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

**905 CIVIL APPLICATION NO.8583 OF 2023**
IN
REVIEW APPLICATION (STAMP) 18610 OF 2023
IN
WRIT PETITION NO. 2183 OF 2023

1. State of Maharashtra,
Through Principal Secretary Higher
and Technical Education Department,
Mantralaya, Mumbai-32.

2. The Director,
Directorate of Technical Education, Mumbai.

3. Joint Director of Technical
Education, Regional Office, Nasik Road, Nasik.

4. Joint Director of Technical Education,
Regional Office, Aurangabad. **… Applicants**

***Versus***

1. Dr. Sudhir Madhukar Vadvalkar.

2. Shashikant Nathulal Sharma.

3. Shrimati Sharad Chandrika Patil.

4. Nanded College of Pharmacy (Polytechnic)
Shyam Nagar, Nanded,
Through its Principal. **… Respondents**

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Mr. P. S. Patil, AGP for the Applicants.
Mr. S. S. Bora, Advocate for Respondent No.1 & 2.
Mr. B. R. Warma, Advocate for Respondent No.3.
Mr. S. S. Rathi, Advocate for Respondent No.4.

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

DATE : 31st August, 2023.

**Per Court:**

1. On 13th July, 2023, we had passed an order indicating to the learned Advocates that as the delay is minor, we would be condoning the delay and hearing the Review Application today, for which a Special Bench has been constituted.

2. In view of the above, **the Civil Application seeking condonation of delay is allowed.**

3. We have considered the strenuous submissions of the learned AGP on behalf of the State and the learned Advocate on behalf of the Respondents, who are the original Petitioners.

4. The learned AGP has formulated the following grounds in the Review Application:-

> "I) That, the order dated 27.2.2023 passed by this Hon'ble Court to the extent of award of 5% interest on the unpaid amount of salaries of the respondents/petitioners is based on the misrepresented facts at the behest of the respondents/original petitioners and therefore the same is required to be reviewed in the interest of justice.

II) That, the respondent No.1 misrepresented the facts and further suppressed the material facts from this Hon'ble Court and therefore secured the order dated 27.2.2023 from this Hon'ble High court which requires to be reviewed.

III) That, the respondent Nos. 1 and 2/Petitioners have misled this Hon'ble Court that the Institute is aided 100% grants. However, the Government is releasing 90% pay and allowances of the employees of the aided Colleges as per the G.R. 1978 and remaining 10% is to be released/paid at the Management level only.

IV) I say and submit that the Government took decision vide GR dated 21 August 2015 thereby implemented THE SEVARTH PRANALY system for disbursing payment of grants in aid to the non-Government Engineering, Technical and Technological Colleges and Polytechnics and other technical Institutions in the State salaries of employees of aided Institutions which are receiving 90% grants from the Government. In Paragraph No. 10 of the said GR it provides that the Government would disburse 90% of the salary through the THE Sevarth Portal and for the remaining 10% of the Grant, necessary action may be taken at the Institution level.

V) The petitioners submit that the present respondent No. 1 was drawing and disbursing authority of the College. The respondent No. 1 did not submit the proposal for arrears of salary on SEVARTH PRANALY during the year 2015-16 and was demanding 100% grants which was contrary to the policy decision of the Government. Whereas the present respondent No. 2 pending salary bill if any was required to be submitted by the concerned Principal of the College through SEVARTH PRANALY to the extent of 90% in terms of the decision of the Government. However, instead of instructions frequently by the office of petitioners through letters and telephonic talk to submit the revised bill to the extent of 90%, the respondents/petitioners did not submit the revised bills during the year 2015-16. However, the respondents/petitioners were demanding 100% grants which was unwarranted and against the policy decision of the Government.

VI) The petitioners submit that the respondent/petitioner No.1 was himself drawing and disbursing authority and therefore he ought to be submitted the bill to the extent of 90% and remaining 10% is to be paid by the Management. In the case of respondent No. 2 the concerned Principal being Drawing and disbursing authority ought to have submitted the bill through SEVARTH Pranaly. However instead of submitting the bill through SEVARTH Pranaly they were demanding 100% salary grants which resulted delay in making payment. The delay caused is purely because of the fault of the respondents/petitioners. There was no fault of the petitioners/respondents and hence question of grant of 5% interest on the due payment does not arise. Of this ground only the order passed by this Hon'ble Court to the extent of award of 5% interest on unpaid salaries of the respondents/petitioners is deserves to be reviewed.

