

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9369 OF 2016
WITH
CIVIL APPLICATION NO.12611 of 2016
(Bashwaraj Vishwanathappa Dharne Vs.Suresh Renukadas Halhalli
and others)

Suresh Renukadas Halhalli,
Age-49 years, Occu-Service,
As Incharge Principal,
M.S.Bidwe Engineering College,
Latur, Dist.Latur

-- PETITIONER

VERSUS

1. Bashwaraj S/o Vishwanathappa Dharne,
Age-48 years, Occu-Service,
As a Incharge-Principal,
M.S.Bidve Engineering College,
Latur, District Latur,
2. The Registrar,
Swami Ramanand Teerth Marathwada
University, Vishnupuri, Nanded,
3. The Director,
Board of College and University
Development,
Swami Ramanand Teerth Marathwada
University, Vishnupuri, Nanded,
4. Shri Manmathappa Pandappa Lokhande,
Age-83 years, Occu-Business,
R/o Subhash Chowk, Latur,
District Latur,
5. Mahatma Basweshwar Shikshan
Sanstha, Latur, Through its
Secretary, Madhav S/o Hanumantrao
Patil - Taklikar,
Age-48 years, Occu-Business,
R/o Sai Sadan, Laxmi Colony,

Old Ausa Road, Latur,
Tal and Dist. Latur

-- RESPONDENTS

Mr.S.S.Thombre, Advocate for the petitioner.
Mr.A.N.Sabnis, Advocate for respondent No.1,
Mr.A.D.Aghav, Advocate for respondent Nos. 2 and 3,
Mr.V.G.Kodale h/f Mr.V.D.Gunale, Advocate for respondent No.4,
Mr.S.B.Solanke, Advocate for respondent No.5.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 16/09/2016

ORAL JUDGMENT :

1. Mr.Sabnis, learned Advocate appears on behalf of respondent No.1. Mr.Aghav, learned Advocate appears on behalf of respondent Nos. 2 and 3. Mr.Gunale, learned Advocate appears on behalf of respondent No.4. Mr.Salunke, learned Advocate appears on behalf of respondent No.5.

2. Learned Advocates for the respective sides have no objection if this Court hears this matter.

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

4. The petitioner is aggrieved by the order dated 24/08/2016 passed by the learned Presiding Officer, College and University

Tribunal, by which the application filed by the petitioner for framing a preliminary issue as regards the maintainability of the Appeal No.SRTMU-05/2016, has been rejected.

5. I have heard the strenuous submissions of the learned Advocates for the respective sides for quite some time.

6. There is no dispute that respondent No.1 was officiating as an “Incharge Principal” of the concerned Engineering College from January 2015 till 04/07/2016. There is also no dispute that the petitioner is appointed as an “Incharge Principal from 05/07/2016 for a period of 6 months.

7. It is settled law that the senior most Professor/Teacher, eligible to be appointed as a regular Professor can only be appointed as an Incharge Principal. If such senior most professor declines to officiate, the professor who is next in the seniority list and eligible to be appointed as a regular Principal could then be appointed as an Incharge Principal. It is also settled that an officiating/Incharge Principal does not have any right to stake a claim to the said post.

8. Prima-facie, it appears that some of the senior most professors

had earlier declined to officiate as an Incharge Principal and hence respondent No.1 had been appointed. Contention of the petitioner is that the University has evaluated the mood of the senior most professors and since the petitioner is senior to respondent No.1, he has been appointed as an Incharge Principal. Consequentially, an appeal alleging supersession or termination u/s 59 of the Maharashtra Universities Act, 1994 would not be maintainable before the University Tribunal.

9. Despite that submissions of the learned Advocates for the respective sides, I am not adverting to their submissions on the merits of their individual claims for the reason that the observations of this Court while passing an order would amount to prejudging the pending appeal.

10. Considering the fact that an Incharge Principal will have no right to the post and the fact that the senior most professor, who is eligible can be appointed as an "Incharge Principal", I deem it proper to direct the University Tribunal to hear all the parties on this aspect as regards whether the Tribunal would have jurisdiction to deal with the matter and as to whether the appointment of a senior eligible professor as an "Incharge Principal" would amount to a purported

termination of an earlier Incharge Principal.

11. In the light of the above, this petition is partly allowed. The impugned order dated 24/08/2016 is set aside and the application for framing an issue to be tried peremptorily is allowed. I am framing the following issues, which the University Tribunal shall consider peremptorily keeping in view that the pleadings of all the parties before the Tribunal are complete :-

- [a] Whether the appointment of a senior most eligible professor as an Incharge Principal would amount to the termination or reduction in rank of the earlier Incharge Principal.
- [b] Whether the issue raised in the appeal would lie before the Grievance Redressal Committee of the concerned University and whether the University Tribunal would have jurisdiction u/s 59 to entertain the dispute raised in Appeal No.SRTMU-05/2016.

12. The University Tribunal shall therefore hear the litigating sides on the abovesaid issues on 21/09/2016 at 11.00 a.m. and the litigating sides assure this Court that they would complete their submissions during the course of the day and they shall not seek an adjournment on 21/09/2016. Thereafter, the learned Presiding Officer of the University Tribunal shall decide the abovesaid issues, as expeditiously as possible.

13. Rule is made partly absolute in the above terms.

14. In the light of the above, CA No.12611/2016 does not survive and hence is disposed of.

(RAVINDRA V. GHUGE, J.)