



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9749 OF 2023

Ravindra Gopal Kadu,

Age- 60 years,

Having residence at-

‘Ajinkya’, Lakaki Campus,

Alpine Wood, Tungarli,

Lonavala, Dist. Pune-410403

....Petitioner

Versus

1. The State of Maharashtra,

Through its Principal Secretary,

Higher & Technical Education Department,

Having office at Mantralaya Annex,

Mumbai-431032

2. The Director of Higher Education

Maharashtra State, Having office at

Central Building 3, BJ, Medical Road,

Agarkar Nagar, Pune-411 001

3. The Joint Director of Higher Education,

Pune Division, Having office at-17,

Dr. Ambedkar Road, Near St. Mathew

Marathi Church, Camp, Pune 411001

4. Savitribai Phule Pune University,

Through its Registrar,
Having office at - Ganeshkhind,
Pune-411007.

5. Dr. B.N. Purandare Arts,
Smt. S.G. Gupta Commerce
& Smt. S. A. Mithaiwala Science College
Through the Principal,
Having office at- Valvan, Lonavala
Tal-Maval, Pune-410403.

6. Lonavala Education Trust,
C/O Dr. B.N. Purandare Art,
Smt. S.G. Gupta Commerce
& Smt. S.A. Mithaiwala Science
College Through its Secretary
Having office at Valvan, Lonavala,
Tal-Maval, Pune-410403

....Respondents

Mihir Desai, Senior Advocate, i/b. Mr. Akshay S. Karlekar,
Advocate for the Petitioner.

Mr. P.P. Kakade, Addl. G.P. a/w Mr. S.L. Babar, AGP for
Respondent No.1 – State.

Ms. Gayatri Kale h/f. Mr. Rajendra Anbhule, for the Respondent
No.4.

**CORAM : RAVINDRA V. GHUGE &
ABHAY J. MANTRI, JJ.**

DATE : 29th JANUARY, 2026

Final Order :- (Per :- Ravindra V. Ghuge, J.) :-

1. The Petitioner before us is aggrieved that the Management is declining to issue the No Dues Certificate and is not forwarding the pension papers of the Petitioner to the Competent Authority so as to enable the release of the pension. The Petitioner has superannuated on 30th September, 2022. For the last more than 3 years, he has not received his pension only because the Management is declining to issue the No Dues Certificate.

2. The Management, Respondent Nos.5 and 6 have been duly served with the Court notice. Affidavit-in-reply on behalf of Respondent Nos.5 and 6, has been filed on 15th July, 2024.

3. None appears for Respondent Nos.5 and 6. This matter is listed in the Special Pension Cases Board. We are conducting special hearings in the Pension matters on the 2nd and 4th Thursdays of each month.

4. The Petitioner was appointed as a full-time lecturer in the Marathi subject vide the appointment order dated 7th September, 1991. Approval to his appointment was granted on 9th September,

1991. The Petitioner was promoted to the post of Associate Professor with effect from 1st January, 2006, and he continued in such position until his retirement on 30th September, 2022.

5. On 20th July, 2015, the Petitioner was appointed as a College Examination Officer for the period 2015-2018, as per the guidelines issued by Respondent No.4, University through a Circular dated 22nd January, 2015.

6. There was a purported delay on the part of the Principal of the College in submitting the bills of expenses to the University in relation to the examinations conducted in October/November of 2015 and March/April of 2016. Respondent No.4 University addressed a reminder letter dated 30th November, 2016, to all the Principals/Directors of educational institutions and Colleges, regarding the submission of bills of expenses for the examination conducted in April/May 2016. The bills of expenses for the examinations conducted in October/November 2015 and March/April 2016 were prepared by the Principal on 10th August, 2017 and signed and approved by the then Principal.

7. An internal Special Audit Report was prepared on the

instructions of Respondent No.6 Management in respect of receipts/payments made by Exam Sections during the aforesaid periods and to verify the expenses made by the Principal Dr. B.N. Pawar since June 2017. The Audit Report dated 18th January, 2022, recorded a financial irregularity due to the delayed submission of bills of expenditure. However, no liability was fixed by the Audit Report on any Employee.

8. The Principal of Respondent No.5 College prepared and approved the pension files/papers of the Petitioner on 1st April, 2022. The pension file includes the consent form of the College, since no recovery was to be made from the present Petitioner.

9. On 2nd May, 2022, after a lapse of 6 years, Respondent No.6 issued a demand letter to the Petitioner calling upon him to pay an amount of Rs. 2,49,016/-, which was the alleged loss caused to Respondent No.6 due to the delayed submission of bills of expenses. It is the contention of the learned Senior Advocate appearing on behalf of the Petitioner that neither the Petitioner was issued with a show cause notice, nor was the Petitioner given an opportunity to explain on any issue, which could purportedly be the reason for the non-issuance of the No Dues Certificate by the

Management.

