

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 515 OF 2015

Dr.Prashant Dhanaji Pawar.	...	Petitioner.
V/s.		
Maharashtra Animal and Fishery Sciences University.	...	Respondent.

Ms.PV.Thorat for the petitioner.

Avinash Jalisatgi with C.M.Lokesh for the respondent.

**CORAM : NARESH H. PATIL AND
A.S. GADKARI, JJ.**

DATED : 10th February 2015.

PC.

Rule made returnable forthwith. Heard finally by consent of parties.

2. The petitioner seeks necessary direction to the respondent-university to grant no objection to the petitioner for joining the Ph.D. Course at Guru Angad Dev Veterinary and Animal Sciences University, Ludhiana, Punjab. The contentions of the respondent raised in the affidavit-in-reply are that there is shortage of staff in Veterinary Parasitology department. Two lecturers including the petitioner are at present working in the said department. If the petitioner is allowed to proceed on study leave the students would suffer.

3. The petitioner has placed on record a list of 10 professors who were permitted to proceed on study leave. The learned counsel appearing for the respondent submits that in case of these 10 professors, they were permitted to proceed on leave to pursue studies because they opted for in-service leave. Said candidates have joined the colleges at Mumbai and Nagpur i.e. in the State of Maharashtra. As a policy, the respondent is of the view that as far as possible the application for study leave to join colleges outside the State should not be considered. In case of in-service candidates, at least the candidates would be available in exigency to render their services to the respondent. Learned counsel, therefore, submits that it would be difficult to spare the petitioner as his services are required by the institution and the students at large. Learned counsel placed reliance on the affidavit filed by the respondent before this Court.

4. The petitioner submits that if the candidate desires to opt for higher qualification, then such impediments would ultimately affect the petitioner's career and the students community would be deprived of higher learning and qualification of a professor. Learned counsel further submits that in past several such professors were permitted to proceed on study leave. The petitioner has narrated several such cases wherein the respondent had given no-objection in their favour to proceed on study leave. A chart in this regard is placed on record by the learned counsel appearing for the petitioner. The petitioner has been admitted to Ph.D. Course by Guru Angad Dev Veterinary and Animal Sciences University, Ludhiana, Punjab. Learned counsel relied upon the order dated 1st August 2014 passed by the Division Bench of this Court at Aurangabad in

W.PNo.6432/14 and another (***Dr.Suresh s/o Samadhan Ghoke v. Maharashtra Animal and Fishery Sciences University***).

5. We have perused the record placed before us and considered the submissions advanced.

6. The petitioner desires to join Ph.D. Course. Under the existing rules, he is required to obtain no-objection from the respondent so as to discharge his duties as professor. No doubt, there is some substance in the submission made by learned counsel for the respondent that for a period of two years it would disturb the education programme of teaching as out of two such professors, one would not be available for two years. The institution will have to bank upon the services of remaining one professor. But at the same time the issue raised by the petitioner that in case he desires to upgrade his qualification by joining Ph.D. Course, then he should not be denied to do so. This will affect his right to gain higher qualification and upgrade himself in the required stream of education. If he is permitted, the students will also get benefit of his higher learning.

7. From the chart placed before us, we find that 10 such professors of the university were given no-objection for their joining Ph.D. Course. Some of them are referred to as in-service candidates. But the fact remains that they have left the institution for completing their Ph.D. Course at different places in the State of Maharashtra i.e. Mumbai and Nagpur. A balance has to be struck while appreciating the request made in this behalf. Institution's interest and the petitioner's desire of higher learning both are required to be looked into.

8. It was submitted by the learned counsel appearing for the petitioner that 11 teaching hours in a week are prescribed for the subject taught by the petitioner. Therefore, considering the workload, the petitioner could be permitted to proceed on study leave.

9. In the facts, we are of the view that the petitioner should be permitted to proceed on study leave in accordance with the rules and regulations framed in this behalf. As stated above, we direct the respondent to grant no-objection to the petitioner to proceed on study leave for the for joining Ph.D. Course in Guru Angad Dev Veterinary and Animal Sciences University, Ludhiana, Punjab.

10. We hereby clarify that the petitioner's case is considered in the peculiar facts presented before us. The same would not deprive the respondent to take appropriate decision in future, in case any request of identical nature is made to the respondent.

11. Rule is made absolute in the above terms. No costs.

12. All concerned to act on an authenticated copy of this order.

(A.S. GADKARI, J.)

(NARESH H. PATIL, J.)