

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

WRIT PETITION NO. 2296 OF 2022

(Vithobaji Aamle Aadiwasi Shikshan Sanstha, Bhramapuri ..vs.. The Grievance Committee, Gondwana University and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.M. Sudame, Counsel for the petitioner.

CORAM : ROHIT B. DEO, J.

DATED : 29-04-2022

This petition assails the judgment dated 16-3-2019 rendered by the Grievance Committee constituted under Section 79 of the Maharashtra Public Universities Act, 2016 (Act) whereby the petitioner-management is directed to pay the unpaid salary of the employees who are impleaded as respondents 3 to 8 herein.

2. The order impugned is passed on 16-3-2019 and the petition is filed on 22-4-2022. While Mr. A.M. Sudame would submit that the delay of more than three years in approaching the High Court is of no significance in view of the directions issued by the Hon'ble Supreme Court considering the Covid-19 pandemic, the delay cannot be brushed aside as innocuous, as would be discussed at a later stage in the order.

3. Before I advert to the merits, it may be recorded that when the petition was called out in the first session,

in view of the strenuous submission of Mr. A.M. Sudame that the Grievance Committee could not have directed payment of wages from 2013 till 2018 and was required to confine the relief to the preceding three years, I asked Mr. A.M. Sudame whether the petitioner is willing to deposit at least that part of the liability towards payment of unpaid salary which pertains to the period of three years preceding the filing of the complaint. The hearing was adjourned post recess to enable Mr. A.M. Sudame to seek instructions. On the basis of instructions received, Mr. A.M. Sadame states that the petitioner is not in a position to deposit any amount.

4. I have given anxious consideration to the pleadings in the petition. I am satisfied that it is not even the case of the petitioner-management that the employees have been paid their salary in accordance with the scales prescribed. The petition contains rambling narrative which is exculpatory and what I could understand from the averments in the petition, is that the petitioner claims to be a self-financing institute dependent on the efforts taken by the Principal to ensure sufficient admissions as would generate revenue to cater to the salary and other expenses. The petitioner appears to suggest that the Principal was found wanting in the discharge of responsibilities, an important part of which was to garner sufficient students and revenue.

5. The petitioner claims that the employees

approached the Grievance Committee and it was the Principal who appeared and admitted the liability to pay salary/salaries. Notably, it is not even the case of the petitioner that the notice of the proceedings was not received by the management. *Au contraire*, in response to a specific query, Mr. A.M. Sudame informs that the management had authorised the Principal to represent them in the proceedings.

6. Be that as it may, the management did not implement the directions issued by the Grievance Committee and Writ Petition 7862/2019 and Writ Petition 7898/2019 were preferred by the Principal and Dr. Sanjay Prabhakar Harshe respectively seeking implementation of the directions of the Grievance Committee. The Division Bench noted the submission of the management that the Principal acted hand in gloves with the employees. The Division Bench observed that the order of the Grievance Committee has assumed finality. It is probably in view of such observation that this petition is preferred after more than three years. The issue is not whether the petition is unduly delayed or whether the directions issued by the Hon'ble Supreme Court come into play, the issue is of conduct of the petitioner.

7. Mr. A.M. Sudame would submit that the Grievance Committee erred in directing payment of salary, the recovery of which was barred by limitation. I

am not inclined to accept the said submission for reasons more than one. Whether non-payment of salary attracts the law of limitation *stricto sensu* is an issue which the Grievance Committee was not called upon to consider and as a fact, the claim of the employees was admitted, albeit by the Principal. But then, the learned Counsel Mr. A.M. Sudame has stated that the Principal was authorised by the management to represent them in the proceedings. The said statement is qualified by a rider that contrary to instructions the Principal filed a reply of admission. I note that the Grievance Committee has recorded in paragraph 5 that the management placed on record its response, which is signed by the President in which it is mentioned that it is the duty of the Principal to collect the fees and to pay the salary of the staff. The management has obviously not denied the liability as such although the management has stated that even the scholarship amount is not received and that the matter ought to have been pursued by the Principal. The Grievance Committee has noted that in the reply filed under the signature of the President there is absolutely no denial or then rebuttal of the claim of the employees that the salaries are unpaid. It is rightly noted that the salary of the staff cannot be withheld on the ground of financial constraints.

8. Considering the circumstances of the case and the conduct of the petitioner-management noted supra, of outrightly refusing to deposit even part of the liability,

albeit on the ground of financial inability, I see no reason to exercise writ jurisdiction.

9. The petition is dismissed.

JUDGE

adgokar