

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

WRIT PETITION NO. 3131 OF 2024

Dr. Kanhu Bhanudas Shejul

... Petitioner

Versus

State of Maharashtra and Ors

... Respondents

Mr. Susheel Mohadeshwar i/b. Ms. Ranjana Todankar for the Petitioner.

Ms. T. J. Kapre, AGP for the Respondent-State.

Dr. Vijay Narkhede, Joint Director, Higher Education, Konkan Region

**CORAM : NITIN JAMDAR &
M. M. SATHAYE, JJ.**

DATED : 16 APRIL 2024

P.C.:

1. Heard learned Counsel for the parties.
2. This is yet another Petition out of numerous Petitions that have been filed in this Court for pensionary benefits. This Petition arose in view of blatant refusal of the Management to pay the legitimate dues to its employees, which are overlooked by the State Authority even if it is brought to their notice.
3. The Petitioner was appointed on the post of the lecturer in the Respondent-College on 1 October 1991 as full time lecturer in economics. The Respondent-College is recognized by the University of

Mumbai receiving grant-in-aid and full salary from the State Government. The Petitioner retired from service on 30 June 2023. The Petitioner made a request to the Respondent-Management to complete the procedural formality in respect of the pensionary benefits. On 9 June 2023, the Regional Joint Director, Higher Education, Kokan Division forwarded the pension papers of the Petitioner to the office Accountant General. Thereafter, on 6 July 2023 the order regarding payment of pension was effected. However, the Respondent No. 4 that is in-charge Principal of the Respondent-College did not carry out necessary steps pursuant to the order of the Regional Joint Director, Kokan Division. Further on 9 October 2023, the Regional Joint Director wrote to the Respondent No. 4 to take necessary action regarding payment of retirement. Since no steps were being taken, the Petitioner filed this Petition on 26 October 2023.

4. When the Petition came up on Board on 7 March 2024 noting that the Joint Director of Higher Education had written to the Respondent No. 4, we observed that merely writing a letter is not sufficient and the Joint Director (not Deputy Director) must take the communication to the logical end. Learned AGP had taken time to instruct as to what action the Joint Director proposes to take for the non-compliance of its own directions. The matter was adjourned to 27 March 2024. On 27 March 2024, Vijay Narkhede, Joint Director, Higher Education, Kokan Division was present, when he took a surprising stand, which was noted

in the order passed on that date, which reads thus:

“1. This is a matter where the Petition is filed by the Petitioner seeking a direction to the Respondent – management / In-charge Principal to comply with the order passed by the Deputy Director of Education – Panvel.

2. Learned counsel for the Petitioner has pointed out that the Deputy Director has already called upon the Respondent – management / In-charge Principal to comply with the written procedural formalities as regards disbursal of the pension.

3. In short, the Petitioner seeks the execution / enforcement of the order passed by the Deputy Director. If writ jurisdiction is invoked for such purposes Court will be flooded with Petition seeking enforcement of orders passed by the Education Authorities to the management. Once the Education officer, who are entrusted with the task of releasing of pensionary benefits to the employees of the management, calls upon the management to comply with the procedural formalities, it is their duty to ensure that the management comply with those directions. It cannot be that the Education Authorities to simply write letters without follow up and leaving it to this Court to issue writ to management.

4. Mr. Kapre, learned AGP on instructions states that the office of the Deputy Director is powerless to enforce his own orders. We are surprised at the stand taken by the State and therefore we direct the matter be looked into by the Director of Higher Education and let the Director of Higher Education place it before us whether the stand taken before us on instructions from Dr. Vijay Narkhede, Joint Director, Higher Education, Konkan Region, is correct that the office of the Deputy Director of Education is powerless to enforce compliance of its own directions to the management.

5. Affidavit to be filed by the Director of Education, not to be delegated as this issue arises in various matters.

6. List the matter on 16 April 2024 under the caption “for directions”

Later it was pointed out that it was the Joint Director not the Deputy Director. Order shall record accordingly.

5. Therefore, the Joint Director, who was present in the Court, to a repeated query of the Court as to why no action is being taken to enforce his own communication regarding disbursal of the Petitioner’s pensionary benefits, the Joint Director categorically took a stand stating that the State can do nothing even if the Management does not comply with the directions.

6. Considering that State provides grant in-aid to the College and the College is affiliated to the University, it could not be that the State authority has no power over the Management, especially when the Management and its staff does not comply with the directions of the State Government.

7. Considering the implications of the stand boldly taken before us by the Joint Director-Mr. Vijay Narkhede, we had called upon the Director of Education to file affidavit whether the stand taken before us by the Joint Director is correct or otherwise. Dr. Shailendra Deolankar, in-

charge, Director, Higher Education, Pune filed an affidavit stating that it is correct that the directions were issued to the Respondent No. 4-Principal of the college to comply with the order dated 9 October 2023, are not complied and states that the State has power under section 3 of the Maharashtra Education Institutions (Management) Act 1976 to take over the Management. Therefore, the Director, Higher Education, Pune has not accepted the position that the State Government is powerless to enforce his own directions, which is the position in law.

8. As pointed out by the Counsel for the Petitioner since the Government pays the grant to the Respondent-Management, there would be various occasions where Respondent-Management has to apply or correspond with the State Authority and if the orders of the State are not being followed, the concerned authority such as Joint Director can refuse to enter into communication till the orders of the State are obeyed. Yet the Joint Director-Vijay Narkhede has chosen not only to look other way but divest the post of its powers.

9. To make the matter worse, it is informed to us that after this order was passed on 27 March 2024 directing the Director of Education to clarify the position, immediately, the Respondent No. 4 has submitted the Form A, B and C and form MTR-42 to the office of the Joint Director-Mr. Vijay Narkhede on the same day and the amount towards gratuity of Rs.14,00,000/- was paid to the Petitioner on 29 March 2024. The Petitioner has alleged collusion.

10. We find this position more than a co-incidence. It is only after we have asked the superior of the Joint Director-Mr. Vijay Narkhede to look into the issue that the Respondent No. 4 has carried out the compliance immediately, which the Respondent No. 4 had not done so for almost a year. We place our strong disapproval on the conduct of the Joint Director-Mr. Vijay Narkhede on record.

11. Learned AGP states that the amount has been disbursed and therefore, no further orders are necessary. The amount has been disbursed, however, in above circumstances.

12. While we dispose of the Writ Petition, let the copy of the order be sent to the Secretary, Higher Education for the service record of Vijay Narkhede, Joint Director of Education.

13. The Writ Petition is accordingly disposed of.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)