

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1859 OF 2006

1. Ajit Narsinha Dande,
aged about 41 years, R/o Plot No. 11,
Rambag Complex, Ramkrishna Nagar,
Deo Nagar, Nagpur,
Tahsil & District Nagpur.
2. Arun Govindrao Padmawar,
aged about 40 years, R/o Moreswar Colony,
Akola, Tq. & District Akola.
3. Milind Madhukarrao Thombre,
aged about 42 years, Near Sathe Bunglow,
Jatharpeth, Akola, Tahsil & District Akola.
4. Girish Gajananrao Galgate,
aged about 40 years, Kela Nagar, Khamgaon,
Taluka Khamgaon, District Buldana.
5. Sanjay Prabhakarrao Kulkarni,
aged about 41 years, Kaulkhed,
New Khetan Nagar, Akola,
Tahsil & District Akola.

PETITIONERS

.....VERSUS.....

1. The State of Maharashtra,
through its Secretary,
Department of Higher & Technical Education,
Mantralaya, Mumbai – 32.
2. The Director of Technical Education,
3 Maha Palika Marg, Mumbai.
3. The Joint Director of Technical Education,
Maharashtra State, Regional Office,
Government Polytechnic Campus, Gadge Nagar, Amravati,
Tashil & District Amravati.
4. Homoeopathic Education Society,
through its President, Akot Road,
Akola, Tahsil & District Akola.
5. The Governing Body, Homoeopathic Education Society,
through its President, Akot Road, Akola,

Tahsil & District Akola.

6. Dr. Tilakraj Govindrao Sarnaik,
President (As per Society resolution
dated 25/12/2019 & 18/01/2020),
At post Gorakshan Road Akola,
Tq. & Dist. Akola.

7. Dr. Jaiprakash Mahabirlal Jaiswal,
Secretary (As per Society resolution
dated 25/12/2019 & 18/01/2020),
At post Satav Chowk Jatharpeth,
Akola, Tq. & Dist. Akola.

Amended as per Court's
order dated 12/02/2020.

8. Punjab National Bank,
through its Branch Manager,
Shravgi Tower Tajnapeth, Akola,
Tahsil & District Akola.

RESPONDENTS

Shri A.R. Patil, Advocate for the petitioners.
Ms. N.P. Mehta, A.G.P. for respondent Nos. 1 to 3/ State.
Shri K. Deogade, Advocate for respondent No.6.

CORAM : A.S. CHANDURKAR AND URMILA JOSHI - PHALKE, JJ.

DATE : 16TH JUNE, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

The petitioners herein, who were employed as 'Lecturers' at the Institute of Polytechnic that is run by respondent Nos. 4 and 5, seek a direction to be issued to respondent Nos. 4 to 7 to pay them arrears of salary in terms of the order dated 23/11/2005.

2. It is the case of the petitioners that initially, the petitioners had filed a Writ Petition bearing No.2667/1999 claiming that they were entitled to be paid salary on the pay-scales as were applicable to the employees governed by the provisions of the Maharashtra Employees of

Private Schools (Conditions of Service) Regulation Act, 1977 (for short “the Act of 1977”) and the Rules framed thereunder. This Court by judgment dated 12/02/2004 recorded a finding that the petitioners were governed by the provisions of the Act of 1977 in view of the judgment of the Full Bench in *2003 (2) Mh.L.J. 316 (Anil Dattatraya Ade Vs. Presiding Officer, School Tribunal, Amravati Region, Amravati and others)*. The petitioners were thereafter granted liberty to approach the appropriate authority for determining their entitlement in accordance with the said observations. Pursuant thereto, the Joint Director of Technical Education, Amravati on 23/11/2005 determined the amount of arrears to which the petitioners were entitled. It is the grievance of the petitioners that despite such determination, respondent Nos. 4 to 7 have failed to pay them the said arrears of salary. Hence, the present Writ Petition.

3. Shri Patil, learned Counsel for the petitioners, submitted that the adjudication by the Joint Director of Technical Education on 23/11/2005 was the subject matter of challenge in Writ Petition No. 5691/2006 by the Management. That Writ Petition was came to be dismissed for want of prosecution pursuant to the order dated 09/09/2009. As a result, the adjudication dated 23/11/2005 attained finality. There was no reason for the said respondents not to comply with those directions. It was thus prayed that the petitioners were entitled for

the relief as prayed for.

4. Ms. Mehta, learned Assistant Government Pleader for respondent Nos. 1 to 3, referred to the return filed by respondent No.3 in which it has been stated that pursuant to the determination of the amount of arrears by the Joint Director of Technical Education, it was for the management to comply with the same.

Shri Deogade, learned Counsel for respondent No.6 submitted that the respondent No.6 has not provided proper instructions though the same had been sought from the said respondent.

5. Having heard the learned Counsel and having perused the documents on record, it becomes clear that the Joint Director of Technical Education on 23/11/2005 pursuant to the liberty granted in Writ Petition No. 2667/1999 determined the amount of arrears to which the petitioners were entitled. The challenge to that adjudication was not successful as Writ Petition No. 5691/2006 came to be dismissed for want of prosecution. Hence, there is no legal impediment in granting the petitioners the directions as prayed for by them.

6. In view of aforesaid, respondent Nos. 4 and 5 through its

office bearers shall comply with the order dated 23/11/2005 which determines the amount of arrears to which the petitioners are entitled. Respondent Nos. 4 and 5 along with its office bearers shall pay the aforesaid arrears of the petitioners within a period of three months from today failing which the amount of arrears shall carry interest @ 6% per annum on expiry of period of three months till realization.

7. Rule is made absolute in the aforesaid terms with no order as to costs.

(URMILA JOSHI – PHALKE, J.)

(A.S. CHANDURKAR, J.)

SUMIT