

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 5179 OF 2024

M. Michael Raj. ... Petitioner
Versus
The State of Maharashtra & Ors. ... Respondents.

Mr. Narendra V. Bandiwadekar, Senior Advocate a/w. Mr. Rajendra B. Khaire i/b. Mr. Vinayak R. Kumbhar, for the Petitioner.

Mr. Akshay Patkar, AGP for Respondent Nos. 1 to 3/State.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 25th FEBRUARY, 2025

P.C. :

1. By this Petition, the Petitioner desires that the High Court should recover the following amounts from a private unaided educational institution :-

(a) An amount of Rs. 35,24,516/-, as being the differential amount of salary by applying the 7th Pay Commission pay-scale for the post of Head Master.

(b) Without issuing any notice under Form I of the Payment of Gratuity Act, 1972 to the employer, the Petitioner prays that this Court should direct the Management to pay Rs. 20,00,000/-, towards Gratuity.

(c) This Court should direct the Management to pay Rs.9,35,500/-, towards leave encashment benefits.

(d) This Court should direct the Management to deposit Rs. 60 Lakhs in this Court.

2. The Hon'ble Supreme Court has time and again reminded that in matters where in the employees desire to recover unpaid amounts or disputed amounts from an employer, the High Court should not treat a Writ Petition like a recovery suit and pass orders on disputed facts.

3. Be that as it may, the Petitioner is yet to approach Respondent No. 2, who is the Deputy Direction of Education, Mumbai Region. This Writ Petition is directly filed in the High Court seeking a Writ of Mandamus against a private management.

4. The learned Advocate for the Petitioner submits on instructions that he would tender a detailed representation along with the necessary calculations and supporting documents, to Respondent No. 2 within a period of 15 days from today.

5. We, therefore, direct Respondent No. 2 to issue notice to the

Educational Institution, Respondent Nos. 4 and 5, as well as the Petitioner and grant a reasonable opportunity of hearing to all the stakeholders. After a proper inquiry and verification of the records, if Respondent No. 2 arrives at a conclusion that certain amounts are due to be recovered from the Management to be paid to the Petitioner, he may pass a reasoned order. Let this exercise be completed within 75 days from the date of the submission of the representation by the Petitioner. In the alternative, if the Petitioner, to the extent of his claim for gratuity, desires to avail of a remedy under the provisions of the Payment of Gratuity Act, 1972, he would be at liberty.

6. We make it clear that this order shall not be treated as the beginning of a cause of action and if the Petitioner is aggrieved by the non-payment by the employer, he may approach the Civil Court for recovery of amounts.

7. In view of the above, **this Petition is disposed off.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)