

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WA No. 46 of 2021 with
MC(WA) No. 77 of 2021

1. Dr. Thokchom Chhatrajit Singh, aged about 33 years, S/o Thokchom Tomba Singh, resident of Kwakeithel Thokchom Leikai, P.O. & P.S. Imphal and District Imphal West, Manipur-795001.
2. Dr. Rajkumar Kamaljit Singh, aged about 38 years, S/o Dr. Rajkumar Ranjit Singh, resident of Yaiskul Chingakham Leikai, P.O. & P.S. Imphal and District Imphal west, Manipur-795001.
3. Loukrakpam Merin Singh, aged about 34 years, S/o Loukrakpam Brojendro Singh, resident of Chingamakha Chongtham Leikai, Singjamei, P.O. & P.S. Singjamei and District Imphal West, Manipur-795001.
4. Dr. Biraj Shougaijam Rajen Singh resident of Thangmeiband Kabrabam Leikai, P.O. & P.S. Lamphel and District Imphal West, Manipur-795001.
5. Anand Jyoti Sanasam, aged about 30 years, S/o Sanasam Iboyaima Singh, resident of Thoubal Sabaltongba Awang Leikai, Thoubal, P.O. & P.S. Thoubal and District Thoubal, Manipur-795138.
6. Pinky Khundrakpam, aged about 32 years, D/o Khundrakpam Yaima Singh, resident of Sagolband Meino Leirak, P.O. & P.S. Imphal West and District Imphal West, Manipur-795001.
7. Rosy Kimneithem Haokip, aged about 29 years, D/o Zamkhokhai Haokip, resident of Spring Village Phaipijang Spring Villa Langol Housing Complex, P.O. & P.S. Lamphel and District Imphal West, Manipur-795004.

8. Dr. Ningombam Swapana, aged about 42 years, D/o Ningombam Jitendra Singh, resident of Yaiskul Janmasthan, P.O. & P.S. Imphal and District Imphal West, Manipur-795001.
9. Thingbaijam Rajkumari Chanu, aged about 32 years, D/o Thingbaijam Khelemani Khuman, resident of Khabeisoi Sabal Leikai, P.O. Lamlong, P.S. Porompat and District Imphal East, Manipur-795010.

..... Appellant/s
In Writ appeal

- Versus -

1. Lourembam Iboyaima Singh, aged about 42 years, S/o L. Ibotombi Singh, resident of Keishamthong Ahanthem Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur-795001, Qualification Ph.D. in Linguistic now serving as Asst. Professor in Manipur Technical University, Takyelpat.
2. Laishram Jimmy, aged about 37 years, S/o Brajendro Singh, resident of Keishamthong Maning Longjam Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur-795001, Qualification – M. Tech in Computer Science & Engineering now functioning as Asstt. Professor in Computer Science & Engineering.
3. Tayenjam Jeneeta, aged about 29 years, D/o T. Rameshwor Singh, resident of Uripok Khaidem Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur-795001, Qualification M.Tech in Engineering – now functioning as Asstt. Professor and H.O.D. Electrical Engineering Dept.
4. Kosygin Leishangthem, aged about 39 years, S/o raghu Leishangthem, resident of Thangmeiband Meisnam Leikai, P.O. & P.S. Lamphel, Imphal West District, Manipur-795001, Qualification – M. Tech in Earthquake Engineering now functioning as Asstt. Professor & H.O.D. of Civil Engineering.
5. Asem Nabadavis, aged about 29 years, S/o Dr. Asem Nabachandra Singh, resident of Khekman Makha Leikai, P.O. &

P.S. Thoubal, Thoubal District, Manipur-795138, Qualification – M.E. in Mechanical Engineering now functioning as Asstt. Professor & H.O.D. of Department of Mechanical Engineering.

***Contesting Respondent/s
in Writ Appeal [Writ Petitioners]***

6. The State of Manipur, represented by the Commissioner Higher/Technical Education, Govt of Manipur, New Secretariat Complex, Babupara, P.O. & P.S. Imphal, District Imphal West, Manipur-795001.
7. The Vice-Chancellor, Manipur Technical University, Takyelpat, Government Polytechnic Campus, Takyelpat, Imphal West District, Manipur – 795004.
8. The Registrar, Manipur Technical University, Takyelpat, Government Polytechnic Campus, Takyelpat, District Imphal West, Manipur-795004.

***.....Proforma Respondents
In Writ appeal***

**B E F O R E
HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the Appellant/s	::	Mr. BP. Sahu, Sr. Adv., with Mr. Anjan Prasad Sahu, Adv.
For the respondent/s	::	Mr. A. Romenkumar, Sr. Adv., with Mr. RK. Banna, Adv., R1-R5. Mr. Kh. Athouba, G.A, Mr. Phungyo Zingkhei, Dy. G.A., R6. Mr. RK. Deepak, Sr. Adv., with Mr. L. Rajesh, Adv., R7-R8.
Date of hearing	::	11.11.2025 & 12.11.2025
Date of Judgment & Order	::	20.11.2025

JUDGMENT & ORDER (CAV)

A. Guneshwar Sharma, J.

[1] The present third-party appeal has been preferred by 9 (nine) appellants herein questioning the correctness of the impugned judgment and

order dated 20.09.2018 passed by the Ld. Single Bench of this Court in WP(C) No. 519 of 2018. The writ petition filed by respondent Nos. 1 to 5 herein, was allowed by setting aside the notification dated 23.05.2018 issued by the Registrar, Manipur Technical University (hereinafter referred to as 'MTU') for recruitment of teaching and non-teaching staff of the university on regular basis with respect to the 5 (five) writ petitioners and further, with a direction to the university to provide regular appointment to the respondent Nos. 1 to 5 herein (writ petitioners) from the date of their initial appointments as Assistant Professors in MTU on contract basis. Since the appellants herein were not parties in the writ petition being WP(C) No. 519 of 2018, they approached the Division Bench of this Court challenging the impugned order dated 20.09.2018 with leave to appeal and application for condonation of delay in filing the third-party appeal. The application for condonation of delay in filing the writ appeal, i.e., MC[WA] No. 36 of 2021 was condoned vide order dated 09.09.2021 and the leave to appeal was granted vide order dated 06.05.2024 in MC[WA] No. 76 of 2021. No effective order has been passed in the application for stay, i.e., MC[WA] No. 77 of 2021.

[2] Heard Mr. BP. Sahu, learned senior counsel assisted by Mr. Anjan Prasad Sahu, learned counsel for third-party writ appellants; Mr. A. Romenkumar, learned senior counsel assisted by Mr. RK. Banna, learned counsel appearing on behalf of respondent Nos. 1 to 5 (writ petitioners); Mr. Kh. Athouba, learned senior counsel & Govt. Advocate assisted by Mr. Phungyo Zingkhei, learned Dy. G.A. on behalf of the State respondent No. 6 and Dr. RK. Deepak, learned senior counsel assisted by Mr. L. Rajesh, learned counsel on behalf of respondent Nos. 7 & 8 (MTU).

[3] The brief fact of the present case is that Manipur Technical University (MTU) was established pursuant to an ordinance 'The Manipur Technical University Ordinance, 2016' promulgated vide notification dated 23.04.2016 issued by the Governor of Manipur. Later on, the Manipur Technical University Act, 2016 was passed by the State Assembly and got assent from the Governor of Manipur on 21.10.2016 and notified in the official gazette making the date of enforcement retrospectively with effect from 23.04.2016 (the day on which the Ordinance was promulgated). In order to

make the university functional at its initial stage, the Registrar of University issued notification for engagement/appointment of Assistant/Associate Professors on contract basis vide various notifications dated 20.06.2016, 12.07.2016 and 23.07.2016 for the Civil Engineering, Mechanical Engineering, Electrical Engineering, Computer Science Engineering and Humanities (Communication). In these notifications, posts of Associate Professor for Physics, Chemistry and Mathematics were also included. The mode of examination is to be done by way of interview. Vide notification dated 06.07.2016, the Selection Committee recommended Lourembam Iboyaima Singh (respondent No. 1 herein) as Assistant Professor in Professional Communication (English); Laishram Jimmy (respondent No. 2) as Assistant Professor in Computer Science & Engineering. Vide another notification dated 15.07.2016, the Selection Committee recommended four candidates for various subjects including Kosygin Leishangthem (respondent No. 4 herein) for the post of Assistant Professor in Civil Engineering and Asem Nabadavis (respondent No. 5 herein) for the post of Assistant Professor in Mechanical Engineering and vide another notification dated 29.07.2016, Tayengjam Jeneeta Devi (respondent No. 3 herein) was recommended for the post of Assistant Professor in Electrical Engineering. Thereafter, vide order dated 15.07.2016 issued by the Registrar, MTU, Kosygin Leishangthem (respondent No. 4) was appointed as Assistant Professor in Civil Engineering on contract basis in MTU for the period of six months. Vide another order dated 15.07.2016 issued by the Registrar, MTU, Asem Nabadavis (respondent No. 5) was appointed as Assistant Professor in Mechanical Engineering on contract basis for a period of six months; vide order dated 30.07.2016 issued by the Vice-Chancellor, MTU, Tayenjam Jeneeta (respondent No. 3) was appointed as Assistant Professor in Electrical engineering on contract basis for a period of six months; vide another order dated 08.08.2016 issued by the Vice-Chancellor, MTU, Lourembam Iboyaima Singh (respondent No. 1) was appointed as Assistant Professor in Professional Communication (English) on contract basis; and vide another order dated 08.08.2016 issued by the Vice-Chancellor, MTU, Laishram Jimmy (respondent No. 2) was appointed as Assistant Professor in Computer Science and Engineering on contract basis

