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

**REVIEW APPLICATION (CIVIL) NO. 80 OF 2016
IN
WRIT PETITION NO. 9107 OF 2010
WITH
CIVIL APPLICATION NO. 13414 OF 2016
IN
REVIEW APPLICATION NO. 80 OF 2016
IN
WRIT PETITION NO. 9107 OF 2010**

Pandurang s/o Bhausahab Chaudhari,
Age: 53 years, Occ: Service,
R/o. C/o Smt. V.P. Chaudhari,
Pravara Public School, Pravaranagar,
Tq. Rahta, Dist.Ahmednagar. ..APPLICANT

VERSUS

Sahyadri Bahujan Vidya Prasarak Samaj,
At Sangamner, Registered Public Trust,
Through its Secretary, Prataprao
s/o Jayantrao More, Age: 85 years,
Occ: Social Work, R/o. Wadgaonpan,
Tq. Sangamner, Dist.Ahmednagar
& ors ..RESPONDENTS

Mr V.J. Dixit, Senior Advocate i/b Mr L.V. Sangeet,
Advocate for applicant;
Mr R.D. Dhorde, Senior Advocate i/b Mr V.R.Dhorde,
Advocate for respondent Nos. 1 and 2
Mr N.T. Bhagat, A.G.P. for respondent/State

CORAM : N.W. SAMBRE, J.

DATE : 3rd OCTOBER, 2016

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ORDER :

For the reasons stated in the Civil Application No.13414 of 2016 seeking permission to place on record the documents, same stands allowed.

2. In Writ Petition No. 9107 of 2010, present applicant was respondent No. 3 and vide order dated 20th April, 2015, this Court quashed and set aside the order of Grievance Committee constituted under the Maharashtra Universities Act, 1994 in proceedings No. 12 of 2007, whereby the said Committee has recommended that the present applicant-original respondent No. 3 to grant continuous approval to respondent-employee from 3rd July, 1991, grant consequential benefits and Management was directed to pay provident fund. Said recommendations were accepted by the Management Council.

3. By way of present application for review, an exception is taken to the said order as according to Mr V. J. Dixit, learned Senior

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Counsel, the order of appointment dated 30th July, 1991 speaks that the applicant though was appointed against reserved category, in view of the provisions of Government Resolution dated 25th January, 1990, he should have been treated to have been appointed on the post from open category. According to him, the post should be deemed to be de-reserved automatically as it was not filled in for consecutive three years. He would invite attention of this Court to the document which he has received from University, wherein his personal information is provided as under:

Current Approval Details			
Selection Details			
Selection By	Permanent	Post Reserved For	OPEN
Approval details			
Designation	Assistant Professor	Faculty	Science
Baord of Studies		Subject/Department	
Nature of Appointment	Full Time	Type of Approval (UG/PG)	UG
Approval type	Permanent	Approval Ltr.No.&Date	CCO/434 07/02/1996

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The said document speaks that the present applicant was granted approval vide letter No. CCO/434 dated 7th February, 1996 in the open category though he was holding appropriate qualification and was appointed from 1991.

4. In addition, learned Senior Counsel for the applicant has relied upon Statute No. 421 of University of Pune, so as to submit that even though the applicant was appointed temporarily on year to year basis, still he will be entitled for all consequential benefits, being employee whose services are approved by University, including that of pay-scale, increments, etc. According to him, hence there is strong case for review.

5. The above referred submission are analysed in the light of plea as is raised herein above and documents as are placed on record.

6. It is not in dispute that the applicant was appointed from 3rd July, 1991 till 12th August,

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1996 from year to year basis in response to a fresh advertisement issued by the Management every year. Pursuant to the said appointment, approval was granted by University. The appointment from year to year basis was granted to the applicant in view of the fact that post against which the applicant has sought selection and appointment was reserved for the candidate from backward class category. The applicant admittedly belongs to open category. It is only after 1996 the post in question is thrown open and accordingly the applicant pursuant to an advertisement came to be selected and appointed.

7. The applicant has relied upon Government Resolution dated 25th January, 1990, wherein it is prescribed that instead of reserving unfilled post meant for reserved candidate for want of appropriate candidate from that category for a period of three years, the same be kept reserved for five years and in the sixth year, such seat/vacancy be thrown open for open category candidate. The resolution as is relied upon by the

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applicant squarely takes care of contingency as is sought to be espoused. In 1991, post in question was for the first time advertised and applicant was appointed as is apparent from the appointment order against the said vacancy reserved for backward class category candidate for academic year 1991-1992. Thereafter, consecutively the post was advertised for backward class candidate for the period of total five years and the applicant was accordingly appointed against backward class candidate for each academic session from 1991 to 1996 for each year. There was clear understanding to the applicant in the appointment order that he was appointed against the vacancy reserved for backward class candidate as is apparent from the appointment orders.

8. In view of appointment of the applicant for each academic session, that too on temporary basis and after completion of five years period of post which is meant for reserved category candidate in the sixth year, came to be de-reserved and

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thrown open from the reserved category, against which the applicant was appointed.

9. The appointment of the applicant as is apparent from the appointment order appears to be only for academic session and at the cost of repetition, it is worth to observe that, it is against the vacancy reserved for backward class candidate for the period from 1991 to 1996.

10. Apart from above, it is worth to mention here that in view of law laid down by the Apex Court in the matter of **Kamlesh Verma Vs. Mayawati** reported in **(2013) 8 SCC 320**, the parameters as are required to be considered in the matter of scope of review, there is hardly any case made out for exercising the review jurisdiction. As such review application, in my opinion, is liable to be rejected and is accordingly rejected.

(N.W. SAMBRE, J.)