

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO. 6148 OF 2014**

|                                                                                           |     |             |
|-------------------------------------------------------------------------------------------|-----|-------------|
| Nitin Tukaram Shelke                                                                      | ... | Petitioner  |
| vs.                                                                                       |     |             |
| The State of Maharashtra, through<br>Chief Secretary, Dept. of Higher<br>Education & Ors. | ... | Respondents |

Mr. Pralhad Paranjape i/b. Mr. Anand Landge, Advocate for the petitioner.  
Ms. S.S. Bhende, AGP for the respondent no. 1.  
Mr. P.N. Joshi a/w. Mr. I.M. Khairdi, Advocate for respondent nos. 2 & 3.

**CORAM : SMT. VASANTI A. NAIK &  
C.V. BHADANG, JJ.**

**DATE : 25<sup>th</sup> February, 2015.**

**ORAL JUDGMENT; (Per Vasanti A. Naik, J.)**

Rule. Rule made returnable forthwith. The Petition is heard finally with the consent of the learned counsel for the parties.

By this Petition, the petitioner impugns the order of the Director, Board of Colleges & University Development dated 26<sup>th</sup> May, 2014 canceling the registration of the petitioner for Ph.D. The petitioner seeks a direction to the respondent no. 3 to consider and decide the application made by the petitioner for changing the Ph.D. Guide.

Few facts necessary for deciding the Petition are stated thus-

The petitioner secured the B.Sc. Degree in Physics in the year 1999. The petitioner also secured the M. Sc. degree in Physics in the

year 2001 and decided to register for Ph.D. programme with the Solapur University. The petitioner applied for registration after approaching the recognized Ph.D. Guide, Dr. Deshmukh in September, 2008. After processing the application of the petitioner, the respondent no. 3 registered the petitioner for the Ph.D. programme on 20<sup>th</sup> December, 2008. It is the case of the Petitioner that the petitioner started working on the research and study in pursuance of the registration with the help of the guide. It is the case of the petitioner that the petitioner submitted the six monthly progress reports from 2008 to 2011 to his registered guide regularly. According to the petitioner, the petitioner could not submit the six monthly progress reports, as he had to return to his native place at Ahmednagar where his father was suffering from chronic illness. It is averred in the petition that the petitioner was constantly in touch with the registered guide, from Ahmednagar. The respondent no. 2-University, by the communication dated 1<sup>st</sup> February, 2014, sought the explanation of the petitioner for non-submission of the six monthly reports. The petitioner tendered the explanation by his reply and the case of the petitioner was put up before the Research and Recognition Committee. The Research & Recognition Committee decided to impose a fine of Rs.7,500/- on the petitioner and it was informed to the petitioner that the request for changing the guide would be considered after he pays the fine and submits the reports to the registered guide within a period of one

month. It is stated that the petitioner paid the fine and also submitted the reports on his research subject to the registered guide. After the submission of the reports and payment of fine, by the impugned communication dated 26<sup>th</sup> May, 2014, the registration of the petitioner was cancelled on the ground that the petitioner was not working on the research and his progress was unsatisfactory. The order dated 26<sup>th</sup> May, 2014 is impugned in the instant petition.

Mr. Paranjape, the learned counsel for the petitioner submitted that the Director of the Board of Colleges & University Development was not justified in cancelling the registration of the petitioner for Ph.D. for the reasons recorded in the impugned order. It is stated that the case of the petitioner was considered by the Research and Recognition Committee and by taking a lenient view, the Committee had directed the petitioner to pay a fine of Rs.7,500/- and submit his reports within a period of one month. It is stated that the Committee had decide to give an opportunity to the petitioner by asking the petitioner to submit the reports within a period of one month from 5<sup>th</sup> April, 2014 and after the petitioner paid the fine and submitted the reports, the registration of the petitioner could not have been cancelled. It is stated that the petitioner was informed by the communication dated 5<sup>th</sup> April, 2014 that after he submits the reports within a period of one month, his request for changing the guide would be considered and instead of considering the request of the petitioner for

change of the guide, the registration of the petitioner was illegally cancelled. It is stated that once the Research and Recognition Committee had decided to give an opportunity to the petitioner, in view of its decision, as per Rule 18 of the Rules related to the degree of Doctor of Philosophy of Solapur University, the registration of the petitioner could not have been cancelled. It is stated that the impugned order dated 26<sup>th</sup> May, 2014 is not in consonance with the order dated 5<sup>th</sup> April, 2014 asking the petitioner to submit the reports and pay the fine, thereby condoning the failure on the part of the petitioner to submit the reports in time.

