

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2299 OF 2016

- 1 Khandesh Shikshan Mandal's
Pratap College, Amalner,
Tq.Amalner, District Jalgaon.
Through its Chairman.
Shri Mohan Balaji Satpute,
Age : 53 years, Occupation : Business,
R/o Station Road, Amalner,
Tq.Amalner, District Jalgaon.
- 2 The Principal,
Pratap Mahavidyalaya, Amalner,
Tq.Amalner, District Jalgaon.

...PETITIONERS

-VERSUS-

- 1 Vinod Prabhakar Kothawade,
Age : 31 years, Occupation : Nil,
R/o Pathak Galli, Amalner,
Tq.Amalner, District Jalgaon.
- 2 The Joint Director of Higher Education,
Jalgaon, District Jalgaon.

...RESPONDENTS

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Advocate for Petitioners : Shri V.D.Hon, Senior Advocate a/w Shri Hon
Ashwin V. and Shri Ajinkya Deshmukh.

Advocate for Respondent No.1 : Shri Kshitij Surve h/f Shri H.S.Surve.
AGP for Respondent 2 : Shri P.N.Kutti.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 25th October, 2016

Oral Judgment :

1 The learned Advocates for the respective sides submit that the
litigating sides are unable to arrive at an amicable settlement and they
would, therefore, desire to address this Court on merits in this matter.

2 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

3 I have heard Shri Hon, learned Senior Advocate for the
Petitioners/ Management and Shri Surve, learned Advocate on behalf of
Respondent No.1 and the learned AGP on behalf of Respondent No.2.

4 Considering the order that I intend to pass, I am not required
to advert to the entire submissions of the learned Advocates.

5 It needs mention that Respondent No.1/ Employee has been
granted reinstatement with continuity in service and full back wages by
the ex-parte judgment of the University and College Tribunal, Aurangabad
dated 08.01.2016 in Appeal No.NMU-01/2012. Though the judgment is
ex-parte on account of negligence and laxity on the part of the Petitioner/
Management in not participating in the hearing before the Tribunal,
Respondent No.1/ Employee has suffered the rigours of litigation and

unemployment from 17.03.2012 till this date.

6 The Petitioners pray for remand on the ground that they had failed to appear in the matter before the Tribunal and did not file their Written Statement.

7 Shri Surve has strenuously opposed the prayer for remand on the ground that though the matter was pending adjudication for four years, the Petitioners did not appear in the matter and allowed the proceedings to progress ex-parte. By seeking remand, the employee would be rendered to starvation considering the fact that he has already suffered unemployment for more than four years. He, therefore, prays for the dismissal of this petition with heavy costs.

8 The impugned judgment is an outcome of no contest by the Petitioners. The order of reinstatement with continuity and full back wages in the absence of contest cannot be sustained. At the same time, manifest inconvenience, grave hardship and rigours of unemployment and litigation suffered by Respondent No.1/ Employee practically for a period of four years and seven months, can be softened only by imposing costs on the Petitioners/ Management for their laxity and negligence.

9 In the light of the above, this Writ Petition is partly allowed. The impugned judgment dated 08.01.2016 delivered by the University and College Tribunal in Appeal No.NMU-01/2012 is quashed and set aside and the Appeal is remitted to the Tribunal on the following conditions:-

- (a) The litigating sides shall appear before the Tribunal on 02.12.2016.
- (b) The Petitioners shall deposit an amount of Rs.50,000/- (Rupees Fifty Thousand) with the Tribunal on 02.12.2016.
- (c) If the amount as directed above is not deposited, this order shall stand recalled and the impugned judgment dated 08.01.2016 delivered by the Tribunal shall be sustained and the Appeal shall, therefore, stand allowed.
- (d) If the amount is deposited, Respondent No.1/ Employee would be at liberty to withdraw the said amount without conditions.
- (e) The Petitioners shall tender their Written Statement before the Tribunal on 02.12.2016 and shall not seek an adjournment on that count.
- (f) The litigating sides shall thereafter, participate in the hearing of the matter on the dates on which the Tribunal shall post the matter for hearing.
- (g) The Tribunal shall endeavour to decide the appeal as

expeditiously as possible and preferably on or before
29.04.2017.

10 Rule is made partly absolute in the above terms.

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(RAVINDRA V. GHUGE, J.)