

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

WRIT PETITION NO. 3248 OF 2015

Dr.Bhimrao Eknath Gote

-vs-

Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur, thr. Its Registrar and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. B. G. Kulkarni, counsel for the petitioner.
Mr. P. B. Patil, counsel for the respondent No.1.
Mr. A.M. Deshpande, AGP for the respondent No.3.
Mrs.Sirpurkar, counsel for the respondent No.4.
Mr. F. T. Mirza, counsel for the respondent No.5.

CORAM : SMT. VASANTI A. NAIK &
A. I. S. CHEEMA, JJ.

DATE : 15.10.2015.

By this petition, the petitioner challenges the order of the respondent No.1-University, dated 29/12/2014, granting the benefits of the Career Advancement Scheme to the respondent No.4.

According to the petitioner, though the respondent No.4 was not eligible for securing the benefits of Career Advancement Scheme, the respondent No.1 illegally granted the benefits of the said scheme to the respondent No.4 by the impugned order, dated 29/12/2014.

A preliminary objection is raised on behalf of the respondent No.4 to the tenability of the writ petition. It is stated that the petitioner would not have any *locus standi* to file the writ petition. It is stated that if the petitioner is not granted the benefits of Career Advancement Scheme despite eligibility, it would be for the petitioner to seek the benefits of the scheme in his favour, however, the petitioner would not be entitled to challenge the grant of Career Advancement Scheme benefits to the respondent

No.4. It is stated that the benefits of Career Advancement Scheme are personal in respect of an employee and no other employee may have a *locus standi* to challenge the grant of benefits to any other employee. It is stated that this is not a matter of promotion or a matter of selection and appointment of the respondent No.4 and denial of promotion or appointment to the petitioner.

Shri Mirza, the learned counsel for the respondent No.5, states that the respondent No.5 has been joined in the personal capacity vindictively by the petitioner and he had no role to play in the matter of granting Career Advancement Scheme benefits to the respondent No.4 on 29/12/2014. It is stated that the notices of the meeting for considering the proposal of the respondent No.4 for grant of Career Advancement Scheme benefits were issued to the members on 13/10/2014 and the respondent No.5 assumed the office of the Vice Chancellor on 14/10/2014. It is stated that though the respondent No.5 had no role to play in the matter and he could not have been instrumental in granting the benefits of the said scheme in favour of the respondent No.4, some wild allegations have been made against the respondent No.5.

Shri Kulkarni, the learned counsel for the petitioner, states that the petitioner did not initially join the respondent No.5 as a party respondent, but in view of the objection raised by the respondent No.4 in regard to the non joinder of necessary parties to the writ petition, the petitioner was constrained to join the respondent No.5 as party respondent.

Be that as it may, on hearing the learned counsel for the parties and considering the issue that is involved in this writ petition, it appears that the petitioner would not have a locus to file the writ petition. The petitioner cannot be aggrieved by the grant of the Career Advancement Scheme benefits in favour of the respondent No.4. As rightly submitted on behalf of the respondent No.4, no prejudice can be caused to the petitioner, if the Career Advancement Scheme benefits are granted in favour of the

respondent No.4. The respondents have rightly referred to the judgment in the case of **Jasbhai Motibhai Desai v. Roshan Kumar** reported in **1976 (1) SCC 670** in this regard. It is informed to this Court that the respondent No.4 had applied for grant of Career Advancement Scheme benefits in the year 2008 whereas the petitioner had made an application for seeking the said benefits in the year 2013. It is not that the Career Advancement Scheme benefits could be granted to only one employee, after considering the comparative merit of the employees, who fall in the same bracket. The Career Advancement Scheme benefits can be granted to all the employees, that are eligible for the same. If one employee is granted the benefits of the Career Advancement Scheme, the other employee cannot be aggrieved by the said grant. If Career Advancement Scheme benefits are denied to an employee illegally, the said employee can as well challenge the order of denial. If the Career Advancement Scheme benefits are denied to the petitioner, and according to the petitioner wrongly, the petitioner is entitled to raise a challenge to the said order, in accordance with law. However, the petitioner could not have challenged the grant of Career Advancement Scheme benefits to the respondent No.4. Neither does the petitioner have a *locus standi* to file the petition nor can the petition be filed in public interest, as public interest litigation is not permissible in service matters.

Though the learned counsel for the respondent No.5 seeks a direction to the petitioner to pay some amount to the respondent No.5 or to a deserving organization towards compensation, in the circumstances of the case, we decline to grant the prayer made by the learned counsel for the respondent No.5. We find that initially the petitioner had not joined the respondent No.5 as a party respondent, but in view of the objection raised on behalf of the respondent No.4, the respondent No.5 was joined as a party. The happenings are unfortunate, but in the circumstances of the case, costs are not warranted.

In the result, the writ petition fails and is dismissed with costs.

The prayer made by the learned counsel for the petitioner for continuation of the interim relief for a period of fifteen days is rejected, more so, as we find that the petitioner has not approached this Court with clean hands and has made certain statements in the writ petition that are pointed out to be false.

Order accordingly.

JUDGE

JUDGE