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

WRIT PETITION NO.2982 OF 2025

D.Y. Patil Pratisthan, through
it's Secretary & Anr.

... Petitioners

V/s.

The State of Maharashtra & Ors.

... Respondents

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Mr. Akshay Patil with Ms. Neha Patil i/by Vivaka
Partners for the petitioner.

Mr. Y.D. Patil, AGP for respondent No.1-State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 3, 2025

P.C.:

1. The instant writ petition, invoking the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India, assails the legality and validity of the order dated 26th April 2019 (hereinafter “the impugned order”) passed by Respondent No. 2 – Grievance Committee constituted under Section 79 of the Maharashtra Public University Act, 2016 (hereinafter “the Act”). By the said order, the petitioner-Trust has been directed to pay arrears of salary to Respondent No. 3, computed in accordance with the recommendations of the Sixth Central Pay Commission, for the period spanning from January 2006 to 7th October 2011. The gravamen of the petitioner’s challenge lies in the assertion that the impugned order suffers from a fundamental jurisdictional

infirmity, rendering it a nullity in the eyes of law.

2. Learned counsel for the petitioner, in his submissions, has vehemently contended that the impugned order stands vitiated on account of a patent procedural irregularity. It is asserted that though the Grievance Committee, as constituted under Section 79 of the Act, comprises six members, only four members appended their signatures to the order, thereby rendering it non est in law. Reliance has been placed on the authoritative pronouncement of a coordinate Bench of this Court in *Chairman, D.Y. Patil Education Enterprise Charitable Trust & Ors. v. Soma Seriac & Ors.* (2023 (4) Mh.LJ 75), wherein it was unequivocally held that an order passed by a statutory committee lacking the mandatory participation or concurrence of its prescribed quorum is illegal and susceptible to challenge notwithstanding the lapse of time.

3. Furthermore, it has been urged that the petitioner-Trust remained oblivious to the existence of the impugned order until June 2024, as the service of the same was effected solely upon the then-Principal of the institution, who allegedly failed to apprise the Trust's management of its issuance. The subsequent superannuation of the said Principal, it is argued, compounded the delay in instituting the present writ petition. In light of these circumstances, the petitioner asserts that the challenge to the impugned order, though belated, is maintainable in law, as a nullity cannot acquire sanctity through the mere passage of time.

4. Having bestowed anxious consideration to the submissions advanced, the pivotal question that arises for determination is

whether the absence of signatures of two out of six members of the Grievance Committee—a statutory body constituted under Section 79 of the Act—renders its order a nullity, as opposed to an illegality curable under the doctrine of procedural fairness or the principle of de facto validity. This jurisprudential distinction carries profound implications, for while an act tainted by illegality may remain enforceable unless set aside through timely judicial intervention, a nullity, being void from its inception, is incapable of conferring any rights or obligations and may be impeached at any stage.

5. In *D.Y. Patil (supra)*, this Court underscored that the composition and procedural integrity of statutory committees are not mere technicalities but constitute the bedrock of their jurisdictional authority. However, it is incumbent upon this Court to ascertain whether the ratio of *D.Y. Patil* applies on all fours to the present factual matrix, particularly in light of the statutory framework governing the Grievance Committee under the Act.

6. Concomitantly, the issue of delay and the petitioner's plea of unawareness due to alleged non-communication by the Principal must be scrutinized through the prism of equitable jurisdiction. The maxim “vigilantibus non dormientibus jura subveniunt” (the law assists the vigilant, not the indolent) ordinarily bars belated challenges, yet exceptions are recognised where the impugned action is void ab initio, as such defects are considered incapable of validation by acquiescence or lapse of time.

7. For the foregoing reasons, this Court deems it imperative to adjudicate upon the following questions of law:

(i) Whether the impugned order, having been signed by four members instead of the full strength of six members of the Grievance Committee, is void ab initio and thus a nullity in law?

(ii) Whether the petitioner's plea of delayed awareness owing to the Principal's alleged non-communication constitutes a sufficient cause to condone the delay in filing the writ petition?

8. Upon a meticulous examination of the rationale articulated by the coordinate Bench of this Court, it is manifest that the omission to strictly adhere to the procedural stipulations under Section 79 of the Act—owing to the absence of two members during the Committee's deliberations—constitutes a procedural infirmity. Such non-compliance, while rendering the resultant order illegal and not in accordance with law, does not ipso facto invalidate the Committee's decision as a nullity or void ab initio. This distinction is rooted in the jurisprudential principle that a decision suffers from nullity only when the adjudicating authority lacks inherent jurisdiction over the subject matter. In the instant case, the Grievance Committee undeniably possessed jurisdiction to adjudicate disputes pertaining to the non-payment of salaries, a substantive grievance squarely within its statutory mandate under Section 78(2). The absence of two members, though a procedural irregularity, does not vitiate the Committee's jurisdictional competence.

9. This Court is of the considered view that the absence of signatures from two Committee members, while amounting to an

illegality, does not render the order a legal non-est. Rather, such defects fall within the realm of illegality, necessitating prompt judicial scrutiny. The aggrieved party is duty-bound to challenge such orders within a reasonable timeframe, as underscored by the doctrine of *vigilantibus non dormientibus jura subveniunt* (the law assists the vigilant, not the indolent). The contours of "reasonable time" must be ascertained in light of the statutory scheme's objectives and the nature of the rights conferred upon stakeholders. In the present statutory framework, which prioritizes expeditious resolution of employment grievances, a delay of five years—as in this case—transcends the bounds of reasonableness. The petitioner's inaction dis-entitles it to equitable relief under Article 226, particularly when the delay remains unexplained and has prejudiced the respondent's accrued rights.

10. The adjudication undertaken by the Committee pertains to the fundamental legal entitlement of a teacher to receive remuneration for services duly rendered crystallized in statutory employment law. The Management's obligation to disburse salaries in accordance with contractual and statutory mandates is unequivocal. The Committee's order, which merely enforces this obligation, aligns with the principles of substantive justice and does not warrant interference through this Court's extraordinary constitutional jurisdiction under Article 226. Notably, the Management does not contest the factum of the respondent's employment, but merely the procedural propriety of the Committee's composition. Hyper-technical objections to procedural lapses must yield to substantive justice where no prejudice is

demonstrated. Thus, the impugned order, being just and equitable on merits, merits affirmation.

11. This Court finds no compelling grounds to entertain the writ petition after an inexcusable delay of five years, particularly when the petitioner attributes the delay to the Principal's failure to apprise the Management of the Committee's order. Such an explanation is untenable in law, as the Principal, being the Management's appointed representative, is presumed to act in furtherance of institutional interests. The doctrine of constructive notice imputes knowledge of official acts to the principal. Furthermore, the petitioner's lethargy in pursuing legal recourse defeats the very objective of the statutory grievance mechanism, which is designed to ensure swift redressal. Consequently, no case for interference is made out, and the writ petition is dismissed as barred by laches.

12. For the reasons afore-stated, the writ petition is dismissed. The impugned order of the Grievance Committee is upheld, and the petitioner-Management is directed to comply with the directions for payment of arrears within eight weeks. No costs.

13. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)