



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4080 OF 2020

Prakash Dharma Baviskar,
age 55 years, Occ. Service Peon,
R/o Kanchan Nagar, Near Railway Line,
Jalgaon, Tq. & Dist. Jalgaon. Petitioner.

Versus

1. The State of Maharashtra,
through the Secretary, Higher
and Technical Education Department,
Mantralaya, Mumbai.
2. The Director,
Director of Technical Education,
Maharashtra State, Mumbai.
3. The Joint Director,
Director of Technical Education,
Nashik, Tq. & Dist. Nashik.
4. All India Council for Technical Education,
Through its Regional Office,
Western Region Office, Industrial
Assurance Building, 2nd Floor,
Veer Nariman Road, Church Gate,
Mumbai.
5. The Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub-Regional Office, Plot no. P-11,
Bhavisya Nidhi, MIDC, Satpur, Nashik.
6. Shree Sant Muktabai Sansthan, Edlabad,
(Muktainagar), Dist Jalgaon.
Through it's Chairman.
7. Shree Sant Muktabai Institute of Technology
and Polytechnic College, Bhikamchand Jain Nagar,

Pimprala Road, P.B. 132, Jalgaon
Through it's Principal.

Respondents

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Advocate for the Petitioner : Mr. A.S. Sawant

AGP for Respondents-State : Ms. R. P Gour

Advocate for Respondent no.4 : Mr. Mayur Subhedar h/f
Mr C.V. Dharurkar

Advocate for Respondent no. 5 : Mr. N.K. Chaudhary h/f
Mr. K.B. Chaudhary

Advocate for Respondent 6,7 : Mr.V.Y. Patil

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**CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.**

Reserved on : March 20, 2024

Pronounced on March 28, 2024

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FINAL ORDER :- (Per S.G. Chapalgaonkar, J.)

1. The petitioner approached this Court under Article 226 of the Constitution of India with following prayers :-

"A. The Hon'ble High Court may be pleased to issue writ or directions in the nature of writ, directing the respondent nos.6 and 7 to release the monthly salary of petitioner, which has been withheld w.e.f August, 2016 and further be directed to pay the regular monthly salary to the petitioner and further be pleased to pass necessary orders for the said purpose :

B. The Hon'ble High Court may be pleased to direct the respondent nos.1 to 4 to take appropriate action against the respondent nos. 6 and 7 for withholding the salary of petitioner without any reason w.e.f. August 2016 and further be pleased to pass necessary orders for the said purpose.

C. The Hon'ble High Court may be pleased to issue writ or directions in the nature of writ,

directing the respondent nos.6 and 7 to remit the appropriate amount of provident fund to the Provident Fund Authority within stipulated period and further be pleased to pass necessary orders for the said purpose.”

2. Heard Mr. A.S. Sawant, learned advocate appearing for the petitioner, Ms. R.P. Gour, learned AGP appearing for respondent nos.1 to 3, Mr. N.K. Choudhary h/f Mr. K.B. Choudhary for Respondent No.5, Mr. V. Y. Patil, learned advocate appearing for respondent nos. 6 and 7.

3. Mr. Sawant, learned advocate appearing for the petitioner submits that on 1.8.1989 petitioner came to be appointed as Peon with Shri Sant Muktabai Institute of Technology and Polytechnic College, run by respondent no.6-Management. However, from 5.5.2016 respondent Management failed to pay salary to him and other employees. The petitioner made several representations to the respondents for release of the salary. The Joint Director of Technical Education i.e. respondent no.3 has addressed the communications to respondent no.7 as regards to the grievance of the petitioner. However, the respondent Management failed to release the salaries and other benefits. Some of the employees of the respondent no.7 had approached this Court by filing writ Petition no.5178 of 2015. This Court allowed the writ petition and directed the respondents to release salaries and allowances to the petitioner therein. In-spite of orders of this Court, salaries and other entitlements were not

released. Another set of employees had also filed Writ Petition no.3285 of 2018 in which directions are issued against the Management to release the salaries of those employees. The petitioner had approached the Labour Court with his grievance, however, in view of the subsequent orders passed by this Court in the writ petitions filed by other employees, he withdrew proceedings and filed present petition. In this background, it is urged that the petition be allowed in terms of the aforesaid prayer clauses.

4. The affidavit-in-reply is filed on behalf of the respondent nos.1 to 3, who are the authorities of the State Government, they contends that it would be responsibility of respondent no.6 Chairman of the Trust and Principal of the Institution to implement pay scales and release arrears of salary and settle dues of the petitioner. Respondent no.6 filed affidavit-in-reply contending that the Management is unable to pay legal dues due to financial crunch and non-availability of the funds. It is also pointed out that entire property has been possessed by the Revenue Authority for auction in pursuance of the order passed by this Court. The college is closed down since the year 2018. No student is admitted for the courses run at the college.

5. Considering the submissions advanced and the documents tendered into service, it is not disputed that the petitioner is the permanent employee of the respondent

and he is discharging services since 1989. According to the petitioner, his salaries are not released since August, 2016. His services are still continued. The respondents have not disputed the aforesaid factual aspects.

6. Mr. Chaudhary, learned counsel appearing for respondent no.5 placed on record the communication dated 17.11.2022 address by Enforcement Officer to the Assistant Provident Fund Commissioner, at Jalgaon, which refers that the College has been totally closed from last three years for want of admissions and financial crises. On 14.11.2022 EPF share for December, 2016 to March, 2018 is already remitted by the them with list of employees. List includes the name of the petitioner.

7. From aforesaid correspondence, it is not clear as to how much dues of the petitioner are actually withheld by respondent-Management. It is a matter of record that many more employees of the respondent institution had approached this Court by filing different writ petitions. This Court, after considering the plight of such employees and order dated 5.5.2016 passed in Writ Petition no.5178 of 2015, observed that the respondent nos.6 and 7 i.e. the Management and Institution ought to have implemented the order with regard to all employees, who are similarly placed and ought to have taken steps to make payments of the salary.

8. We find that, the petitioner is class-IV employee and served with respondent-Institution for the period of more than 27 years, he would be therefore entitled for all the dues of his pay and perks. However, we deem it proper to direct respondent no.3-the Joint Director of Technical Education, Nashik to quantify the dues of the petitioner. The petitioner to appear before him or any other Authorized Officer deputed by him alongwith the record of his service, Bank accounts. The respondent no.3, shall thereafter certify the dues. The respondent no.6 and 7 shall release the said amount to the petitioner within a period of Four (4) months from the date of such quantification. Resultantly, we proceed to pass the following order.

ORDER

- i. Writ Petition is partly allowed.
- ii. The petitioner is held entitled to receive salary dues from respondent nos.6 and 7 as per pay scale prescribed.
- iii. The petitioner shall appear before Joint Director - respondent no.3 on **2nd of April, 2024** alongwith his service record and the details of his salary account.
- iv. The Joint Director or his authorized officer shall call upon respondent nos.6 and 7 to put up their stand as regards to

the salary dues of the petitioner and after hearing them finalize/quantify the salary dues and emoluments receivable by the Petitioner from the Respondents.

- v. Respondent nos.6 and 7 shall thereafter release the salary dues of the petitioner (as quantified and certified by the respondent no.3) within a period of four Months.
- vi. In case respondent nos.6 and 7 failed to release the amount in terms of this order, charge of the due amount be created on immovable properties owned by respondent nos.6 and 7. Thereupon, the petitioner shall be entitled to recover the amount of his share from the proceeds of the property.
- vii. Writ petition is accordingly disposed of with the aforesaid directions. No costs.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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