay scale in 2012. It appears that letter has been issued by these Petitioner employees making grievance that the salary @ Rs.15,000/- per month be paid to him. Salary was increased to Rs.15,000/- per month. It is submitted that now salary paid is Rs.22,000/- per month.

7 The Apex Court in the matter of *MGM vs. Bhartiya Kamgar Sena*¹ has held that the unaided institution also has to pay salary as

1 (2017) 4 SCC 449

per the pay scale. No distinction is made between employee in aided or unaided division.

8 The contention of Mr.Apte the learned Senior Advocate is that the Grievance Committee did not afford an opportunity to the employer.

9 We have heard Mr.Apte the learned Senior Advocate for employer at length.

10 The G.R. dated 12.08.2009 issued by the State is implemented. It is for implementation of the 6th pay commission payment to the teachers in the institution affiliated to the University.

11 The Petition is filed in the year 2015. The Petitioners employees also had made grievance in 2012 for payment of salary @ Rs.15,000/- per month.

12 The College is in tribal area. It is the contention of the institution that the financial position is weak. Fees from the students is less. We would consider the equity and may not direct payment of salary from 01.06.2006 as per the pay scale. However,

we would direct the employer to pay the salary as per the applicable pay scale from the date of Petition i.e. from 01.08.2015. In case the Petitioner / employees are in service then regular pay scale shall be paid as per the pay scale regularly. The employer institution shall pay arrears within a period of six months. In case if there is dispute with regard to quantum of amount payable towards the arrears as per the pay scale then the parties may approach the Joint Director of Higher Education. The amount already paid shall be adjusted.

13 Both the Writ Petitions are accordingly disposed of.

14 In view thereof, Interim Application does not survive. Same also stand disposed of.

(MADHAV J. JAMDAR,J.)

(S.V. GANGAPURWALA, J.)