

Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 10307 OF 2022

IN
WRIT PETITION NO. 7049 OF 2016

Association of The Managements of Agriculture ...Applicants
And Agriculture Allied Colleges & Ors
In the matter between
Association of The Managements of Agriculture ...Petitioners
And Agriculture Allied Colleges & Ors
Versus
Maharashtra Council of Agriculture Education & ...Respondents
Research & Ors

Ms Chandana Salgaonkar, i/b Sandeep R Waghmare, for the
Petitioner.
Ms Vanita Choudhari, for Respondents Nos. 1 to 3.
Mr NC Walimbe, AGP, for the Respondent-State.

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CORAM G.S. Patel &
Neela Gokhale, JJ.
DATED: 29th March 2023

PC:-

1. The Petitioners are the Applicants. Ms Salgaonkar points out that the Petition was admitted on 28th June 2017. A copy of the order issuing Rule is at pages 19 and 20. She adds that we are today

in 2023 almost exactly where we were in 2017 as to the question posed by the Division Bench in paragraph 2:

“2 The learned counsel appearing for Respondent No.1 to 3, has not been in a position to point out to this Court the source of power which enables it to demand an amount of Rs.20,00,000/- (Rupees Twenty Lacs only) towards the demand.”

2. The present Interim Application has two reliefs, each in the alternative. The first is for a refund of an amount of INR 1,88,50,000/- collected by the 1st Respondent Council from various member trusts of the Petitioner association. There are 23 such member trusts and they are listed in the table below paragraph 12 from pages 9 to 11 of the Application. They have paid different amounts at various times, and the total is INR 1,88,50,000/-.

3. The leaned Advocate for the Council states that the amount will be returned 10 years after the deposit is made.

4. But, as we noted, the threshold question remains unanswered: the source of a power to make a demand like this in the first place. We are told that these are funds are necessary for the 1st Respondent Council to do its work. But that argument is easily met because the funds are also required by the various trusts to do *their* work; and between the trusts and the Council, we have no doubt that need of the trusts is considerably more.

5. Our attention is drawn to a Government Resolution of 23rd May 2003 at page 113 of the Affidavit in Reply. This does not identify a source of power to make a demand.

6. Similarly, there is an invocation in the Affidavit in Reply of Section 12 of the Maharashtra Agricultural Universities Act, 1983 but even that does not contain a power to make such a demand.

7. Having regard to these circumstances, we are unable to accept the submission of the 1st Respondent that no refund should be ordered right now or that the matter should be deferred.

8. Six years after the Petition was admitted, there is yet no answer to the question of the source of power. The Interim Application is made absolute in terms of prayer clause (a) at page 16, with the deletion of the claim for interest::

“(a) That this Hon’ble Court be pleased to direct the Respondent No. 1 to 3 to refund the amount of Rs. 1,88,50,000/- ~~with accrued interest thereon~~, deposited by the 23 member institutes of Petitioner No. 1 Association pursuant to circulars dated 18-3-2016, 9-5-2016 and 20-5-2016 impugned in the Writ Petition No.7049 of 2016.”

9. The refund is to be made within six weeks from today.

10. Although Ms Salgaonkar has worded prayer clause (b) in the alternative, i.e., seeking an amendment to the Petition for the issue of refund, we believe it would be appropriate to permit that amendment in any case. Accordingly, there will be an order in terms

of prayer clause (b). Amendments are to be carried out without need of reverification by 6th April 2023. A copy of the amended Petition is to be served on the Advocates for the Respondents.

11. So far as the question of interest is concerned, we are making no order on that at this stage. It is open to the Petitioners to canvass the claim for interest at the final hearing of the Petition.

(Neela Gokhale, J)

(G. S. Patel, J)

TRUE COPY

YNS Gokhale

01/04/2023

Section Officer

**High Court, Appellate Side
Bombay**