VII) The respondents No.1 and 2 raised the issue of unpaid salaries of the year 2015-2016 after a period of 08 years i.e. in the year 2023. The delay is exorbitant and no sufficient satisfactory and cogent reasons for filling Petition has not been explained and on this count the petition should have been dismissed. Actually the Respondents/ Management are solely responsible for the delay caused.

VIII) The petitioners submit that at the admission stage only this Hon’ble Court has passed order under review and therefore the facts could not be brought to the kind notice of this Hon’ble Court and hence the present review petition is being filed.

IX) That, so also, the respondent No. 1 and 2 misrepresented and misconceived the facts to the extent of the policy of the State Government published vide G.R. 1978 and G.R. 2015. Even otherwise the respondents/Managements are responsible for the delay caused and therefore the respondents are not entitled for any interest for their lapse on the unpaid salaries payable from the Government.

X) Even otherwise, appreciating the facts and circumstances placed on record by the petitioners, the impugned order dated 27.2.2023 passed by this Hon’ble Court to the extent of awarding 5% interest on the unpaid amount of salaries payable to the respondents/petitioners is required to be reviewed. The Management/Principal of the concerned College were the responsible for non submission of proposal for releasing the unpaid salaries if any through SEVARTH PRANALY. In view of this, the award of 5% interest on the unpaid amount of salaries may not be saddled on the Government.”

5. It is canvassed that the State is aggrieved only by the grant of 5% interest on the unpaid salaries of the Petitioners. It is submitted that one of the Petitioners himself was the drawing and disbursing authority. He should have processed the bills through the Sevarth Pranali. Since he did not process the bills through the Sevarth Pranali, that the bills got stuck. It is further canvassed that the Petitioners approached the Court after 8 years. Though the 90% salary amount is paid after this Court passed an order and the State does not desire to raise any grievance to that extent, 5% interest could not be granted in view of the delay.

6. The learned Advocate for the original Petitioners submits that the issue with regard to payment of salary is restricted only to the months of August, 2015 to November, 2015 (4 months). The Government of Maharashtra, Department of Higher and Technical Education, adopted a new system for payment of salary, which was known as the HTE Sevarth Pranali. With this change, the salaries of the Petitioners got stuck, though physical bills were submitted. He further submits that the institution was eligible for only 90% grants. The college had written to the Director of Technical Education on 25th January, 2016, indicating that the salaries of the employees were not being paid for the aforesaid period since the institute received grants

with a deficit of Rs.28,15,573/-. Clauses 5, 6 and 8 of the communication indicates a grievance voiced by one of the Petitioners himself in his capacity as a Principal that the salaries were not being paid from July, 2015.

7. The GRANT ASSESSMENT REPORT FOR THE YEAR 2015-2016 prepared by the Technical Education Department makes a mention below clause (F) FINAL REPORT OF ASSESSMENT FOR THE YEAR 2015-2016 that the Joint Director makes a claim that excess grants were paid to the institution, as per the ASSESSMENT REPORT FOR THE YEAR 2014-2015 and hence, less grants were paid for adjusting the earlier excess amount. Both the learned Advocates submit that this dispute is still going on in the Court as Writ Petitions have been filed. Reliance is placed by the original Petitioners on the judgment delivered by the Honourable Supreme Court in ***S. K Dua Vs. State of Haryana and Ors., AIR 2008 SC 1077***.

8. In view of the above, we do not find that the Petitioners could be faulted for the delayed payment. The original Petitioner No.1 superannuated on 30$^{th}$ June, 2018 and the original Petitioner No.2 superannuated on 30$^{th}$ April, 2019. Several representations made by them, including legal notices having been issued as on 8$^{th}$ December, 2022, are placed before us. The Review Application was filed on 14$^{th}$ February, 2023.

9. Considering the above aspects, we do not find that there is any error committed by us in exercising discretion of granting 5% interest to the original Petitioners. **The Review Application is, therefore, dismissed.**

**[ SANJAY A. DESHMUKH, J. ]** **[ RAVINDRA V. GHUGE, J. ]**

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