Ms. Bhende, the learned Assistant Government Pleader submitted that the State Government has no role to play in passing of the impugned order and while considering the challenge thereto. The learned Assistant Government Pleader had, therefore, nothing to say in the matter.

The learned counsel for the respondent nos. 2 and 3 supported the order of the Director of Board of Colleges & University Development and submitted that the order is supported by Rule 18 of the Rules relating to the degree of Doctor of Philosophy. It is stated that Rule 18 is in two parts. It is stated that according to the first part of Rule 18, if a candidate does not submit the report in time, he is required to be charged with a fine of Rs.500/-. It is stated that according to the second part of Rule 18, if a candidate fails to submit two consecutive progress reports, the case

of the candidate would be placed before the Research and Recognition Committee for its recommendations and on the recommendations of the Research and Recognition Committee, the Vice-Chancellor may decide about the cancellation of the registration. It is stated that the case of the petitioner was placed before the Research and Recognition Committee and the action of cancellation of the registration was taken. The learned counsel sought for the dismissal of the Writ Petition.

On hearing the learned counsel for the parties and on perusal of the Rules of Solapur University, it appears that the Director of Board of Colleges & University Development was not justified in cancelling the registration of the petitioner by the impugned order dated 26<sup>th</sup> May, 2014 when the Director had, by an order dated 5<sup>th</sup> April, 2014 directed the petitioner to pay the fine of Rs.7,500/- and submit the progress reports within a period of one month. The order dated 5<sup>th</sup> April, 2014 was passed on the basis of the resolution of the Research and Recognition Committee dated 11<sup>th</sup> February, 2014. It appears from the Resolution that the Research and Recognition Committee had decided to grant an opportunity to the petitioner to complete his Ph.D. by imposing a fine of Rs.7,500/-. The petitioner had paid the fine and had also submitted the progress reports to the concerned guide after the receipt of the order dated 5<sup>th</sup> April, 2014. The respondent nos. 2 and 3 have not placed anything on record to show that after the Research and Recognition

Committee had decided to give an opportunity to the petitioner by the Resolution dated 11<sup>th</sup> February, 2014, they had subsequently decided to cancel the registration of the petitioner. Even assuming that such a Resolution was passed, the same would not have been in consonance with Rule 18, as the Committee had already taken a decision on 11<sup>th</sup> February, 2014 of granting an opportunity to the petitioner. Since the Committee had decided to impose a fine of Rs.7,500/- on the petitioner by the Resolution dated 11<sup>th</sup> February, 2014, neither the Committee nor the Director of Board of Colleges & University Development could have cancelled the registration after the petitioner had submitted the reports. Under Rule 18, cancellation is provided only if the candidate fails to submit two consecutive progress reports and the Research and Recognition Committee recommends the cancellation of the registration of the candidate after considering the explanation by the candidate for his or her failure to submit the two consecutive progress reports. The question of submitting six monthly progress reports did not arise after the order dated 5<sup>th</sup> April, 2014 granting an opportunity to the petitioner was passed, as the impugned order is immediately issued on 26<sup>th</sup> May, 2014. There was no question of submission of six monthly reports between the period from 5<sup>th</sup> April, 2014 to 26<sup>th</sup> May, 2014. The Director of the Board of Colleges & University Development could have decided to cancel the registration of the petitioner on the recommendations of the Committee, if

the petitioner had failed to submit two consecutive progress reports after the opportunity was granted to the petitioner in April, 2014. Such is not a case here. The registration of the petitioner was cancelled immediately after the petitioner was granted an opportunity to submit the reports. If the registration of the petitioner was to be cancelled, there was no question of directing the petitioner to pay the fine of Rs.7,500/-. The imposition of fine clearly shows that the Committee had decided to grant a chance to the petitioner to mend his ways.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The impugned order is quashed and set aside. The respondent nos. 2 and 3 are directed to consider the prayer of the petitioner for change of the registered guide for his Ph.D., as it is informed by the learned counsel for the respondent nos. 2 and 3 that the action of cancellation of registration was taken only on the basis of the complaints made by the registered guide against the petitioner. The decision on the request of the petitioner should be taken within a period of eight weeks.

Rule is made absolute in the aforesaid terms, with no order as to costs.

**(C.V. BHADANG, J.)**

**(VASANTI A. NAIK, J.)**