for a period of six months. Vide another order dated 30.12.2016 issued by the Vice-Chancellor, MTU, the contract appointment of 8 (eight) faculty members including the respondent Nos. 1 to 5 herein were extended for another period of six months or till the regularization incumbents join, whichever is earlier, on the same terms and conditions. It may be noted that vide order dated 15.06.2016, MTU created various post for teaching and non-teaching faculty including 30 posts of Assistant Professors on regular basis.

[4] The Registrar of MTU issued a notification dated 23.05.2018 for recruitment of teaching and non-teaching staff for 10 (ten) categories of posts for a total of 31 (thirty-one) posts in all. The relevant portion of the advertisement showing the designation, number of posts, etc. are reproduced as under:

**“NOTICE FOR RECRUITMENT OF TEACHING AND NON TEACHING
STAFF**

Imphal, the 23rd May 2018

No. 2/3/2016/MTU: Applications in prescribed form are invited for recruitment of Teaching faculties and non-teaching staff on regular basis in Manipur Technical University, Imphal:

A. TEACHING FACULTIES & ASSISTANT LIBRARIAN:

Sl.	Name of the post	Pay Scale	Group of post	No. of post	UR	OBC	ST	SC
1	Assistant Professor (Civil Engineering)	Rs. 15,600- 39,100 + 6000 (AGP)	A	5	4	0	1	0
2	Assistant Professor (Mechanical Engineering)	Rs. 15,600- 39,100 + 6000 (AGP)	A	5	4	0	1	0
3	Assistant Professor (Electronics & Communication Engineering)	Rs. 15,600- 39,100 + 6000 (AGP)	A	5	4	0	1	0
4	Assistant Professor (Computer Science & Engineering)	Rs. 15,600- 39,100 + 6000 (AGP)	A	5	4	0	1	0

5	Assistant Professor (Electrical Engineering)	Rs. 15,600- 39,100 + 6000 (AGP)	A	5	4	0	1	0
6	Assistant Professor (Mathematics)	Rs. 15,600- 39,100 + 6000 (AGP)	A	2	2	0	0	0
7	Assistant Professor (Physics)	Rs. 15,600- 39,100 + 6000 (AGP)	A	1	1	0	0	0
8	Assistant Professor (Chemistry)	Rs. 15,600- 39,100 + 6000 (AGP)	A	1	1	0	0	0
9	Assistant Professor (Professional Communication)	Rs. 15,600- 39,100 + 6000 (AGP)	A	1	1	0	0	0
10	Assistant Librarian	Rs. 15,600- 39,100 + 6000 (AGP)	A	1	1	0	0	0

[5] It is stated that the petitioners have been working in MTU since its inception and some of them are working as Head of Department and have been taking multiple responsibilities in various fields for advancement and development of the standard of the university and they become backbone of the university in all aspects. It may be noted that 18 (eighteen) Contract and Guest Faculty Assistant Professors in MTU made a joint representation dated 22.01.2018 to the Vice-Chancellor, MTU and Registrar, MTU to regularize their services as they had been part of the university since the very inception and worked hard to bring the university at that stage and they were functioning just like regular Assistant Professors. It is stated that the mode of their appointment of Assistant Professors on contract and guest basis is similar to the procedure for appointment of Assistant Professor on regular basis. It may be noted that out of 18 (eighteen) signatories to the representations for regularization, 5 (five) private respondents (writ petitioners) and appellants Nos. 1 & 5 were signatories to the representations submitted for regularisation. However, no decision has been made to the representation till

date. In the circumstances, respondent Nos. 1 to 5 herein filed a writ petition, being WP(C) No. 519 of 2018, before this Court with the prayer for setting aside the notification dated 23.05.2016 issued by the MTU for appointment of teaching and non-teaching staff on regular basis with respect to the posts held by them on contract basis and with a direction to provide regular appointment from the date of their initial contract appointment and treat the period of contractual service as the probation period and with consequential relief. Prayers (c) and (d) are reproduced as:

- “(c) to issue writ of certiorari to quash the notification dated 23.05.2018 (annexure – A/8) and to issue a writ in the nature of mandamus to provide regular appointment order to the petitioners from the date of their initial appointment on contract as the contract appointment were made after following all the procedures for Regular Appointment and to treat the initial period of two years as probation and to provide them with consequential benefits.*
- (d) to pass an interim stay order of the operation of the Notification dated 23.05.2018 (Annexure – A/8) and to reserve 5 posts for the petitioners namely Assistant Professor post of (i) professional Communications; (ii) Computer Science & Engineering; (iii) Electrical Engineering; (iv) Mechanical Engineering and Civil Engineering and allow the petitioners to continue their contract appointments till they are provided with regular appointment order with consequential benefits as the Hon’ble Court seemed appropriate.”*

[6] MTU filed counter affidavit to the writ petition inter-alia stating that:

- (i) regularisation of the petitioners who work only for two years would amount to violation of Article 309 of the Constitution and law laid down by the Hon’ble Supreme Court and there is no provision or legal right to regularize and absorb the contractual service.
- (ii) the selection of respondent Nos. 1 to 5 on contractual service was done only by interview and not done in consonance with the procedure for regular appointment i.e. 50% weightage on academic record and research performance, 30% weightage on assessment of domain

knowledge and teaching skill and 20% weightage on interview performance and the contractual engagement was done for a short period in order to run the newly established university at the initial stage.

- (iii) In the contract agreement, the respondent Nos. 1 to 5 have undertaken that they would not claim for regularisation.
- (iv) the respondent Nos. 1 to 5 (writ petitioners) were engaged after facing the interview only for the purpose of contract engagement for limited period and the criteria laid down under the UGC regulation on minimum qualifications for appointment of teachers under UGC regulation, 2010 was not followed.
- (v) after issuance of the impugned notification dated 23.05.2018, a corrigendum dated 11.06.2018 was also issued stating that UGC regulations on academic record and research performance – 50%; assessment of domain knowledge and teaching skill – 30% and interview performance – 20% would be followed. The notification was issued in pursuance to the Board of Management 2nd meeting held on 24.01.2018.

[7] The respondent Nos. 1 to 5 herein (writ petitioners) also filed rejoinder affidavit to the counter affidavit filed by the MTU whereby asserting that regularization of the writ petitioners who are contract Assistant Professors would not violate the provisions of Article 309 of the Constitution. It is stated that the Board of Management can frame statute and ordinance for regulating recruitment and service conditions of the university. However, the university can adopt the rule framed under Article 309. It is stated that AICTE regulations stipulates 80% of the posts should be regular and 20% can be filled up on contract basis and the appointment of the respondent Nos. 1 to 5 is within the permissible limit of 20% as stipulated in AICTE guidelines. It is also stated that the undertaking given by the writ petitioners (respondent Nos. 1 to 5) for contract engagement is vitiated by undue influence as stipulated under

Section 16 of the Contract Act and the doctrine of estoppel will not be applicable against the writ petitioners due to the glaring irregularities committed by the authority and that too in a concluded contract. The right to claim regularization cannot be denied on the sole ground of undertaking given at the time of contract recruitment by the employees not to claim regularisation.

[8] Vide a detailed judgment and order dated 20.09.2018, the Ld. Single Judge allowed the writ petition, i.e., WP(C) No. 519 of 2018 filed by the respondent Nos. 1 to 5 by setting aside the notification dated 23.05.2018 issued by the Registrar, MTU with respect to 5 (five) writ petitioners (respondent Nos. 1 to 5 herein) and directed the university to provide regular appointment to them from the date of their initial appointment. It may be noted that there was an interim order dated 19.06.2018 passed by the Ld. Single Judge in WP(C) No. 519 of 2018, thereby staying the notification dated 23.05.2018 with respect to the posts held by the five writ petitioners [R1 to R5 herein] and interim order was extended from time to time and the same merged with the final judgment dated 20.09.2018. During the course of hearing, it has been informed that respondent Nos. 1 to 5 applied for regular appointment in terms of the notification dated 23.05.2018. However, they did not appear in the final selection test, as they got interim order protecting their contract service. It is also submitted during the course of hearing that the 9 (nine) writ appellants did not apply for the contract appointment in terms of the various notification issued in the year 2016.

