

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

WRIT PETITION NO. 9687 OF 2015

Sachin Suryakantrao Mitkare .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 9693 OF 2015**

Rajendra Pandurang Tupekar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri V. D. Patnurkar, Advocate for Petitioners in both petitions.
Shri V. H. Dighe, A.G.P. for Respondent Nos. 1 and 2 in both petitions.
Shri Uday S. Malte, Advocate for Respondent Nos. 3 and 4 in both petitions.

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

DATE : 22ND SEPTEMBER, 2016.

PER COURT :

. It is submitted that, the petitioners in both writ petitions are not in service.

2. Mr. Patnurkar, the learned counsel submits that, for more than seven years, the petitioners were working with the respondent/university. They were appointed by following due selection process. Pursuant to advertisement, they had applied. They had appeared before the Selection Committee and were appointed on contractual basis. Every year appointment orders are given. For seven years the petitioners were working continuously. They are required to be regularized. The learned counsel relies on the judgment dated 19.10.2013 of the Division Bench of this Court at Nagpur in Writ Petition No. 2046 of 2010.

3. Mr. Malte, the learned counsel for the respondent/university submits that, as the appointments were temporary, the selection committee was constituted U/Sec. 77 of the Maharashtra Universities Act and not the selection committee as required for selection of a permanent employee.

4. The learned counsel further submits that, the posts are not sanctioned. They are temporary posts created from the university funds. As such petitioners cannot claim right of regularization. It is not that they are in continuous service. There was gap of four to five months every year. Now the petitioners in both the writ petitions are not in service.

5. We have considered the submissions. In absence of the

posts on which the petitioners are working of being sanctioned posts, this Court certainly cannot come to the aid of petitioners. It is submitted that, the proposal is submitted by the University to the State Government for sanction of five additional posts and the said proposal is pending consideration with the Government.

6. In absence of posts being sanctioned, this Court cannot direct regularization. The petitioners may move subsequently in case the posts are sanctioned. In that case contentions of respective parties are kept open. Needless to state, the State Government may take decision on the proposal submitted by the University for sanction of additional posts as is contended by the University in the affidavit in reply. The said decision be taken expeditiously. The writ petitions are disposed of. No costs.

7. If the said proposal is pending with the State, the State shall take decision on it expeditiously. If the petitioners so desire, they may approach the State in that regard.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]