

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITIONS NO. 418 & 419/2016****WRIT PETITION NO. 418/2016**

Mr. Chelad Joseph G.,
son of V.K. Joseph, 25 years old,
Indian National, Employee,
resident of E+1/1, College of Engineering,
Farmagudi, Ponda, Goa 403 301.

..... Petitioner.

V/s

1. Goa University,
University constituted under
the Goa University Act, 1984,
Taleigao Plateau, Goa 403 205
through its Registrar.

2. Donald A.E. Rodrigues,
Deputy Registrar (Academic),
Office of the Deputy Registrar (Academic),
Goa University,
Taleigao Plateau, Goa 403 206.

3. Dr. R. B. Lohani,
major in age, Indian National,
Professor of Electronics and
Telecommunications at
Goa College of Engineering,
Farmagudi, resident of E-Type Building,
Goa College of Engineering Campus,
Farmagudi, Ponda, Goa 403 401.

4. Government of Goa,
through Secretary,
Technical Education,
Alto Porvorim, Bardez, Goa.

5. Goa College of Engineering,
Farmagudi, Ponda, Goa 403 401. Respondents.

Shri S. G. Dessai, Senior Advocate with Shri Pavithan A.V., Advocate
for the petitioner.

Ms. A.A. Agni, Senior Advocate with Ms. A. Kamat, Advocate for the
respondent No.1.

Shri. P. Sawant, Advocate for the respondent No.3.

Shri. P. Dangui, Additional Govt. Advocate for the respondents No.4
and 5.

WRIT PETITION NO. 419/2016

Mr. Jaya Venkatesh Gaitonde,
son of Venkatesh Ulhaschandra
Prabhaker Gaitonde, 29 years old,
Bachelor, Indian National, Research
Scholar, resident of C-1, First Floor,
Govardhan, Babu Naik Road, Aquem-
Alto, Margao, Goa 403 601. Petitioner.

V/s

1. Goa University,
University constituted under
the Goa University Act, 1984,
Taleigao Plateau, Goa 403 205
through its Registrar.

2. Donald A.E. Rodrigues,
Deputy Registrar (Academic),
Office of the Deputy Registrar (Academic),
Goa University,
Taleigao Plateau, Goa 403 206.

3. Dr. R. B. Lohani,
major in age, Indian National,
Professor of Electronics and

Telecommunications at
Goa College of Engineering,
Farmagudi, resident of E-Type Building,
Goa College of Engineering Campus,
Farmagudi, Ponda, Goa 403 401.

4. Goa College of Engineering,
Government of Goa Engineering
College imparting Graduate and
Post Graduate Level Engineering
Education, situated at
Farmagudi, Ponda, Goa 403 401
through its Principal Dr. V.N. Shet.

5. Government of Goa,
through Secretary,
Technical Education,
Government of Goa, Goa Secretariat
Building, Goa Legislative Assembly
Complex, Alto Porvorim, Bardez, Goa. Respondents.

Shri S. G. Dessai, Senior Advocate with Shri Pavithan A.V., Advocate
for the petitioner.

Ms. A.A. Agni, Senior Advocate with Ms. A. Kamat, Advocate for the
respondent No.1.

Shri. P. Sawant, Advocate for the respondent No.3.

Shri. Rajesh Shivolkar, Additional Govt. Advocate for the respondents
No.4 and 5.

**CORAM :- F.M. REIS &
NUTAN D. SARDESSAI, JJ.**

Date : - 09/06/2016.

ORAL JUDGMENT : (PER F.M. REIS, J.)

Heard Shri S. G. Dessai, learned Senior Counsel

appearing for the petitioners, Ms. A.A. Agni, learned Senior Counsel appearing for the respondent No.1, Shri. P. Sawant, learned Counsel appearing for the respondent No.3 and the learned Additional Govt. Advocates for the respondents No.4 and 5. Both the above petitions were taken up together by consent of the learned Counsel as it was pointed out that issues involved are similar.