[9] After pronouncement of judgment dated 20.09.2018 in WP(C) No. 519 of 2018, the Registrar, MTU issued an order dated 17.12.2018 appointing the nine writ appellants as Assistant Professors on regular basis in terms of the Notification dated 23.05.2018, as approved by the Board of Management under Section 26 of Manipur Technical University Act, 2016 in its meeting held on 15.12.2018. The order dated 17.12.2018 is reproduced as:

ORDERS

Imphal, the 17th December, 2018

No. 2/3/2016-MTU: On the recommendation of the Selection Committee constituted vide orders of even no. dated 19.11.2018 and 27.11.2018 and

approval by the Board of Management under Section 26(f) of Manipur Technical University Act, 2016 in its meeting held on 15th December 2018, the following candidates are hereby appointed on Regular basis in the posts indicated against their names:

Sl. No.	Name of the Candidate	Name of the post	Group of the post	Category of the post	Pay Scale
1	Dr. Rajkumar Kamaljit Singh	Assistant Professor Physics	A	UR	Rs.15600-39100+6000 (AGP)
2	Aruna Chanu Oinam	Assistant Librarian		UR	
3	Thokchom Chhatrajit Singh	Assistant Professor Mathematics		UR	
4	Anand Jyoti Sanasam			UR	
5	Dr. Ningombam Swapana	Assistant Professor Chemistry		UR	
6	Pinky Khundrakpam	Assistant Professor Electronics and Communication Engineering		UR	
				UR	
7	Thingbaijam Rajkumari Chanu			UR	
8	Loukrakpam Merin Singh			UR	
9	Rosy Kimneithem Haokip			ST	
10	Dr. Birai Shougaijam		UR		

2. *They shall be on probation for a period of 2 (two) years.*

3. *This issues with the concurrence of the Finance Department (PIC), Government of Manipur vide their U.O. No. 69/2016-2017/FD(PIC) dated 14.06.2016, 349/2016-2017/FD(PIC) dated 02.12.2016 and the approval of the Vice-Chancellor, Manipur Technical University.*

(Ng. Bhogendra Meitei)
Registrar, Manipur Technical
University”

[10] It may be noted that the candidate at serial No. 2 i.e. Aruna Chanu Oinam is appointed as Assistant Librarian and she, being a non-teaching staff, is not related in the present appeal challenging the regularisation of the respondent Nos. 1 to 5 as Assistant Professors.

[11] Being aggrieved by the judgment dated 20.09.2018 passed by the Ld. Single Judge in WP(C) No. 519 of 2018, the MTU preferred a review petition, being Review Pet. No. 16 of 2018 and the same was dismissed on

merit by the Ld. Single Judge vide order dated 18.12.2018. Thereafter, the MTU also filed an appeal being WA No. 2 of 2019. The respondent Nos. 1 to 5 herein (writ petitioners) also filed contempt case being Cont. Cas(C) No. 378 of 2018. The Commissioner (Hr. & Tech. Edn.), Government of Manipur prepared a cabinet memorandum by proposing regularization of 5(five) Assistant Professors on contract basis (respondent Nos. 1 to 5 herein) and 11 (eleven) Assistant Professors on guest basis in MTU and re-designation of one post of Assistant Professor (Civil Engineering) to the post of Assistant Professor (Geology). In the cabinet memo, it is mentioned that vide order dated 20.09.2018, learned Single Judge of this Court in WP(C) No. 519 of 2018 directed the university to give regular appointment to the 5 (five) Assistant Professors employed on contract basis from the date of their initial appointment. It is also mentioned that MTU's review petition, i.e., Review Pet. No. 16 of 2018 against the direction of the Ld. Single Judge was also dismissed on 18.12.2018. It is recorded that MTU for academic session (2019 -2020) was working with 25 (twenty five) Assistant Professors comprising of 9 (nine) regular, 5 (five) contract and 11 (eleven) guest and absence of regular faculty member created situation which would amount to violating the UGC and AICTE guidelines. The 5 (five) Assistant Professors on contract basis and 11 (eleven) Assistant Professors on guest basis were found qualified as per the AICTE faculty norms. In the circumstances, it was proposed to regularize the services of 16 (sixteen) Assistant Professors on contract and guest basis as one time measure. The Finance Department and Department of Personnel were not in favour of regularization of contract and guest Assistant Professors. However, the administrative department proposed to regularize 5 (five) Assistant Professors engaged on contract wef the date of their initial appointment in terms of the Court's order dated 20.09.2018, along with 11 (eleven) Assistant Professors engaged on guest basis from the prospective date and to re-designate one post of Assistant Professor (Civil Engineering) out of 6 (six) nos. of sanction post to one post of Assistant Professors (Geology). The State Cabinet in its meeting held on 11.02.2020 approved the proposal to regularize the service of 5 (five) Assistant Professors engaged on contract basis with effect from the date of their joining report (this with respect

to respondent Nos. 1 to 5) and 11 Assistant Professors engaged on guest basis in MTU with immediate/prospective effect.

[12] In the proceedings of the 10th Meeting of the Board of Management held on 29.06.2020, the agenda No. 7 was for regularization of faculties in Manipur Technical University and after due consideration, the board advised the university to constitute a Verification Committee for regularizing the service of the 11 (eleven) Assistant Professors on guest basis and 5 (five) Assistant Professors on contract basis from the date of their joining. Agenda No. 7 is reproduced as:

“Agenda No. 7 Regularization of faculties in Manipur Technical University: The Board was apprised that two letters were received from the Government dated 02.06.2020 and 27.06.2020 conveying decision of the State Cabinet taken on 11.02.2020 for

- (i) Regularization of services of 11 (eleven) Assistant Professors on Guest basis in Manipur Technical University.
- (ii) Re-designation of one post of Assistant Professor (Civil Engineering) out of the 6 (six) nos. of sanction post to one post of Assistant Professor (Geology).
- (iii) Regularization of services of 5 (five) Assistant Professors on contract basis with effect from the date of joining.

After due discussion, the Board advised the University to constitute a Verification Committee for regularizing the services of the above mention Assistant professors.

The Verification Committee would comprise of the following members:

- (i) Prof. Kh. Manglem Singh Convenor
Registrar (i/c), NIT, Manipur
- (ii) Dr. L. Mahendra Singh Member
Chairman of COHSEM (Chancellor’s Nominee to BOM)
- (iii) RK. Hemakumar Singh Member
Principal (i/c), Manipur Institute of Technology.

The Term of Reference of the Verification Committee would be as follows:

- a. Verification of the Certificates of the Assistant Professors.
- b. Checking of the eligibility/qualifications of the Assistant Professors as per RR for Assistant Professors in Manipur Technical University along with requisite qualifications of Teaching Post in Technical Institutions as per AICTE Norms, 2010.

The Verification Committee is to submit their report by 8th of July, 2020.

[13] In the 11th Meeting of Board of Management of MTU held on 17.08.2020, agenda No. 2 is for regularization of faculties in Manipur Technical University. Verification Committee report was submitted to the Vice-Chancellor, MTU on 09.07.2020 and the same was placed before the Board of Management. After due deliberation and consideration, the Board of Management approved regularization of services of 5 (five) Assistant Professors on contract basis from the date of their initial appointment as per Government letter dated 27.06.2020 and further regularization of 7 (seven) Assistant Professors on guest basis in pursuance to the decision of the State Cabinet held on 11.02.2020. As per the approval given by the Board of Management, respondent Nos. 1 to 5 were appointed as Assistant Professors on regular basis with effect from their initial date of joining on contract basis against the posts vide an order dated 17.08.2020 passed by the MTU.

