

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**INTERIM APPLICATION NO. OF 2020**  
**IN**  
**WRIT PETITION NO.12761 OF 2019**

Satish V. Ratnaparkhi ... Applicant  
**IN THE MATTER BETWEEN :**  
University of Mumbai ... Petitioner  
Versus  
Satish V. Ratnaparkhi ... Respondent

Ms.Seema Chopda for the Applicant / Respondent.

Mr. Ashutosh M. Kulkarni for the Petitioner.

**CORAM : S.J.KATHAWALLA,**  
**DATE : 15TH MAY, 2020**

**P.C. :**

1. The Applicant / Respondent has filed the above Interim Application for the following relief :

*“(a) To direct the Petitioner University to release / deposit Applicant’s arrears of salary from 21<sup>st</sup> September, 2019 till date and further direction to continue to pay his salary”.*

2. The brief relevant facts in the matter are set out hereunder :

2.1. In the year 2012, the Applicant / Respondent was appointed as Professor – Cum – Director (Open), at the Alkesh Dinesh Mody Institute for Financial and

Management Studies, University of Mumbai, as per the recommendation of the Committee constituted under Section 78 of Maharashtra Universities Act, 1994, after following all the due and prescribed selection process by the Petitioner University.

2.2. By an Order dated 21<sup>st</sup> February, 2019, issued by the Registrar of the Petitioner University, the Applicant / Respondent was retired from the said post on the ground that he had completed 60 years of service.

2.3. The Applicant / Respondent filed an Appeal before the College Tribunal ('**Tribunal**'), being Appeal No. 4 of 2019 challenging the Order of the Registrar of the Petitioner University dated 21<sup>st</sup> February, 2019.

2.4. The Tribunal had initially while admitting the Appeal, passed the status quo order. However, according to the Applicant / Respondent, pursuant to the said 'status quo' order, he was given charge of the Director only on paper.

2.5. At the time of hearing the Appeal, the Applicant / Respondent relied upon the Government Resolution dated 5<sup>th</sup> March, 2011, as per which the tenure of the Principals / Directors in any government college affiliated to non-agricultural Universities has been extended upto 65 years, with a rider that on completion of 62 years, there shall be a performance review of the incumbent.

2.6. The Tribunal by its Order dated 20<sup>th</sup> September, 2019, allowed the Appeal of the Applicant / Respondent and set side the Order / letter issued by the Registrar of the Petitioner University dated 21<sup>st</sup> February, 2019.

2.7. The Petitioner University filed a Writ Petition before this Court being Writ Petition No. 12761 of 2019 impugning the said Order of the Tribunal dated 20<sup>th</sup> September, 2019, and moved this Court on 16<sup>th</sup> December, 2019.

2.8. On behalf of the Petitioner University, it was argued before this Court that the Government Resolution dated 5<sup>th</sup> March, 2011 would not be applicable to the post of Director of an Institute under the Mumbai University i.e. the Petitioner University. The Petitioner University admitted before this Court that though there was a status quo order passed by the Tribunal at the time of admission of the Appeal, the Petitioner University had given charge of the post of the Director to the Applicant / Respondent only on paper.

2.9. The Applicant / Respondent had submitted before this Court that he was forcibly not allowed to function as a Director of the Institute.

2.10. The Learned Single Judge of this Court passed an Order dated 16<sup>th</sup> December, 2019 wherein after setting out the above facts and the submissions advanced by the Advocates for the Parties, the Learned Judge declined to stay the Order of the Tribunal and made it clear that the Petitioner University shall allow the Applicant / Respondent to continue as a Director of the Institute and that he shall be paid his salary, etc. The relevant paragraphs of the Order of this Court dated 16<sup>th</sup> December, 2019 reads thus :

*“8.Issue involved in the Writ Petition may require further*

*deliberation but at the same time, court is mindful of the fact that Tribunal after due deliberation had clearly taken the view that service of the Respondent should continue till the age of 65 years and that order / letter dated 21.02.2019 which had prematurely retired the Petitioner, is illegal and unsustainable.*

*9. In the circumstances and balancing the interest, it is made clear that Respondent shall be allowed to continue as Director of the Institute and paid his salary etc. Functioning of the Respondent as Director of the Institute shall, however, be subject to outcome of the writ petition.”*

