

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3237/2014

(BHADRAWATI SHIKSHAN SANSTHA & ANOTHER **VERSUS** R.S.T.M. NAGPUR UNIVERSITY,
NAGPUR & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.Parchure, counsel for the petitioners.
Shri P.N. Shende, counsel for the R-4.
Shri B.G. Kulkarni, counsel for the R-5.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : APRIL 21, 2015.

By this petition, the petitioner-Management challenges the order of the grievance committee as well as the management council directing the petitioners to pay the regular salary to the respondent no.4.

Inter alia, the decision of the management council dated 07.04.2014 is challenged by the petitioners on the ground that the management was not heard before the management council took the impugned decision of upholding the order of the grievance committee. The learned counsel for the petitioner has relied on the judgment of the Division Bench of this Court, reported in **2011(3) Mh.L.J. 790** (*Shri Saibaba Gramin Vikas Sanstha, Gadchiroli & another Versus Rashtrasant Tukdoji Maharaj Nagpur University & others*) to substantiate the submission that it was obligatory for the management council to have heard the petitioners before taking a decision on the recommendations of the grievance committee.

Though a notice was issued to the respondent no.1-University and the respondent no.1-University is duly served, none appeared on behalf of the respondent no.1-University on 31.10.2014 and none appears for the respondent no.1-University, today also.

On a reading of the impugned decision of the management council, it appears that the management council has not granted an opportunity of hearing to the petitioners. The averment made in the petition in regard to the absence of opportunity of hearing by the management council is not rebutted or denied by the respondent no.1-University. It is also not the case of the respondent no.4 that either the respondent no.4 or the management was heard before the decision was taken by the management council. If the petitioners were not heard by the management council, the order of management council is liable to be set aside.

It would be worthwhile to refer to the judgment reported in **2011(3) Mh.L.J. 790** (*Shri Saibaba Gramin Vikas Sanstha, Gadchiroli & another Versus Rashtrasant Tukdoji Maharaj Nagpur University & others*) and relied on by the learned counsel for the petitioners, in this regard.

Hence, the writ petition is partly allowed. The impugned order of the management council is quashed and set aside. The matter is remanded to the management council for a fresh decision in the matter, after giving an opportunity of hearing to the petitioners and the respondent no.4. The management council is directed to take a decision as early as possible and positively within a period of four months from the date of receipt of the order as the respondent no.1-University is not represented by a counsel, today.

Order Accordingly. No costs.

JUDGE

JUDGE

APTE