[14] As respondent Nos. 1 to 5 were regularized vide order dated 17.08.2020 passed by the MTU, the contempt case i.e. Cont. Cas(C) No. 175 of 2018 was closed on 21.08.2020. Thereafter, vide another order dated 28.04.2021, the writ appeal filed by MTU, i.e., WA No. 2 of 2019 challenging the judgment dated 20.09.2018 in WP(C) No. 519 of 2018 was also dismissed as infructuous. It has been submitted that no SLP has been preferred against this order by any of the parties before the Hon'ble Supreme Court. It may be noted that the 9 (nine) third party appellants herein also filed a writ petition, being WP(C) No. 344 of 2020, challenging the relevant portion of the resolution i.e. agenda No. 7(iii) of the Board of Management, MTU meeting held on 29.06.2020 approving for prospective regularization of the contractual services of respondent Nos. 1 to 5 herein. It has been challenged mainly on the ground that the contractual employment cannot be regularized and not to speak of with retrospective effect. By the retrospective regularization of the respondent Nos. 1 to 5 with effect from the date of initial contract, the career of the appellants herein [petitioners in WP(C) No. 344 of 2020] would be affected in their future service. The prayer in WP(C) No. 344 of 2020 is reproduced as:

- “(i) Call for the records of the case and issue rule nisi calling upon the respondents to show cause as to why the prayer prayed for by the petitioner shall not be granted. And, after hearing them make the rule absolute.*
- (ii) issue writ of certiorari and/or any other appropriate writ/order/direction to the respondents/authorities concerned by quashing/setting aside the relevant portion of the resolution (Agenda No. 7(iii) of the Board of Management of MTU dated 29.06.2020 (Annexure-A/5)*
- (iii) Pass any other appropriate order/direction that this Hon’ble Court deems fit and just in the interest of justice.”*

[15] By a detailed judgment dated 30.12.2020, the Ld. Single Judge dismissed the writ petition [WP(C) No. 344 of 2020] filed by the 9 (nine) appellants herein. It was held that the order dated 20.09.2018 passed by the Ld. Single Judge in WP(C) No. 519 of 2018 attained finality upon the dismissal of the review petition preferred by the MTU and the agenda No. 7 (iii) of the Board of Management held on 29.06.2020 was in compliance of the State Cabinet decision to comply with the direction of this Court in the order dated 20.09.2018. It is further observed that when the order dated 20.09.2018 passed by the Ld. Single Judge in WP(C) no. 519 of 2018, the 9 (nine) appellants were not in service of MTU as Assistant Professors and no material was placed how the right of the 9 (nine) appellants would have been affected and the 9 (nine) appellants herein had a mere apprehension that in subsequent seniority list, the respondent Nos. 1 to 5 would be senior to them. The issue of inter-se seniority between the nine appellants herein and respondent Nos. 1 to 5 herein were not issued before the writ court in WP(C) No. 519 of 2018. It has been specifically given a finding that the appellants herein (writ petitioners in WP(C) No. 344 of 2020) were aggrieved by the retrospective regularization of the respondent Nos. 1 to 5 herein and not by their regularization as such. In the circumstances, the writ petition was dismissed being devoid of any merit.

[16] It is stated at the bar that 9 (nine) appellants herein did not prefer any review or appeal against the judgment and order dated 30.12.2020 passed by the Ld. Single Judge in WP(C) no. 344 of 2020. Thereafter 9 (nine) appellants filed the present third-party appeal before the Division Bench with an application being MC[WA] No. 36 of 2021 for condoning delay in filing

appeal along with an application being, MC[WA] No. 76 of 2021, for seeking leave to file third party appeal. In the writ appeal, the main ground raised inter-alia on the following grounds that:

- (i) The terms of the engagement on contractual basis was for a short period and it has been clearly mentioned that the appointees shall not claimed regularization. The contract appointment was made before finalization of the statute and other guidelines for appointment.
- (ii) Since the advertisement for contract appointment in the year 2016 was purely for a short tenure, many of the candidates (like the appellants herein) did not apply.
- (iii) The Ld. Single Judge gave contradictory findings about the applicability of UGC Regulations, 2010 regulating the appointment of teaching faculty.
- (iv) The Ld. Single Judge failed to appreciate that no statutory body of the university such as Board of Management and Academic Council were formed at the time of engagement of respondent Nos. 1 to 5 on contract basis. The 1st Meeting of the Board of Management was held on 07.12.2016 and 1st Meeting of the Academic Council held on 27.05.2017 much after the appointment of respondent Nos. 1 to 5. It is also stated that as per Section 26(f) of the MTU Act, it is the prerogative of the Board of Management to appoint members of the teaching and non-teaching faculty. The direction in the impugned judgment to regularize the contractual service of respondent Nos. 1 to 5 from the date of initial appointment will result in gross injustice to the appellants who are otherwise senior to the contesting respondents in future for appointment of important post of Head of Department, Dean of University, etc.
- (v) In absence of rules/guidelines/statute, teacher can be appointed only on contract or temporary basis so as to

enable the university to run in the beginning and to make regular appointment after finalization of the rules. The contract appointment of respondent Nos. 1 to 5 was made de hors rule just to make the university functional at the beginning. The judgment of the Ld. Single Judge was not in consonance with the law settled by the Hon'ble Supreme Court in regard to regularization of contract appointment and also against the settled law regarding seniority between the direct recruitment in accordance with law and contract appointees appointed de hors rules and regularized subsequently.

[17] Mr. BP. Sahu, learned senior counsel assisted by Mr. Anjan Prasad Sahu, learned counsel for the third-party writ appellants, submits that the appellants are compelled to file the present writ appeal with leave to file 3rd party appeal against the impugned judgment dated 20.09.2018 passed by the Ld. Single Judge in WP(C) No. 519 of 2018 wherein the MTU was directed to regularize the contract services of the 5 (five) private respondents herein, i.e., the respondent Nos. 1 to 5 with retrospective effect from the date of their initial appointment on contract. By doing so, the right of the appellants who are regularly appointed as Assistant Professors in various subjects in MTU have been jeopardized and the contract employees are given marched over them by the direction of the Ld. Single Judge for retrospective regularization. It is pointed out that the respondent Nos. 1 to 5 have already known from the very beginning that their appointments as Assistant Professors on contract basis in MTU is for a short period, that too before the establishment of all the statutory bodies and for the purpose of starting class at the very initial state.

[18] Mr. BP. Sahu, learned senior counsel for the appellants, submits that the Assistant Professors engaged on contract could not claim regularisation. It is urged that the doctrine of 'special equity' will not be applicable, as the respondent Nos. 1 to 5 worked only for two years. The decision in the case of **Uma Devi: (2006) 4 SCC 1** mandates that the contract employees should work at least 10 (ten) years for considering regularization and two years tenure on contractual employment cannot be considered for

regularization. It is also submitted that since the initial appointment was on contractual basis, many of the aspirants did not apply for the same and by regularizing the right of the aspirants who could have applied if the advertisement was for regular appointment, have been violated. Mr. BP. Sahu, learned senior counsel for the appellants, submits the Ld. Single Judge made contradictory findings with regard to UGC regulations. At one point, it is stated that the UGC regulations of 2010 was not enforced in MTU whereas in some part of the impugned orders it is stated that UGC regulations was applicable.

[19] It is also stated that the appointments of respondent Nos. 1 to 5 on contract basis were *dehors* rule and the appointment was solely on the basis of interview. However, UGC Guidelines, 2010 prescribes 50% academic record, 30% teaching skill and 20% for interview. Since the appointments of the private respondents were not in terms of the rule applicable, the direction for regularization from the date of initial appointment on contract is against the ratio laid down by the constitution bench of the Hon'ble supreme Court in the case of **Uma Devi (supra)**.

[20] Mr. BP. Sahu, learned senior counsel for the appellants, has pointed out that the Ld. Single Judge has misapplied the ratio of the **Arjun Singh & Ors. vs. State of Himachal Pradesh** reported as **(2015) 5 SCC 713**. In that case, the State Government made requisition to the Himachal Pradesh Public Service Commission for regular appointment. However, the Public Service Commission wrongly issued an advertisement for appointment of contract basis and in the circumstances, as sanctioned and regular posts were available and the requisition being for regular appointment, it was wrongly advertised as contractual post. Accordingly, the Court converted the contract appointment as regular appointment, since regular post was available and the requisition was for appointment of the regular post. It is pointed out that in the case in hand, there was no regular post and contract appointment of Assistant Professors and Associate Professors in MTU was resorted to for the purpose of initiation of class at the initial stage of the establishment of the new university. The regular posts were created later on and the mode of recruitment is also different. It is urged that the ratio of **Arjun Singh case (supra)** was wrongly applied in the present case, where there were no regular

posts and no requisition for regular appointment. The appointment, from the very beginning, was meant for contract for a short period till the appointment of the regular faculty.

[21] Mr. BP. Sahu, learned senior counsel, has also pointed out that the Ld. Single Judge has not considered the ratio laid down by the Hon'ble Supreme Court in the case of **State of Maharashtra & Ors. vs. Anita & Ors.** reported as **(2016) 8 SCC 293** where it was held and observed that when the Government had taken a policy decision to fill up the post on contractual basis, the tribunal and High Court ought not to have interfered with it to hold the appointments were meant permanent in nature. In the case in hand, the MTU resorted to contract appointment of Assistant Professors and other employees for starting class at the very early stage as a stop gap arrangement and till the appointment of regular faculty members and other staff. The terms of contract especially mentioned for a period of six months and the employees could not claim regularization. It is submitted that the MTU never meant the contract appointment to be considered for regularizations and the Ld. Single Judge was wrong in directing regularizations of the respondent Nos. 1 to 5 who were appointed as Assistant Professors on contract basis from the date of their initial appointment. It is emphasised that regularization of the contract appointment within a period of two years cannot be resorted to in terms of the decision in **Uma Devi case (supra)** cited above, not to speak regularization from the initial date of contractual appointment.

