

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.5580 OF 2014

[Mrs. Lina w/o Sunil Konde .vs. Rashtra Sant Tukdoji Maharaj Nagpur University, Nagpur and others]

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

Court's or Judge's orders

Shri Anand Parchure, counsel for the petitioner,
Shri R.D. Bhuibhar, counsel for the respondent no.1,
Shri B.G. Kulkarni, counsel for the respondent nos.2 and 3.

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

DATED : APRIL 18, 2015.

Heard.

By this petition, the petitioner challenges the order of the Management Council dated 10.3.2014, rejecting the proposal of the Grievance Committee, directing the release of the withheld increment, in favour of the petitioner.

Inter alia, the petitioner challenges the order of the Management Council on the ground that the petitioner was not heard by the Management Council before the decision dated 10.3.2014 was rendered. Secondly, according to the petitioner, the respondent no.3, who is the Chairman of the Education Society in which the petitioner is working, was the member on the Management Council and his wife is the Principal of the college in which the petitioner is employed. It is stated that the respondent no.3 was the judge in his own cause and hence for the aforesaid reasons, the impugned order is liable to be set aside. The learned counsel for the petitioner has relied on the judgment reported in 2011 (3) Mh.L.J. 790 [Shri Saibaba Gramin Vikas Sanstha, Gadchiroli and another .vs. Rashtrasant Tukdoji Maharaj Nagpur University and others] to substantiate his submission that it was necessary for the Management Council to hear the petitioner before taking a decision on the proposal of the Grievance Committee.

On hearing the learned counsel for the parties, it appears that the impugned order of the Management Council is liable to be quashed and set aside on both the grounds raised on behalf of the petitioner. The order of the Management Council is bad in law, as the petitioner was not heard before the Management Council passed the impugned order dated 10.3.2014. Also, the respondent no.3 could not have been the judge in his own cause. The respondent no.3 is admittedly the Chairman of the Education Society which runs the Arts, Commerce and Science College in which the petitioner is working and the wife of the respondent no.3 is the Principal in the said Arts, Commerce and Science College. The respondent no.3 ought to have recused himself from the Management Council, as the matter pertains to the release of increment by the Society of which he is the Chairman.

Hence, for the reasons aforesaid, the writ petition is allowed. The order of the Management Council is quashed and set aside. The Management Council should take a decision in the matter after hearing the parties. The Management Council should decide the matter, as early as possible and positively, within a period of four months. Order accordingly. No costs.

JUDGE

JUDGE