2. Rule. Learned Counsel appearing for the respondents waive service. Heard forthwith, with the consent of the learned Counsel.

3. We have extensively heard the learned Counsel appearing for the respective parties and though there were rival contentions raised by Shri S.G. Dessai, learned Senior Counsel appearing for the petitioner and Ms. A. Agni, learned Senior Counsel appearing for the respondent No.1 – University with regard to the legality or otherwise of the impugned Order passed by the respondent No.1 dated 15/1/2016 cancelling the provisional registration to the Ph.D. Programme, granted by the respondent No.1 to the petitioners, nevertheless, it was unanimously accepted by the learned Counsel appearing for the parties that ultimately the future career of the petitioners who were the

students pursuing Ph.D. Course should not be affected and any work, if at all, carried out by them from the date of their provisional registration should not go wasted.

4. Shri S.G. Dessai, learned Senior Counsel appearing on behalf of the petitioners has pointed out that under the Ordinance OA-19 of the University, there is a specific procedure laid down to the manner in which the provisional registration has to be granted by an University and, thereafter, to examine the work, if any, carried out by the candidates, including the petitioners, in order that they can be considered for registration to pursue research for the Ph.D. Curriculum. The learned Senior Counsel has extensively taken us through the relevant provisions of Ordinance OA-19 to point out that ultimately to consider whether the petitioners have carried out any work in the context of their curriculum for the first two years, it is for the Department Research Committee (DRC) to examine it. The learned Senior Counsel has pointed out that in the impugned order the grounds on which the provisional registration of the petitioners has been cancelled are namely, that the petitioners had not submitted the work carried out by them for the first two years and further they had not done any research work, nor submitted any papers in terms of Ordinance

OA-19 before the University. The learned Senior Counsel further points out that this exercise cannot be done by the University, but, however, this aspect has to be considered, if at all, by the DRC in terms of Ordinance OA-19. The learned Senior Counsel further points out that though the petitioners were granted provisional registration way back in the year 2014, after the administrative fees were paid to the University, nevertheless, one of the main grounds taken by the concerned College to refuse to submit the papers and request to constitute the DRC was that the fees towards the research, payable to the respondent No.4-College were not paid. The learned Senior Counsel further points out that this aspect about the payment towards research fees was introduced by the Academic Council only in the year 2015, after the provisional registration was already granted to the petitioners. The learned Senior Counsel further submits that for no default of the petitioners, the respondent University is now contending that the petitioners should re-register themselves for the Ph.D. Course which would nullify all the work carried out by the petitioners for meeting the curriculum and the research work to pursue the Ph.D. Degree. The learned Senior Counsel further submits that as such, the impugned orders passed by the respondent No.1 cancelling the provisional registration are without any substance and in breach of the

principles of natural justice as the petitioners were not given an opportunity of being heard before passing of such orders. The learned Senior Counsel, as such, points out that the provisional registration of the petitioners should be restored and the petitioners would pay the requisite fees to enable the concerned College to forward their request to constitute the DRC.

6. The learned Additional Govt. Advocate appearing for the respondents No.4 and 5 points out that the request by the petitioners asking to constitute the DRC could not be acceded to as according to him, the requisite research fees were not paid by the petitioners. The learned Additional Govt. Advocate further points out that in case the petitioners pay the requisite fees, the concerned College will immediately forward the request of the petitioners to the University to constitute the DRC.