[22] Mr. BP. Sahu, learned senior counsel for the appellants, also relies on the decision of the Hon'ble Supreme Court in the case of **Jammu and Kashmir & Ors. v. District Bar Association, Bandipora** reported as **(2017) 3 SCC 410, para 11, 12 & 17** which bars regularization of the person appointed on daily wages and contractual basis without following due process and the decision was based on the decision of the constitution bench in the case of **Uma Devi (supra)**. Regarding the locus, it is urged that the petitioners are very much aggrieved by the retrospective regularization of the respondent Nos. 1 to 5 by the directions of the Ld. Single Judge in the impugned Judgment dated 20.09.2018. By this retrospective regularization order issued in the year 2020, the respondent Nos. 1 to 5 have been given seniority upon the

appellants who were regularly appointed in the year 2018 after fulfilling all the requirements and in terms of the Act and applicable rules. It is pointed out that the writ appellants challenged the Agenda No. 7(iii) with respect to the decision of the Board of Management for regularization of respondent Nos. 1 to 5 along with others. However, the Ld. Single Judge dismissed the writ petition being WP(C) No. 344 of 2020 filed by the appellants herein on the ground that the main and substantive order dated 20.09.2018 passed by the Ld. Single Judge in WP(C) No. 519 of 2018, attained finality after the dismissal of the review petition filed by the MTU. It was held that without challenging the substantive order, the decision of the Board which is in compliance of the direction in the order dated 20.09.2018, cannot be challenged. In the circumstances, the present appellants chose to file the present writ appeal with a leave to file third-party appeal. Since the leave has already been granted by order dated 06.05.2024 in MC[WA] No. 76 of 2021, the question of locus does not survive at this stage, as the leave was granted by the Division Bench of this Court being satisfied that the appellants are aggrieved parties. In this regard, learned senior counsel for the appellants refers to the judgment of the Hon'ble Supreme Court in the case of **M.S. Jayaraj vs. Commissioner of Excise, Kerala** reported as **(2007) 7 SCC 552**.

[23] Mr. BP. Sahu, learned senior counsel for the appellants, further relies on the following case laws:

(a) Binding nature of UGC Regulations: UGC Regulations are binding and mandatory nature and any deviation from the same would render any appointment within the ambit of the regulations as illegal.

(i) **Annamalai University vs. Secretary to Government: (2009) 4 SCC 590 (42)**

(ii) **State of West Bengal vs. Anindya Sundar Das & Ors.: (2022) SCC Online SC 1382.**

(iii) **Prof. (Dr.) Sreejith PS vs Dr. Rajasree MS & Ors.: (2022) SCC Online SC 1473**

(iv) **Gambirdhan K Gadhvi vs. State of Gujarat: (2022) 5 SCC 179: Where the appointment of the UGC was**

quashed in a writ of certiorari for not following the UGC Regulations.

- (b) Illegal Selection Committee: UGC Regulations, 2018 stipulate that appointment of Assistant Professors is to be done by a duly approved committee and in the case in hand, the appointment of respondent Nos. 1 to 5 was not by duly approved Board of Management at the relevant time.

Prof. (Dr.) Sreejith PS vs Dr. Rajasree MS & Ors.: (2022) SCC Online SC 1473

- (c) Illegal selection procedure in violation of UGC norms: Under the UGC norms, Assistant Professor has to be considered with API score of 100% weightage consisting of (i) Academic record and Research Performance (50%), (ii) Assessment of Domain Knowledge and Teaching Skill (30%) and (iii) Interview Performance (20%). In case of appointment of the private respondents, it was 100% by interview which is in violation of the UGC regulations.

State of Odisha vs. Sulekh Chandra Pradhan: (2022) 7 SCC 482

- (d) Initial appointment not made against sanctioned posts: Where initial appointment was not made on sanctioned post, no further relief of regularization can be granted.

Bibhuti Shankar Randey vs. State of Madhya Pradesh & Ors.: (2023) 3 SCC 639: In the present case, the respondent Nos. 1 to 5 were appointed on contract basis and the same was not against the sanctioned posts and hence, the direction for regularization from the date of initial appointment is illegal.

Vibhuti Shankar Randey vs. State of Madhya Pradesh & Ors.: (2023) 3 SCCA 639.

- (e) Courts cannot direct mode/method of recruitment: In **Chandigarh Administration vs. Usha Kheterpal Waie & Ors.: (2011) 9 SCC 645:** It is held that it is for the competent authority to determine the method of recruitment as long as

the method of recruitment is not illegal and the same cannot be moulded or changed in any form by the Court.

(f) Direction for absorption of respondent Nos. 1 to 5 on regular basis is against the decision of the Hon'ble Supreme Court in the case of **Official Liquidator vs. Dayanand: (2008) 10 SCC 1**. There is estoppel against the challenge to the nature of appointment, once the same is accepted. In the present case, the private respondents are estopped from challenging the nature of contract employment and cannot claim regularization.

(g) **State of Maharashtra & Ors. vs. Anita & Ors.: (2016) 8 SCC 293**: It is held that the contractual appointee cannot dispute the nature of appointment once having accepted the same. In the case in hand, respondent Nos. 1 to 5 have accepted the terms of the contractual appointment for a limited period and that too, barring for regularization, cannot now file the writ petition that their services be regularized from the initial date of appointment on contract.

[24] During the course of hearing, Mr. BP. Sahu, learned senior counsel for the appellants, fairly concedes that the petitioners are challenging the only retrospective regularization of respondent Nos. 1 to 5 and they are not challenging the regularization of 11 Assistant Professors engaged on guest basis and their prayer is confined to 5 contesting respondents, i.e., the respondent Nos. 1 to 5 herein, as the retrospective regularization affects their seniority position and other future rights of considering as Head of Department and for higher posts. Mr. BP. Sahu, learned senior counsel for the appellants, submits that the direction of the Ld. Single Judge in the impugned order dated 20.09.2018 directing the university to provide regular appointment to the respondent Nos. 1 to 5 from the date of their initial appointment be set aside, as the same is not sustainable in law and fact.

[25] Further, Mr. BP. Sahu, learned senior counsel for the appellants urges that as per Section 26(f) of the MTU Act, the appointments have to be made on the approval of the Board of Management and in the case of

respondent Nos. 1 to 5, there is no approval of Board and hence the initial appointment is dehors the rules. However, the appellants have been appointed on regular basis on the recommendation of the Board of Management in terms of Section 26(f) of the Act and the position of the appellants and respondent Nos. 1 to 5 cannot be equated and the Ld. Single Judge was wrong in placing them at parity and in fact putting the respondent Nos. 1 to 5 above the appellants.

[26] Mr. A. Romenkumar, learned senior counsel for respondent Nos. 1 to 5 (who are the writ petitioners before the Ld. Single Judge), has raised the question of locus and the maintainability of the present appeal. It is submitted that the appellants cannot challenge the judgment of the Ld. Single Judge which directed the MTU to provide regular employment to them from the date of their initial appointment, as the appellants are not the aggrieved parties. It is stated that respondent Nos. 1 to 5 were appointed as Assistant Professor in Communication, Computer Science & Engineering, Electrical Engineering, Civil Engineering and Mechanical Engineering whereas the appellants were appointed as Assistant Professors in Mathematics, Physics, Chemistry, Electronics and the Communication Engineering. It means that the trades/subjects of respondent Nos. 1 to 5 and those of appellants are different and hence, they cannot be considered for appointment against the posts held by the private respondents and they could not have applied in the year 2016 also, even if they were willing to do so. In other words, the appellants are not an aggrieved parties to the appointment and the regularization of the private respondents. In this respect, Mr. A. Romenkumar, learned senior counsel for respondent Nos. 1 to 5, relies on the judgment of the Hon'ble Supreme Court reported as **Umakant Saran v. State of Bihar:(1973) 1 SCC 490 para 10** to the effect that the writ of certiorari does not lie to challenge appointment at the instance of persons '*who was not eligible for consideration for appointment at the time, had no right to question the appointments since he was not aggrieved*'. Learned senior counsel further refers to the decision of the Hon'ble Supreme Court in the case of **Shripal Bhati Vs. State of Uttar Pradesh** reported as **(2020) 12 SCC 87 para 23 & 25** to the point that a person who is

not eligible for appointment is not maintainable against the appointment and subsequent absorption.

