

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 802 OF 2015

1. Govind Balasaheb Deshmukh,
Age : 45 Years, Occu. : Agril.,
R/o. : Ghatnandur, Tq. : Ambejogai,
Dist. : Beed
2. Anantrao Jagannath Chonde,
Age : 41 Years, Occu. : Agril.,
R/o. : Kallam, Tq. : Kallam,
Dist. : Osmanabad
3. Rahul Purushottam Sonwane,
Age : 34 Years, Occu. : Agril.,
R/o. : Sarni (Aa), Tq. : Kaij,
Dist. : Beed
4. Kedar Rayjirao Salunkhe,
Age : 34 Years, Occu. : Agril.,
R/o. : Dugaon, Tq. : Biloli,
Dist. : Nanded
5. Ravindra Devikantrao @ Devidas Deshmukh,
Age : 41 Years, Occu. : Business,
R/o. : Parbhani, Tq. and Dist. : Parbhani .. **Petitioners**

Versus

1. The State of Maharashtra,
Through Principal Secretary,
Agriculture, Animal Husbandry,
Dairy Development and Fishery
Department, Mantralaya,
Mumbai - 32
2. Vasantao Naik Marathwada Krishi
Vidyapeeth, Parbhani,
Tq. and Dist. : Parbhani,
Through its Registrar .. **Respondents**

Shri N. B. Khandare, Advocate for Petitioners.
 Smt. A. V. Gondhalekar, Addl. G. P. for Respondent No. 1.
 Shri M. N. Navandar, Advocate for Respondent No. 2.

WITH

WRIT PETITION NO. 1168 OF 2015

1. Tushar Balasaheb Pawar,
 Age : 25 Years, Occu. : Agril.,
 R/o. : Belwade Haveli, Tq. : Karad,
 Dist. : Satara
2. Prakash Shamrao Patil,
 Age : 58 Years, Occu. : Agril.,
 R/o. : Pariv, Tq. : Malshiras,
 Dist. : Solapur
3. Krishnaji Dasharat Yadav,
 Age : 58 Years, Occu. : Agril.,
 R/o. : Warkute (khurd), Tq. : Indapur,
 Dist. : Pune

.. **Petitioners**

Versus

1. The State of Maharashtra,
 Through Principal Secretary,
 Agriculture, Animal Husbandry,
 Dairy Development and Fishery
 Department, Mantralaya,
 Mumbai - 32
2. Mahatma Phule Krishi Vidyapeeth,
 Rahuri, Dist. : Ahmednagar,
 Through Registrar

.. **Respondents**

Shri N. B. Khandare, Advocate for Petitioners.
 Smt. A. V. Gondhalekar, Addl. G. P. for Respondent No. 1.
 Shri M. N. Navandar, Advocate for Respondent No. 2.

CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.

DATE : 21ST JULY, 2016.

ORAL JUDGMENT (PER S. V. Gangapurwala, J.) :-

1. Rule.
2. Rule returnable forthwith. With the consent of learned counsel for respective parties taken up for final hearing.
3. Petitioners in both the Petitions are nominated members of the Executive Council. The Respondent / State by virtue of the powers under Statute 3 (6) and 3 (8) of the Maharashtra Agricultural Universities (Vidyapeeths) Statutes, 1990 issued notifications / orders on 8.1.2015 cancelling the nominations of the Petitioners as members of the Executive Council. The Petitioners have assailed the said notifications / orders vide the present writ petitions. As these writ petitions are based on same set of facts and involve common question of law so as to avoid rigmarole they are decided by the common judgment.
4. The Petitioners herein are nominated to the Executive Council constituted U/Sec. 30 of the Maharashtra Agricultural Universities (Krishi Vidyapeeths) Act, 1983 from the category of Progressive Farmers and Agri Industrialist. As per the orders nominating the Petitioners as members of the Executive Council the tenure to hold the office is 3 years from the date of order. Pursuant to the said orders nominating the Petitioners the Petitioners started functioning as members of the Executive Council, abruptly the impugned notifications are issued cancelling the nominations of the Petitioners as members of the Executive Council.
5. Mr. Khandare, the learned counsel for the Petitioners submits that, the impugned orders cancelling the nominations of the Petitioners are bad in law, without authority and in