2.11 The Petitioner University has not paid the salary to the Applicant / Respondent since 20<sup>th</sup> September, 2019 i.e. the date on which the Order was passed in favour of the Applicant / Respondent by the Tribunal. The Petitioner University has also flagrantly breached the Order of this Court dated 16<sup>th</sup> December, 2019, interalia directing the Petitioner University to pay the Applicant his salary, by not paying the salary to the Applicant / Respondent even from the date of the Order i.e. 16<sup>th</sup> December, 2019, thereby leaving the Applicant with no choice but to move this Court and seek direction to the Petitioner University to release his salary.

3. The Applicant / Respondent has stated in his Application that since the last 15 months he is surviving on his savings, which are now exhausted and it is becoming difficult for him to sustain himself and he is burdened with a loan. His financial condition is deteriorating day by day. The Applicant / Respondent has

therefore submitted that the Petitioner University be directed at least to release his salary for the period 16<sup>th</sup> December, 2019 till date.

4. The Learned Advocate appearing for the Petitioner University on instructions states that the Petitioner University intends to file an SLP before the Hon'ble Supreme Court impugning the Order dated 16<sup>th</sup> December, 2019. However, since the SLP is not filed till date, the Petitioner University has not paid dues of the Applicant / Respondent.

5. The Court is aghast by this contemptuous conduct of the Petitioner University. Despite specific directions given by this Court as far back as 16<sup>th</sup> December, 2019 vide its reasoned Order, directing the Petitioner University to allow the Applicant / Respondent to continue as a Director of the Institute and pay his salary, the Petitioner University has flagrantly disregarded the direction of this Court, and not paid him a single rupee till date, on the pretext that the Petitioner University is going to challenge the Order dated 16<sup>th</sup> December, 2019 before the Hon'ble Supreme Court. The Petitioner University has therefore with impunity breached / disobeyed the Order passed by this Court and has deprived a Senior Citizen of his dues from 16<sup>th</sup> December, 2019, who has in fact stopped receiving his salary since February, 2019.

6. It is an acknowledged and well recognized fact that the University of Mumbai is one of the oldest and premier Universities of India imparting education to millions of students over the years. It is incomprehensible to this Court, as to how an

Institute of such stature which seeks to imbibe in its students, inter alia values of honesty, discipline and good governance, can justify breaching the Order of this Court dated 16<sup>th</sup> December, 2019, clearly directing it to allow the Applicant to function as a Director of the Institute and pay his salary, on the ground of wanting to challenge the Order of this Court dated 16<sup>th</sup> December, 2019, by filing an SLP before the Hon'ble Supreme Court, when it has failed to take any steps whatsoever in this direction from 20<sup>th</sup> December, 2019, i.e. when the said Order was uploaded and thereby made available to the Petitioner University for further challenge. Even today dishearteningly, the Petitioner University is using the current pandemic situation as an excuse for non-filing of the SLP, despite having received the Order more than two and a half months before the present Lock Down in the Country. Needless to say, the Petitioner University is well aware that the Order of this Court dated 16<sup>th</sup> December, 2019, has been blatantly flouted by it in the absence of any pending proceeding/stay order obtained from the Hon'ble Supreme Court. Even today the Petitioner University is not willing to make amends by immediately making payment to the Applicant / Respondent and thereby complying with the direction given by this Court vide its Order dated 16<sup>th</sup> December, 2019, leaving this Court with no alternative but to pass the following Order:

- i. The Petitioner University shall forthwith pay the dues of the Applicant / Respondent from 16<sup>th</sup> December, 2019 until 15<sup>th</sup> May, 2020, on or before 19<sup>th</sup> May, 2020, by depositing the same in the bank account of the Applicant / Respondent, the

details of which are already available with the Petitioner University.

ii. The Petitioner University shall also continue to make payments on or before 5<sup>th</sup> day of each month to the Applicant / Respondent, until any further orders are passed by this Court or by the Hon'ble Supreme Court, varying or discontinuing such payment.

7. The Interim Application is accordingly disposed off.

8. This Order will be digitally signed by the Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this Order.

**( S.J.KATHAWALLA, J. )**