[27] On the issue of res-judicata, Mr. A. Romenkumar, learned senior counsel for respondent Nos. 1 to 5, draws the attention of this Court to the writ petition, being WP(C) No. 344 of 2020, filed by 9 (nine) appellants herein against the decision of the Board of Management dated 29.06.2020 Agenda No. 7(iii) regarding regularization of respondent Nos. 1 to 5 from the date of their initial appointment. It is pointed out that the decision of the Board of Management in Agenda No. 7(iii) for regularization of contract appointment of the respondent Nos. 1 to 5 was in pursuance to the decision of the State Cabinet held on 11.02.2020 for compliance of the direction of the Ld. Single Judge in Judgment dated 20.09.2018 in WP(C) No. 519 of 2018 for regular appointment of the respondent Nos. 1 to 5 from the date of their initial engagement on contract basis. WP(C) No. 344 of 2020 was dismissed by the Ld. Single Judge on merit on the ground that the resolution of the Board of Management of MTU cannot be challenged and the direction in the substantive order dated 20.09.2018 has attained finality after the dismissal of the review petition and compliance by the State in terms of the Cabinet decision. It is pointed out that the appellants herein who were writ petitioners in WP(C) No. 344 of 2020, did not prefer any review or appeal against the order dated 30.12.2020 rejecting the same. If this Court sets aside the judgment dated 20.09.2018 in WP(C) No. 519 of 2018 by allowing the present appeal, it will amount to impliedly allowing WP(C) No. 344 of 2020 which had already been rejected without preferring any appeal or review. In this regard, Mr. A. Romenkumar, learned senior counsel for respondent Nos. 1 to 5, refers to the decision of the Hon'ble Supreme Court in the case of **Kaushik Co-Operative Building Society vs. N. Parvathamma & Ors. reported as (2017) 13 SCC 138 para 13** where it was laid down the tests for applying the principle of res judicata:

- 1) That the litigating parties must be the same;
- 2) That the subject matter of the suit also must be identical;

- 3) That the matter must be finally decided between the parties and
- 4) That the suit must be decided by the Court of competent jurisdiction.

[28] It is submitted that in the present case, WP(C) No. 344 of 2020 was filed by the appellants herein against the university and the respondent Nos. 1 to 5 herein and the writ petition was dismissed. The appellants cannot file the present appeal challenging the substantive portion of the relief granted in WP(C) No. 519 of 2018, after the dismissal of WP(C) No. 344 of 2020 has attained finality. It is stated that granting leave for third party appeal is only for the purpose of filing of the appeal by the Division Bench of this Court vide order dated 06.05.2024 in MC[WA] No. 76 of 2021 and the same cannot be treated as giving the final finding that the appellants are the aggrieved parties. At most, the order dated 06.05.2024 granting leave can be considered as prima facie satisfaction of the court as to the point of aggrieved party and the order granting leave to appeal, cannot be construed as a final decision as to whether the appellants are aggrieved parties or not and the same is open to be agitated during the hearing of the appeal on merit.

[29] Mr. A. Romenkumar, learned senior counsel for respondent Nos. 1 to 5, also relies on the decision of the Hon'ble Supreme Court in the case of **S. Ramachandra Rao vs. S. Nagabhushana Rao** reported as **2022 (15) SCALE 187 para 9.5.1 and 9.5.2** where it is stated that the doctrine of res judicata is attracted both in separate subsequent proceeding and also at the different stages of the same proceeding. It was further held that even an erroneous decision remains binding on the parties to the same litigation concerning the same issue, if the decision was rendered by the competent Court. It is pointed out that in the present case, the issue was between the same party and was decided by the competent Court. Even if the judgment dated 20.09.2018 which is challenged in the present appeal is presumed to be erroneous, the principle of res judicata will be attracted. Hence, the present appeal filed by the appellants is barred by doctrine of res judicata in view of the dismissal of WP(C) No. 344 of 2020 vide order dated 30.12.2022.

[30] Another point of maintainability of the writ appeal is the issue of infringement of future right of the appellants. Mr. A. Romenkumar, learned senior counsel refers to the case of **Niolofer Insaf vs. State of M.P.** reported as **(1991) 4 SCC 279 para 12**, wherein Hon'ble Supreme Court held that the validity of order of transfer cannot be challenged by 3rd party on the ground that the same would affect his right at the future point of time and in subsequent event. It is urged that the only ground for filing the present appeal, as evident from the ground of appeal especially (O) in the memo of appeal, is that the right of the appellant for consideration of promotion and posting as Head of Department, Dean and higher post would be affected by retrospective regularizations of respondent Nos. 1 to 5 and by placing them in seniority above the appellants.

[31] Mr. A. Romenkumar, learned senior counsel, submits that the writ petition/appeal is not maintainable on the assumption of perceived and imaginary injury at the future point of time. It is pointed out that consideration for appointment as Head of Department, Dean and other posts has no nexus with the regularization of the respondent Nos. 1 to 5. The appointments to the higher post are to be considered as per the relevant rules. On merit, it is submitted that there are two types of contract appointments (i) without following due process of rules and (ii) by following all the requisite procedures. It is pointed out that in Manipur Technical University Act, 2016, Section 9 stipulates that the university is strictly to adhere to the rules and regulations, norms and standards, procedures and guidelines, etc. of the AICTE in respect of establishment and maintenance and others, such rules and regulations, guidelines of UGC from time to time. It is pointed out that AICTE guidelines prescribe that minimum 80% of the faculty should be regular full time and the remanent may be adjunct faculty resource person from university. It is pointed out that vide order dated 15.06.2016, for MTU 50 number of regular posts of teaching faculty including 30 posts of Assistant Professors, 16 posts of Associate Professors and 4 posts of Professors were created along with non-teaching posts including the posts of Vice-Chancellor, Registrar, Controller of Examination, etc.

[32] Mr. A. Romenkumar, learned senior counsel, has pointed out that 80% of 30 posts turns out to be 24 posts. It is pointed out that 30 posts of Assistant Professors created vide order dated 15.06.2020 and as per AICTE norms 80%, i.e., 24 posts are to be filled up on regular basis and the remaining 20%, i.e., 6 (six) posts can be appointed on contract basis. The initial appointment of respondent Nos. 1 to 5 along with another is as per the AICTE norms of 20% appointments on contract basis against the sanctioned 30 posts of Assistant Professors in MTU. It is also pointed out that the initial appointment of respondent Nos. 1 to 5 was against the sanctioned posts created on 15.06.2020 and respondent Nos. 1 to 5 and another were appointed against 6 (six) posts earmarked for appointment on contract basis in terms of the AICTE norms vide various orders issued by MTU in the year 2016 in order to facilitate to start the classes in the initial stage. Since the rule was not framed at that time, the university made an arrangement of following the applicable guidelines and the advertisement for contract appointment was widely published in newspapers and electronic media and the appointment on the basis of the interview along with consideration of the academic and other qualifications of the candidates applied for. It is pointed out that the procedure adopted in the appointment of respondent Nos. 1 to 5 on contract basis and that of the appointment on the appellants herein on regular basis are similar.

[33] Mr. A. Romenkumar, learned senior counsel, has referred to the notification dated 23.05.2018 issued by the MTU calling for appointment of 30 faculty members on regular basis specifying that the mode of selection will be interview. It is submitted that the substantial procedural for appointment of respondent Nos. 1 to 5 on contract basis in the year 2016 and the process for appointment of appellants on regular basis in the year 2018 are similar, i.e., both are on the basis of interview. It is further submitted that the appointment of respondent Nos. 1 to 5 is through open advertisement by conducting of the selection procedure by an expert body. On the recommendation by the selection committee, the contract appointment of the private respondents was made upon after following due process. Even if the posts were created, the regular appointment could not be made in absence of the codified rules. However, the appointment made in 2016 in terms of the MTU Ordinance, 2016

on contract basis, has all the trappings of the regular appointment. Anything done under the Ordinance has been protected by Section 54 of MTU Act.

[34] Mr. A. Romenkumar, learned senior counsel, relies on the decision of the Hon'ble Supreme Court in the case of **Union Public Service Commission v. Girish Jayantilal Baghela** reported as **(2006) 2 SCC 482 para 12**, that any regular appointment made on the post under the State or Union without issuing advertisement and inviting application from the eligible candidate and without holding proper selection would violate the principle guarantee under Article 16 of the Constitution. It is submitted that in the case in hand, all the procedures of a regular appointment have been followed and such contract appointment of respondent Nos. 1 to 5 is only in the name, but in essence, the same is a regular appointment and there is no illegality in directing appointment of respondent Nos. 1 to 5 on regular basis from the date of their initial appointment on contract.

