

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 3107 of 2008

Bhpusha Ganpatrao Saknure,
Age : 57 years,
Occupation : Service,
R/o. 9, Janki Apartment,
Near Shashri Nagar, Nanded,
Taluka & District : Nanded.

.. Petitioner.

versus

1. The State of Maharashtra,
through its Secretary,
Higher Education (Technical) Department,
Mantralaya, Mumbai - 32.
2. The Director,
Technical Education Department,
Maharashtra State,
3, Mahapalika Road,
Post Box No. 1967,
Mumbai - 400 001.
3. The Joint Secretary,
University Grant Commission,
Bahadurshah Jafar Road,
New Delhi - 110 002.
4. The Vice Chancellor,
Swami Ramanand Teerth Marathwada
University, Vishnupuri, Nanded.
5. The Director,
Guru Govinda Singhji Engineering
College, Vishnupuri, Nanded.

.. Respondents.

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Mr. S.L. Bhapkar, Advocate, for the petitioner.

*Mrs. M.B. Gangwal (Patni), Assistant Government Pleader,
for respondent nos.1 and 2.*

Mr. Alok Sharma, Standing Counsel, for respondent no.3.

Mr. U.S. Malte, Advocate, for respondent no.4.

Mr. K.M. Suryawanshi, Advocate, for respondent no.5.

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**CORAM : A.V. NIRGUDE &
A.M. BADAR, JJ.**

DATE : 2ND JULY 2015

ORAL JUDGMENT (Per A.V. Nirgude, J.) :

1. Heard Counsel for respective parties.
2. The facts leading to this petition are as under :-

The petitioner worked as a Librarian in Gurugovindsingji Engineering College, Nanded, which is an autonomous college affiliated to Swami Ramanand Teerth Marathwada University, Vishnupuri, Nanded. On 31st May 2008, the petitioner reached the age of 58 years. The College issued an order which is impugned in this case, saying that the petitioner had reached the age of superannuation. The petitioner protested asserting that his age of retirement is 60 years, but in vain. So, this

petition is filed for challenging the decision to retire him on 31st May 2008.

3. Respondent no.5 took up a stand that they passed the order retiring the petitioner at the age of 58 years, because they were advised to do so, by in-charge Joint Director, Technical Education, State of Maharashtra, who opined in his letter dated 27th September 2007, that the Service Rules applicable to the Government employees for deciding the age of superannuation should be made applicable to the petitioner. He indicated that the rule prescribed age of 58 years for superannuation and, therefore, the order is not incorrect.

4. It appears to us, that the answer to the question, as to what was the retirement age of the petitioner, lies in the provisions of statute made under Section 51 of the Maharashtra Universities Act, 1994 [**For short, hereinafter referred to as “Act of 1994”**], by Swami Ramanand Teerth Marathwada University, Nanded, to which respondent no.5's college is affiliated. The Act of 1994 defines the term ‘Teacher’ in Section 2(34). It reads as under :-

" 'Teacher' means full-time approved professor, associate professor, assistant professor, reader, lecturer, librarian, principal, deputy or assistant librarian and documentation officer in the university and college librarian, Director or instructor of physical education in any university department, conducted, affiliated or autonomous

college, autonomous institution or department or recognised institution in the university. "

Section 51 of the Act of 1994, *inter alia*, provides that the University would decide the conditions of service of teachers, officers and employees of University and its affiliated colleges.

5. It is not in dispute, that the college run by respondent no.5 is an affiliated college of the University. It is, therefore, clear that the University was empowered to prescribe service conditions of employees of even affiliated colleges. Accordingly, statutes are made and published. In one such statute, namely, Statute No.236 of the Statutes Governing of Terms and conditions of Service of the Teachers working in the Colleges and recognised Institutions, framed by Swami Ramanand Teerth Marathwada University, Nanded, under the Act of 1994, the age of superannuation of the Teacher is prescribed to be 60 years. The statute further reiterates the definition of 'Teacher' which is quoted above. It is, thus, clear that a Librarian working in affiliated college is equivalent to Teacher and the statute provided the age of superannuation to be 60 years. The impugned decision taken by respondent no.5, thus, was patently erroneous. Therefore, the petition must succeed.

6. In the result, the petition is allowed in terms of the following order :-

It is declared that the petitioner shall be deemed to have retired at the age of 60 years, and the State of Maharashtra should pay him, arrears

of salary for the period from 1st June 2008 till 31st May 2010, and all other consequential benefits, including the pensionary benefits, within a period of six months from today.

7. Rule is made absolute in the above terms with no order as to costs.

(A.M. BADAR)
JUDGE

(A.V. NIRGUDE)
JUDGE

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