10. On 3rd June, 2022, the Management addressed a letter to the Petitioner informing him that if he fails to pay the amount, Respondent No.5 would not be responsible if the pension proposal is not sent to Respondent No.3, the Joint Director of Higher Education. By a communication dated 21st July, 2022, Respondent No.6 Education Trust issued a show cause dated 21st July, 2022, calling upon the Petitioner to explain why the alleged due amount should not be recovered from him. On 18th August, 2023, Respondent No.3 addressed a letter to Respondent No.5 and called for an explanation about the alleged recovery of dues from the Petitioner. After the superannuation of the Petitioner on 30th September, 2022, he has addressed several reminders to the Respondents praying for the release of his pension.

11. The Petitioner obtained information under the Right to Information Act, 2005 (RTI) and gathered knowledge that the pay bills of expenses and all the pay bills for the examinations were submitted by Respondent No.5 from 2012 to 2022. The learned Senior Advocate for the Petitioner further submits that, without granting any opportunity of hearing to the Petitioner, the pension of

the Petitioner has been withheld.

12. The learned Additional Government Pleader submits that the role of the State would come into play only after the Management tenders the pension proposal of the Petitioner to Respondent No.3.

13. We find from the record and the Affidavit-in-reply filed by the Education Trust that the Trust has contended that it does not fall within the definition of Article 12 of the Constitution of India, is not a State, and hence, this Petition is not maintainable.

14. We find that the Hon'ble Supreme Court has held in its judgment dated 14th August, 2013, in Special Leave to Appeal (Civil) No.1427 of 2009 [***State of Jharkhand & Ors. V/s. Jitendra Kumar Srivastava & Anr.***], that pension is not a bounty. It is a right of the Employee to receive pension, save and except, if there is any specific order passed by the Management by following the due procedure of law, by which a candidate is deprived of the pension. It was concluded that the hard earned benefits of service, which accrue to an Employee, is in the nature of 'property'. Such property cannot be taken away without following the due process of law in view of

Article 300 A of the Constitution of India.

15. We find from the pleadings before us and the Affidavit-in-reply of the Educational Institution that it claims that certain losses were caused to the institution because of the conduct of the Petitioner. Unless the Petitioner pays the said amount of Rs. 2,49,016/-, the No Dues Certificate would not be issued. As a consequence, the Petitioner's pension proposal has got stuck.

16. Neither the Petitioner was issued with a charge-sheet, nor was he called upon to respond to any show cause notice as to how this amount has been quantified as a loss caused to the Management and whether the Petitioner can be held guilty for the said loss. Even until the retirement of the Petitioner in September 2022, no such procedure was followed. Moreover, the issue pertains to the two examinations conducted in 2015 and 2016. A dispute has been raked up by the Management in 2022. In the absence of an opportunity of hearing, the No Dues Certificate could not have been held back.

17. In view of the above, **this Writ Petition is allowed in terms of prayer clause (a) and (b),** which read as under :-

“(a) For a Writ of Certiorari or a writ, order, or direction in the nature of Certiorari or any other appropriate writ, order or direction quashing and setting aside the impugned letters dated 2nd May 2022 and 21st July 2022 marked and annexed as Exhibit D and L respectively.

(b) For a Writ of Mandamus or a writ, order, or direction in the nature of Mandamus or any other appropriate writ, order or direction directing the Respondent No. 5 to send the pension proposal of the Petitioner to the Respondent No. 3 as expeditiously as possible with a No Dues Certificate.”

18. The learned Senior Advocate for the Petitioner submits that the Provident Fund (PF) has been paid to the Petitioner. Gratuity has not been paid. We, therefore, direct that the Management Respondent Nos.5 and 6 would also submit a proposal for the payment of Gratuity with statutory interest at the rate of 10% per annum on the gratuity amount, from 1st November 2022, (gratuity becomes payable after 30 days of concluding the Employer-Employee relationship), along with the pension proposal.

19. The No Dues Certificate and the pension proposal would be issued/forwarded within a period of 21 days from today. The Petitioner is at liberty to serve a copy of this final order upon

Respondent Nos.5 and 6 by Speed Post AD, on the basis of a printout of this final order obtained from the Official Website of the Bombay High Court. As soon as Respondent Nos.2 and 3 receive the pension proposal along with the proposal for gratuity with interest, they shall clear the said proposal by following the due procedure applicable, within a period of 30 days thereafter.

(ABHAY J. MANTRI, J.)

(RAVINDRA V. GHUGE, J.)