[35] Mr. A. Romenkumar, learned senior counsel, refers to the decision of the Hon'ble Supreme Court in the case of **State of Bihar v. Upendra Narayan Singh** reported as **(2009) 5 SCC 65 para 31** to the point that any public employer is due bound to notify the vacancies in newspaper, having wide circulation, announcement in radio and television and consideration of eligible candidates who have applied pursuant to such advertisement. In the present case also, the six vacancies were advertised and on the basis of the recommendation of the Selection Committee and after examining the candidates who had applied, the six candidates including five private respondents herein were shortlisted and were accordingly appointed on contract basis. Reliance is made on the decision of the Ld. Single Judge of this Court in the case of **Manovwer Ali v. State of Manipur** reported as **(2017) 4 NJE 466 para 53** where it was observed in para 53 that regular appointment would mean appointment by following the procedure laid down in the recruitment rules, and if not especially mentioned in the rules, it would require advertisement of the vacancies and the consideration of the claim of the eligible candidates required under Article 16 of the Constitution. Reference is also made to the decision of the Hon'ble Supreme Court in the case of **Siraj Ahmad vs. State of U.P.** reported as **(2019) 17 SCALE 626 para 14** where

the persons appointed possess the prescribed minimum qualifications and are working against the sanctioned post but having selected without undergoing the process of open competitive selection, such appointments are considered to be irregular. It is submitted that irregular appointment can be regularised as held in **Uma Devi case (supra)**.

[36] Mr. A. Romenkumar, learned senior counsel, submits that in the case in hand, all the procedures of the regular appointment have been followed and as such, the contract appointment of the respondent Nos. 1 to 5 is in essence a regular appointment. Further, reliance has also placed in the decision of **Arjun Singh v. State of Himachal Pradesh** reported as **(2015) 15 SCC 713** where it was held that when the regular posts are available, the appointment of contractual basis is held to be unfair and Court directed the person appointed on contract basis be regularized from the date of initial appointment.

[37] Mr. A. Romenkumar, learned senior counsel, has pointed out that the Ld. Single Judge has extensively relied on the *Arjun Singh principle* while allowing the writ petition filed by respondent Nos. 1 to 5 thereby directing the regularization of their services from the date of initial appointment, as they have satisfied all the eligible criteria. In the case of **Somesh Thapliyal & Anr. v. Vice-Chancellor, H.N.B Garhwal University** reported as **2021 (10) SCALE 213**, it was held that once the candidates have gone through the process of selection provided under the scheme of the Act regardless of the fact that whether the post is temporary or permanent in nature, at least their appointment is substantive in character and could be made permanent as and when the post is permanently sanctioned by the competent authority.

[38] Mr. A. Romenkumar, learned senior counsel, submits that in the present case, 30 posts of Assistant Professors were created in MTU vide order dated 15.06.2016 and as per AICTE 20%, i.e., 6 posts can be filled up on contract engagement or otherwise. Since respondent Nos. 1 to 5 gone through the process prescribed for regular appointment, their contract appointment against the sanctioned posts on regular basis can be regularized. He also refers to the following case laws:

- (a) **Shanker Raju v. Union of India** reported as **(2011) 2 SCC 132 para 10**: It was held that the settled principle of law for a long time should not be unsettled. If the present appeal is allowed, the settled proposition of law will be unsettled.
- (b) **Md. Abdul Helim Khan v. State of Manipur** reported as **2022 SCC ON LINE MANI 229**: The Ld. Single Judge of this Court held that there should be finality of judgment of the Court and the settled proposition of law should not be settled lightly.
- (c) **Office of the Lokayokta v. Thokchom Kaminimohon** reported as **2022 2 MNLJ 107 para 19**: The Ld. Single Bench of this Court held that the initial appointment of incumbent against the sanctioned post due to administrative exigency is only an irregular appointment and not an illegal as laid down in Uma Devi (supra) and the same can be regularized.
- (d) **Vivek Kaisth v. Sate of Himachal Pradesh** reported as **(2024) 2 SCC 269 para 44**: invoking the doctrine of 'special equity', a person who has been working as judge on excess appointment but otherwise eligible and without any favouritism, nepotism or due to any extraneous condition for a period of 10 years was regularized.

[39] Mr. A. Romenkumar, learned senior counsel submits that in the present case also respondent Nos. 1 to 5 were appointed following the due process on their own merit and there is no allegation of nepotism or any other extraneous consideration and the direction for their regularization by the Ld. Single Judge can be upheld by invoking the doctrine of 'special equity'. Similarly, in the case of **Gujarat State Dy. Executive Engineers' Association v. State of Gujarat** reported as **1994 SUPP 2 SCC 591 para 11**: The appointment of persons who have been working for 5 (five) years was protected as there was no substantial illegality in their appointment.

[40] Mr. A. Romenkumar, learned senior counsel, refers to the decision of the Hon'ble Supreme Court in the case of **Kalyani Mathivanan v. K V Jeyaraj & Ors.** reported as **(2015) 6 SCC 363 para 62.4** which held that

UGC, 2010 regulations are directory for the universities, colleges and higher education and institutions under the purview of State legislature. However, as held in para 62.3, UGC, 2010 regulations are mandatory to teacher and other academic staff in all the Central Universities and Colleges. In short, UGC, 2010 regulations are directory for university and higher education institution under the purview of the State and the State has to adopt to implement the scheme. Hence UGC, 2010 regulations are partly mandatory for central university and partly directory for State university. Mr. A. Romenkumar, learned senior counsel, has pointed out that the submissions of the appellants of violating UGC guidelines, 2010 is without any basis in view of this judgment and the UGC guidelines was adopted as late in the year 2019 as submitted by learned counsel for the State Government.

[41] Mr. A. Romenkumar, learned senior counsel for respondent Nos. 1 to 5 (who are writ petitioners before the Ld. Single Judge), sums up his submission as:

- (i) The appellants have no locus to challenge the appointment and regularization of the respondent Nos. 1 to 5. The subjects/trades of 9 (nine) appellants are different from the subjects of the five private respondents and the appellants could not have applied for the posts against which respondent Nos. 1 to 5 were appointed on contract basis in the year 2016.
- (ii) The appellants are not the aggrieved parties and hence, no writ of certiorari or appeal praying similar prayer will lie at the instance of the persons who are aggrieved parties. The regularization of respondent Nos. 1 to 5 does not affect the right of the appellants as both the appellants are respondent Nos. 1 to 5 belonged to different trades and subjects and nothing is common except for being employees of the MTU.
- (iii) The present appeal is barred by the principle of res judicata as the appellants have not preferred any review/appeal against the rejection of the writ petition

being WA No. 344 of 2020 filed by them praying for the similar relief.

- (iv) The appointment of respondent Nos. 1 to 5 on contract basis is against the regular sanctioned posts created on 15.06.2016 and in terms of AICTE norms by allowing 20% appointment on non-regular basis.
- (v) Even if the appointment of respondent Nos. 1 to 5 is in form contract basis, their appointment in essence is on regular basis and by following all the prescribed procedures. The appointment of respondent Nos. 1 to 5 was in terms of the provisions of MTU Ordinance, 2016 and Section 54 of the MTU Act, 2016 protects all the acts done under the Ordinance.
- (vi) At most, the initial appointment of respondent Nos. 1 to 5 can be considered (for the sake of argument but not admitting) as irregular appointment and hence, the same can be regularized by the authority or at the instance of the Court. The respondent Nos. 1 to 5 have special equity in their favour having contributed to the growth of the university from the very day of its inception. Till now, some of them have been conferred the responsibility of the Head of Department. These persons are behind formulation of the Statute and Ordinance of the MTU and they have been performing multi-tasking assignments as given to them by the university authority from time to time. It is prayed that the writ appeal be dismissed being devoid of merit.

[42] Mr. Kh. Athouba, learned senior counsel & G.A., submits that the respondent Nos. 1 to 5 were appointed in the year 2016 on contract basis to facilitate for starting of classes in the initial stage. He also supports the submissions of Mr. A. Romenkumar, learned senior counsel for respondent Nos. 1 to 5, to the point that the present appeal is barred by the principle of res judicata, as the appellants herein who had filed WP(C) No. 344 of 2020

praying for similar relief never challenged the rejection of the writ petition. If the present appeal is allowed, it would amount to allowing the dismissed writ petition without challenging the same. It is submitted that since the direction of the Ld. Single Judge in the judgment dated 20.09.2018 in WP(C) No. 519 of 2018 has already been complied by the university on the instruction of the State Government in order to fill up the vacancies, the writ appeal does not have any merit and does not warrant any indulgence from this Hon'ble Court.

