

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.12617 OF 2016**Dr.Ajaykumar S/o Balraj Kanduri Vs. Maharashtra Animal and Fishery Sciences University and another.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.S.B.Talekar, advocate for the petitioner.
 Mr.P.G.Rodge, advocate for the Respondents.

**CORAM : S.V.GANGAPURWALA AND
 K.L.WADANE, JJ.**
Date : 22.12.2016.

PER COURT :

1. Heard.
2. Mr.Talekar, learned counsel submits that the petitioner was given No Objection for appearing in the entrance examination of the Ph.D. course on 2.12.2016. The petitioner appeared for the entrance examination on 4.12.2016 and has passed the said examination. The last date for admission to the Ph.D. conducted by the Maharashtra Animal and Fishery Sciences University is 23.12.2016. The learned counsel submits that after giving No Objection Certificate allowing the petitioner to appear for the Ph.D. entrance examination, now the petitioner is being denied permission to take up the said course. According to the learned

counsel, the same is erroneous. The petitioner is entitled to enhance his qualification. According to the learned counsel, the sanctioned strength of teachers in subject Animal Nutrition is five, excluding the petitioner there are two more teachers. The Respondents be directed to give No Objection permitting the petitioner to join the said Ph.D. course. The same is available at Mumbai and Nagpur.

3. Mr.Rodge, learned counsel submits that giving No Objection for appearing in the entrance examination is different than giving No Objection for prosecuting Ph.D. course. The third teacher in the subject of Animal Nutrition has resigned and there are only two teachers including the petitioner. If the petitioner is allowed to join the course, the students would suffer. The same is also not permissible as per Resolution 94(1)/2016 passed by the Executive Council of the University. The students can not be made to suffer. The learned counsel further submits that at present there is ban on fresh recruitment, as such fresh recruitment also can not be made, so as to fill in the vacant post. Number of posts are vacant. The petitioner can not be permitted to join the Ph.D. course at the cost of the career of the students.

4. We have considered the submissions.

5. On 2.12.2016, the Respondent had given No Objection to the petitioner to appear for the entrance examination of Ph.D. course. It appears from the contention of the Respondents that

there were three Assistant Professors with the Respondent institution in the subject of Animal Nutrition and one has resigned. There is ban on recruitment. It is pointed out by the learned counsel for the petitioner that the Dean has power to appoint adhoc/temporary persons on honorarium. The said powers vest with the Dean or Associate Dean of the Colleges. Certainly, if the petitioner acquires higher qualification, that may be an asset to the Respondent institution. At the same time, the interest of the students also will have to be protected. Considering the fact that one of the Assistant Professor has resigned and including the petitioner there are only two Assistant Professors, so also considering the Resolution No.94(1)/2016, we had asked the learned counsel for the petitioner to give an undertaking that in case the adhoc or guest lecturer could not be appointed then the petitioner would leave the Ph.D. course and come back as an Assistant Professor with the Respondent institution. The same is agreed.

6. In light of the above, we pass the following order :

a) The petitioner shall file an undertaking with the Respondents that in case within six (6) weeks the guest lecturer is not appointed by the Respondent institution then the petitioner shall without any demur join Respondent No.2 institution by abandoning Ph.D. course. Upon said undertaking being given, the

Respondents shall give No Objection Certificate in favour of the petitioner for securing admission for Ph.D. course (Animal Nutrition) for the academic year 2016-17 and the same is at the risk of the petitioner.

- b) The Writ Petition is disposed of. No costs.
- c) Authenticated copy be given.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.22.12.2016.
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