transgression of the principles of natural justice. There is no provision entitling the Respondent / State from cancelling the nominations of the Petitioners. The Petitioners having been nominated are entitled to hold the office for a period of 3 years unless the Petitioners resign or are convicted by court of law for an offence involving moral turpitude as laid down U/Sec. 61 of the said Act. The learned counsel further submits that, the reliance placed by the Respondent / State on the doctrine of pleasure is not warranted and in contravention of the provisions of the Act and the Statute. Statute 3 (6) and 3 (8) entitles a nominated member to hold the office as a member of Executive Council for a period of 3 years. While revoking / cancelling the nominations of the Petitioners no reasons are given and as per the whims and fancies of the Respondent the orders have been passed, the same is illegal and deserves to be set aside. The learned counsel relies on the judgment of the Division Bench of this court in Writ Petition No. 3258 of 2015 dated 5.5.2015 and another judgment of the Division Bench in Writ Petition No. 2949 of 2015 dated 6.5.2016.

6. Mrs. Gondhalekar, the learned A. G. P. submits that, the Petitioners are nominated as members of the Executive Councils and are not elected. The Petitioners have not been elected nor have assumed the office of Executive Council by undergoing any selection process as such they do not have any right to post. The Petitioners were nominated as per the choice of the Government, as such, the Government has every right to cancel / revoke their nominations. As the Petitioners cannot claim any right to the said office their nominations have been rightly rejected. The appointments of the Petitioners were at the pleasure of the Government and their removal is also at the pleasure of the Government. There is no provision in the statute which restricts

the powers of the Government to cancel the nominations of the Petitioners.

7. Mr. Navandar, the learned counsel for the Respondent / University states that, in view of Section 64 of the Maharashtra Agricultural Universities (Krishi Vidyapeeths) Act, 1983 Petitioner has to make a representation to the Vice Chancellor which would be forwarded to the Hon'ble Chancellor. Hon'ble Chancellor is authorised to decide on the said representation and his judgment would be final, as such, the present Petitions are not maintainable.

8. We have considered the submissions canvassed by leaned counsel for respective parties.

9. Before we proceed to deal with the contentions canvassed by the learned counsel for respective parties it would be appropriate to refer to the relevant provisions.

**"THE MAHARASHTRA AGRICULTURAL UNIVERSITIES
(KRISHI VIDYAPEETHS) ACT, 1983**

Section 30

(1) The Executive Council of each University shall be the executive authority of the University and shall consist of the following members, namely :

- (i) The Vice-Chancellor-Ex-Officio Chairman.*
- (ii) The Commissioner of agriculture or his nominee not below the rank of Director.*
- (iii) DELETED*
- (iv) The Director of Horticulture or his nominee, not below the rank of Joint Director of Horticulture.*
- (v) The Chief Conservator of Forests or his nominee, not below the rank of Conservator of Forests.*
- (vi) One Director (Instruction, Research or Extension Education) of the University to be nominated by the Vice-Chancellor by rotation.*
- (vii) One Dean to be nominated by the Vice-Chancellor by rotation.*
- (viii) One eminent agricultural scientist, with adequate experience of active research, to be nominated*

by the Chancellor in consultation with the Vice-Chancellor.

(ix) Five progressive farmers to be nominated by the Pro-Chancellor of which one shall be from the persons belonging to the Scheduled Castes, Scheduled Tribes or the Backward Class of Citizens to be appointed by rotation and not less than one shall be a woman.

(x) One representative from the Indian Council of Agricultural Research.

(xi) One Agro-Industrialist to be nominated by the State Government.

(xii) Three members of the Maharashtra Legislative Assembly, nominated by the Speaker of the Maharashtra Legislative Assembly.

(xiii) Two members of the Maharashtra Legislative Council, nominated by the Chairman of the Maharashtra Legislative Council.

(xiv) The Chairman of Agriculture committees of two Zilla Parishads in the University area to be nominated by the Pro-Chancellor.

(xv) The Registrar shall be the ex-officio Member-Secretary of the Executive Council but, he shall have no right to vote.

(xvi) The Commissioner of Dairy Development or his nominee not below the rank of Additional Commissioner.

(xvii) The Commissioner of Fisheries or his nominee not below the rank of Deputy Director.

(2) (a) A member who is a representative of the Indian Council of Agricultural Research or who is nominated by the Chancellor or who, being an Agro Industrialist, is nominated by the State Government, shall hold office for three years.