[43] Mr. RK. Deepak, learned senior counsel, fairly submits that before the Ld. Single Judge, the MTU opposed the prayer for regularization of respondent Nos. 1 to 5 on the ground that their appointment was on contract basis for a limited period and with a condition barring any request for regularization. However, on the advice of the State Cabinet and as per the direction of learned Single Judge, the Board of Management of MTU has taken a conscious decision on regularizing the contract services of the petitioners from the date of their initial appointment along with others. The main consideration for regularization is in order to fill up the vacancy existed in the university and the same was done with the approval of the Board of Management which is the highest decision-making body of the university. At this stage, the prayer in writ appeal may not be opened, as it will unsettle the settled proposition of law.

[44] We have perused the material on record, considered the rival submissions made at the bar and the case laws cited by the parties. From the submissions made by the learned counsel for the parties, the following points for determination are involved in the present appeal for adjudication:

I. Whether the writ appellants are '*aggrieved parties*' so as to maintain the third-party appeal?

II. Whether the writ appeal is barred by the principle of '*res-judicata*', as the writ petition WP(C) No. 344 of 2020 filed by the appellants for the same cause has already been dismissed and attained finality?

III. Whether the respondent Nos.1 to 5 have been appointed as Assistant Professors on contract basis in Manipur Technical University against sanctioned posts after duly following the prescribed procedure?

[45] On the question of the appellants being 'aggrieved parties' so as to entitle them to file the present third-party appeal against the impugned judgment dated 20.09.2018 passed by the learned Single Judge in WP(C) No. 519 of 2018, the answer lies in whether the appellants can apply and are eligible for appointment to the posts against which the private respondents were appointed as Assistant Professors on contract basis in the year 2016. Before answering this question, it will be relevant to refer to the parties and the subjects against which they have been appointed on contract and regular basis. The same will be evident from the following tables:

A. Respondent Nos. 1 to 5 appointed on Contract basis in 2016:

Sl. No.	Name	Subject
1	Lourembam Iboyaima Singh R1	Communication (English)
2	Laishram Jimmy R2	Computer Science & Engineering
3	Tayenjam Jeneeta R3	Electrical Engineering
4	Kosygin Leishangthem R4	Civil Engineering
5	Asem Nabadavis R5	Mechanical Engineering

B. Appellant Nos. 1 to 9 appointed on Regular basis in 2018:

Sl. No.	Name	Subject
1	Dr. Thokchom Chhatrajit Singh A1	Mathematics
2	Dr. Rajkumar Kamaljit Singh A2	Physics

3	Loukrakpam Merin Singh A3	Electronic & Communication Engineering
4	Dr. Biraj Shougaijam A4	Electronic & Communication Engineering
5	Anand Jyoti Sanasam A5	Mathematics
6	Pinky Khundrakpam A6	Electronic & Communication Engineering
7	Rosy Kimneithem Haokip A7	Electronic & Communication Engineering
8	Dr. Ningombam Swapana A8	Chemistry
9	Thingbaijam Rajkumari Chanu A9	Electronic & Communication Engineering

From the above tables, it is seen that the five private respondents were appointed as Assistant Professors on contract basis in the year 2016 in Communication (English), Computer Science & Engineering, Electrical Engineering, Civil Engineering and Mechanical Engineering; while the nine appellants were appointed as Assistant Professors on regular basis in the year 2018 in the subjects/trades of Mathematics, Physics, Electronic & Communication Engineering and Chemistry. It is evident that there is no commonality in the subjects/trades qua the private respondents and the appellants. In other words, the appellants could not apply and appear qua the notifications issued in the year 2016 for appointment of Assistant Professors on contract basis. Accordingly, they do not and should not have any grievance in the appointment, regularization and other service conditions of the private respondents. We are in agreement with the submission of Mr. A. Romenkumar, learned senior counsel that the appellants cannot be considered as 'aggrieved parties' so as to challenge the judgment directing

regularization of the private respondents from the date of initial appointment on contract basis. It will also be relevant to point out that the impugned order directing regularization of the five private respondents was passed on 20.09.2018 and the appellants were appointed on regular basis on 17.12.2018. In other words, the appellants were not in the service of MTU on the date of passing of the impugned order of regularisation. By stretch of any imagination, the appellants cannot claim that their rights including that of further promotion, etc. has been affected by the impugned order. The subsequent order of regularization from the initial date of appointment on 17.08.2020 issued by MTU after following prescribed procedure, is in compliance of the impugned order dated 20.09.2018. The issuance of order of regularization on 17.08.2020 does not improve the case of the appellants. While granting third-party leave to appeal, this Court was of the prima facie opinion in favour of the appellants being 'aggrieved parties' and the said status is to be examined at the time of final hearing and decision.

[46] It is held in the case of **Gopabandhu Biswal v. Krishna Chandra Mohanty: (1998) 4 SCC 447 @ Para 13** that 'only persons who are directly and immediately affected by the impugned order can be considered as 'parties aggrieved'. Hon'ble Supreme Court also held in the case of **Anand Sharadchandra Oka v. Universities of Mumbai: (2008) 5 SCC 217** that if a person claiming relief is not eligible as per requirement, then he cannot be said to be a 'person aggrieved' regarding election or the selection of other persons. As per the above decisions, it is settled law that only 'aggrieved party' can challenge the appointment or otherwise of other persons.

[47] From the above narrated facts and case laws, it is crystal clear that the subjects of the private respondents and those of the appellants are different. In other words, the appellants are not eligible for consideration for appointment against the posts held by the private respondents since 2016. Since the appellants are not eligible for consideration for the contract appointment in the year 2016, they cannot be termed as 'aggrieved parties' and they cannot challenge the impugned judgment dated 20.09.2018 directing MTU to provide regular employment to the private respondents from the initial date of appointment on contract basis. In view of the ratios mentioned supra,

grant of leave for third-party appeal is not a conclusive finding on the status as regards 'aggrieved parties' and the third-party leave to appeal has been granted on prima facie satisfaction, subject to examination in the main proceeding. In the circumstances, we are of the view that the appellants are not 'aggrieved parties', notwithstanding the grant of third-party leave to appeal by this Court.

[48] Next issue is the question of res-judicata. It is an admitted fact that the direction in the impugned order dated 20.09.2018 in WP(C) No. 519 of 2018 for retrospective regularization of the private respondents, has already attained finality upon implementation of the same by MTU on the advice of State government. Before filing of the present appeal, the appellants herein challenged the resolution of the Board of Management of Agenda 7(iii) of its meeting held on 29.06.2020 for regularization of the five private respondents from date of initial appointment on contract along with others by way of writ petition being WP(C) No. 344 of 2020 and the same was rejected on merit. It is further admitted that the appellants have not challenged the dismissal of WP(C) No. 344 of 2020 before the Division Bench in appeal nor was any SLP filed before the Hon'ble Supreme Court. Instead of challenging the dismissal order of WP(C) No. 344 of 2020, the appellants preferred the present third-party appeal against the original impugned order dated 20.09.2018 in WP(C) No. 519 of 2018. The parties in WP(C) No. 344 of 2020 and WA No. 46 of 2021 are similar. If the writ appeal is allowed, it will amount to indirectly allowing WP(C) No. 344 of 2020 which has already been dismissed. We are in agreement with Mr. A. Romenkumar, learned senior counsel for the private respondents that the principle of res-judicata will set in and the present appeal will be barred by the principle settled in the case of **Kaushik Co-operative Building Society (supra)**.

[49] On the question whether the private respondents were appointed against sanctioned posts, it has already been noted above that MTU created 50 posts of teaching faculty including 30 posts of Assistant Professors vide order dated 15.06.2016. As per AICTE norms, 80% of faculty should be on regular basis and remaining 20% can be engaged on contract or otherwise. The 6 (six) posts advertised by MTU in the year 2016 for appointment of

Assistant Professors on contract basis is 20% of 30 posts. The mode of appointment is after open advertisement and assessment of candidates on the basis of interview and other credentials. In short, the appointment of the five private respondents along with another in 2016 on contract basis is against the sanctioned posts by following due process as applicable at that time. The mode of appointment was on contract basis because of the fact of non-constitution of various statutory bodies of MTU and codified procedure was not in place in the early stage, i.e., at the relevant time (2016). It may be noted that the regularization order dated 17.08.2020 was issued by MTU as approved by the Board of Management on the advice of the State Government and in compliance of the direction of learned Single Judge. In view of decision in **Arjun Singh (supra)**, the direction for regular appointment of the private respondents with effect from the date of initial appointment does not suffer from any impediment or infirmity necessitating the need to interfere.

[50] In view of the discussions above, the writ appeal fails and the same is dismissed. Consequently, MC[WA] No. 77 of 2021, the application for stay of impugned order, is also dismissed. No cost.

JUDGE

CHIEF JUSTICE

FR/NFR

Kh. Joshua Maring

**KH.
JOSHUA
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by KH. JOSHUA
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Date: 2025.11.20
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