

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7327 OF 2013

Jayprakash Education Society

... Petitioner

Vs.

The State of Maharashtra & Ors.

... Respondents

Mr.N.V. Bandiwadekar for the Petitioner

Ms.S.S. Bhende, Assistant Government Pleader, for Respondent Nos.1 & 2

Mr.Amit Borkar for Resp. No.3

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

DATE: 16th FEBRUARY, 2015

P.C.:

By this petition, the petitioner impugns the order of the State Government dated 7.6.2013 extending the age of superannuation of the respondent No.4 by a period of 2 years in pursuance of the Government Resolution dated 5.3.2011.

The petitioner is an educational society running a senior college affiliated to the Respondent No.3 University. The Respondent No.4 was working as an Associate Professor for the subject of History in the college. On 5.3.2011, the State of Maharashtra issued a Government Resolution permitting the extension of age of superannuation to the teachers in the

senior colleges from 60 years to 62 years subject to the fulfillment of the conditions laid down in the said resolution. The Respondent No.4 attained the age of superannuation on 30.4.2012. Till the date of his retirement, the Respondent No.4 did not apply for extension of the age of superannuation. On 19.5.2012, Respondent No.4 requested the petitioner to submit the proposal of the Respondent No.4 to the University in pursuance of the Government Resolution dated 5.3.2011. The proposal of the Respondent No.4 was submitted by the petitioner to the University and the performance review committee of the University held that the Respondent No.4 did not fulfill the requisite criteria and extension of service could not have been granted in his favour. In view of the said order, the Respondent No.4 sought for the retiral benefits and the same were paid to him. The Respondent No.4 then made an application to the State Government and the State Government again directed the performance review committee to consider the proposal of the Respondent No.4 afresh. The performance review committee was again constituted and after reassessing the performance of the Respondent No.4 the committee held that the case of the respondent No.4 could not be recommended. After the performance review committee rejected the proposal of the petitioner, the petitioner applied to the State Government for extension of the age of his superannuation and the State Government,

by the impugned order dated 7.6.2013 granted the extension only on the ground that the Respondent No.4 possessed Ph.D.

Mr.Bandiwadekar, the learned Counsel for the petitioner, submitted that the State Government was not justified in granting the benefit of the Government Resolution dated 5.3.2011 to the Respondent No.4, when on two occasions, the performance review committee had rejected the proposal of the Respondent No.4 as the Respondent No.4 did not fulfill the criteria laid down in the Government Resolution. It is stated that merely because the Respondent No.4 possessed the Ph.D., the State Government, could not have permitted the extension of age of superannuation in the case of the Respondent No.4.

Mr.Borkar, the learned Counsel for the University, supported the case of the petitioner and submitted that after the performance review committee had rejected the proposal of the Respondent No.4, the State Government could not have granted the benefit of the Government Resolution dated 5.3.2011 to the Respondent No.4.

Ms.Bane, the learned Assistant Government Pleader, appearing on behalf of the State Government, supported the order of the State Government and submitted that since the Respondent No.4 possessed the

Ph.D., the State Government had passed the impugned order. It is, however, fairly admitted by the learned Assistant Government Pleader that the impugned order does not disclose that the Respondent No.4 was granted the benefit of extension of services for any reason other than the reason that he possessed the Ph.D.

On hearing the learned Counsel for the parties, it appears that the State Government was not justified in granting the benefit of the Government Resolution dated 5.3.2011 to the Respondent No.4 and extending the age of superannuation in his case. Most of the criteria prescribed by the State Government by the Government Resolution dated 5.3.2011 and the subsequent Government Resolutions was not fulfilled by the Respondent No.4 and it appears that the State Government passed the impugned order merely because the Respondent No.4 possessed the Ph.D. The State Government was not justified in passing the impugned order, especially when on two occasions, the performance review committee of the Respondent No.3 University had assessed the case of the Respondent No.4 and had found that the Respondent No.4 was not fit for grant of extension. Also, we find that the Respondent No.4 had not applied for extension of his services before he attained the age of superannuation and after the performance review committee rejected the claim of the petitioner

on the first occasion, the Respondent No.4 had applied for grant of retiral benefits and the same were paid to him.

Hence, for the reasons aforesaid, the writ petition is allowed. The impugned order is quashed and set aside.

Order accordingly. No order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)