

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.5016 OF 2001**Vinayak S/o Dattatray Veshi and others Vs. Kisan Vidya
Prasarak Sanstha Shirpur, through its President and others.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.L.V.Sangit, advocate for the petitioners.

Mr.B.V.Virdhe, A.G.P. for the State.

Mr.S.P.Brahme, advocate for Respondent Nos.1 to 3.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**

Date : 25.08.2016.

PER COURT :

1. Heard.

2. It is submitted that the petitioner No.1 has settled the matter with the Respondent institution, as such the Writ Petition stands disposed of to the extent of petitioner No.1. The present petition is considered with regard to petitioner Nos.2 to 9.

3. There is a dispute between the parties as to whether the said Diploma in Pharmacy is a College or can be termed as a School. According to Mr.Brahme, learned counsel, the College is run by the Respondent institution and the said College is not governed by MEPS Act and Rules, whereas the contention of the petitioners that

it is a School.

4. The said debate is pending in a separate proceedings. We would not consider the said aspect in the present petition. The parties are entitled to agitate this aspect in the pending proceedings. For deciding about the payment to be made to the petitioners as per 5th Pay Commission as claimed, we would consider the same as per the stand put forth by the Respondent institution.

5. Mr.Sangit, learned counsel for the petitioner submits that the petitioners are not paid the salary as per 5th Pay Commission pay-scale. The learned counsel relies on the Government Resolution dated 13.6.2000. According to the learned counsel, the petitioners are entitled for the benefit of 5th Pay Commission from 1.1.1996 as laid down in the G.R. Dated 13.6.2000.

6. Mr.Brahme, learned counsel submits that the petitioners are not possessing the requisite qualifications required for the post of lecturer. The petitioners do not possess NET/SET qualification and if the employee does not possess the necessary qualification, he can not claim the salary on par with the other employee who had requisite qualifications. The petitioners Nos.2 to 7 are already terminated in the year 2000/2002. The learned counsel relies on the judgment of the Apex Court in a case of **“M.P.Rural Agriculture Extension Officers Association Vs. State of Madhya Pradesh**

and another” reported in **AIR 2004 Supreme Court 2020**. The learned counsel submits that the petition is filed belatedly in the year 2001, claiming the relief from January 1996.

6. We have considered the submissions canvassed by the learned counsel for the respective parties.

7. Government Resolution dated 13th June 2000 is explicitly clear which lays down benefit of 5th Pay Commission to the Employees working in private institution also.

8. It is a fact that the Respondents had appointed the petitioners as lecturers prior to 1.1.1996. The approval was also granted to the appointment of the petitioners.

9. The Respondent management extracted the work from the petitioners. It would be too late in the day for the Respondents to contend that petitioners were not possessing requisite qualifications and are not entitled for the benefit of 5th Pay Commission.

10. The Writ Petition was filed in the year 2001. There is delay on the part of the petitioners in seeking the remedy. It is said that Respondent institution is facing financial hardship. Considering the aspect of the hardship, it would be appropriate to direct the Respondents to give the benefit of 5th Pay Commission pay-scale to the petitioners with effect from 1st May 1999.

11. In light of the above, we pass the following order :

a) Respondent Nos.1 to 3 shall give the benefit of 5th Pay

Commission to the petitioners Nos.2 to 9 with effect from 1st May 1999 till the date petitioners were in service.

b) The said benefit shall be calculated by the concerned Respondents and shall be paid to petitioners Nos.2 to 9 within a period of three (3) months.

c) Rule made partly absolute in the above terms. No costs. The Writ Petition is disposed of accordingly.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.25.08.2016.
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