(b) A member nominated under clause (xii) or (xiii) of sub-section (1) shall cease to be a member of the Executive Council as soon as he ceases to be a member of the Maharashtra Legislative Assembly or, as the case may be, the Maharashtra Legislative Council.

(c) The Chairman of the Agriculture Committee of any Zilla Parishad who becomes a member of the Executive Council under clause (xiv) of sub-section (1) shall cease to be a member of the Executive Council as soon as he ceases to be Chairman of the said Committee or on the expiry of the period of one year from the date of his appointment to the Executive Council, whichever is earlier.

Section 61

(1) Save as otherwise provided, any member of any authority or body of any University may resign his office by letter addressed to the Vice-Chancellor, through the Registrar, and on the Vice-Chancellor accepting the

resignation, the office of such member shall become vacant:

Provided that where any member is appointed or nominated on any such authority or body by the Chancellor, he may resign his office by letter addressed to the Chancellor, and his resignation shall be effective, and his office shall become vacant when the resignation is accepted by the Chancellor.

(2) Any member of any authority or body of the University shall cease to be a member thereof on his being convicted by a court of law of an offence which involves moral turpitude.

Section 64

If any question arises regarding the interpretation of any provision of this act or any Statute or Regulation or, as to whether a person has been duly nominated, elected, appointed, co-opted or has become, or is entitled to be, a member of any authority or body of any University, the matter may be referred on petition by any person or body directly affected or suo motu by the Vice-Chancellor to the Chancellor, who shall, after giving the person or body affected" a reasonable opportunity of being heard and after taking such advice as he deems necessary, decide the question, and his decision shall be final."

" The MAHARASHTRA AGRICULTURAL UNIVERSITIES (VIDYAPEETHS) STATUTES, 1990.

Statute 3

(6) The Pro-Chancellor shall upon receipt of a request from the Vice Chancellor, nominate three progressive farmers on the Executive Council. They shall become members of the Executive Council for three years from the date of nomination.

(8) The State Government in Agriculture and Co-operation Department shall upon receipt of a request from the Vice-Chancellor or under his direction the Registrar, nominate one Agro Industrialist on the Executive Council. He shall become a member of the Executive Council for three years from the date of his nomination."

10. As far as the contention of Mr. Navandar of applicability of Section 64 of the Maharashtra Agricultural Universities (Krishi Vidyapeeths) Act, 1983 is concerned the same need not detain us. The said provision would be inapplicable to the controversy involved in the present Petitions. The said provision refers to the

dispute or interpretation of any provision of the Act, Statute or Regulation or as to whether a person has been duly nominated, elected, appointed, co-opted or has become or is entitled to be a member of any authority or body of any University. Naturally, the said disputes can be referred to the Hon'ble Chancellor. In the present Petitions the issue is with regard to the cancellation of the nominations of the Petitioners which does not appear to be within the purview of said provision.

11. There cannot be any dispute with the proposition that, if, the 'doctrine of pleasure' is applied the same has unbridled power to remove the person who has been nominated but then, the said power is to be prescribed by the Statute. In the present case, the Statute nowhere give right to the Government to remove the members nominated at its pleasure. The only provision dealing with the ceasession of the membership even of a nominated member is section 61 of the statute. Only two contingencies are provided therein i.e. the member may resign or he is convicted by a competent court for an offence involving moral turpitude save and except the same there is no other provision dealing with the ceasession of membership of a nominated member to the Executive Council.

12. Even if, it is assumed that the State has exercised its powers and has acted at its pleasure still even applicability of the said doctrine has not been properly resorted to by the Respondent in as much as no cause is spelt out in the orders cancelling the nominations of the Petitioners. The orders does not state the reason nor the affidavit states that the cause existed for cancelling the nominations of the Petitioners the Government cannot act arbitrarily. The orders does not whisper about the cause, the same is not reflected even by the circumstances nor by

the affidavit in reply filed by the Respondents.

13. As this court in Writ Petition No. 2949/2015 vide order dated 6.5.2016 had observed that, even while invoking the 'doctrine of pleasure' it is imperative that cause must exist in absence thereof the orders cancelling the nominations are bad in law.

14. In light of the above, the impugned notifications and orders are quashed and set aside. Rule is made absolute in terms of prayer clause "A".

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]

sam/July.16