7. Mr. P. Sawant, learned Counsel appearing for the respondent No.3 has brought on record the names of the proposed members who could be part of the DRC and, according to him, the proposed names were submitted to the College, with a copy thereof to the Dean of the Faculty

8. We have considered the submissions of the learned Counsel and we have also gone through the record. The contention of Ms. Agni, learned Senior Counsel appearing for the respondent No.1 that the entire procedure prescribed in the Ordinance OA-19 has to be followed to ascertain whether the petitioners are entitled for registration to carry out research programme for the Ph.D. Degree, cannot be faulted. By no stretch of imagination can we subscribe to any situation whereby the petitioners can be allowed to pursue their Ph.D. Degree curriculum, without following the procedure as laid down in Ordinance OA-19. But, however, the only limited aspect to be examined in the present case is, whether the petitioners should be prejudice on account of any default or infraction committed by the respondent No.4- College in not forwarding the work, if at all carried out by the petitioners after the provisional registration, along with their applications, to be examined by the DRC in terms of Ordinance OA-19. It is undisputed that the petitioners were granted provisional registration way back in the year 2014. It is contended by the petitioners that pursuant thereto the petitioners were expected to pursue their work for the Ph.D. Degree under the respondent No.3. Whether they have actually carried out such exercise or not and whether it is

satisfactory or not, is a matter which has to be examined by the DRC. In the present case, though in the impugned order there is an observation by the University that the petitioners had not carried out the work expected of them in the first two years, nevertheless, it is undisputed that this aspect has not been considered by the DRC before coming to such conclusion. Ordinance OA-19, clearly provides that this exercise has to be carried out by the DRC. The learned Additional Government Advocate appearing for the respondent No.-4 College submits that though the proposed names for constitution of the DRC were received from the respondent No.3, the same were not forwarded along with the applications, as the requisite fees were not paid by the petitioners. Taking note of the contention of Shri Dessai, learned Senior Counsel appearing for the petitioners, upon instructions, that the petitioners would pay all the requisite fees payable to the respondent No.4-College towards the research fees, we find that this default on that count would no longer survive.

9. The only aspect, as such, to be examined is whether the contention of Ms. Agni, learned Senior Counsel appearing for the respondent No.1 – University that though the petitioners be asked to get themselves re-registered, the University would examine the work,

if at all done by them from the date of their earlier provisional registration to be forwarded to the DRC for scrutiny and examination, deserves acceptance. On a plain reading of Ordinance OA-19, it reveals that the work to be performed by the concerned candidates is from the date of the provisional registration and there is nothing to suggest therein that any work carried out prior to the provisional registration can be examined by the DRC to meet the requirements of the curriculum expected of the candidates for the first two years. In such circumstances, though Ms. Agni, learned Counsel appearing for the University states that any work carried out by the petitioners, if at all, would be allowed to be examined by the DRC from the date of the earlier provisional registration which has now been withdrawn by the University, it would be appropriate that instead of accepting such contention, a more appropriate course in terms of Ordinance OA-19 would be to restore the provisional registration of the petitioners, after setting aside the impugned order of the University. In such circumstances, upon the petitioners paying the requisite fees, it would be open to the respondent No.4-College to forward the applications along with the work carried out by the petitioners to the concerned Department of the University to constitute the DRC and proceed to examine such aspects in terms of Ordinance OA-19. This would be a

more appropriate course in conformity with the provisions of Ordinance OA-19 and meet the legal structure as provided therein.

10. Without going into the correctness of the contention of the petitioners that they have in fact carried out the work of research and other curriculum expected from them after the provisional registration, which aspect would have to be independently examined on its own merits by the DRC, we find it appropriate, in the interest of justice, to dispose of the above petitions by the following :

ORDER

(I) Impugned Order/Communication dated 15/01/2016 is quashed and set aside.

(II) The Provisional Registration of the petitioners stands restored.

(III) The respondent No.4-Goa College of Engineering and the respondent No.1-Goa University shall proceed to examine the eligibility of the petitioners based on their research work, if at all carried out by them and proceed to consider their request to constitute the DRC, in the light of the above observation and in accordance with law.

(IV) Needless to say, the concerned College shall submit the names of the proposed Members of the DRC, along with the applications and

other requisite documents immediately after the fees are duly paid by the petitioners to the respondent No.4.

(V) Rule is made absolute in the above terms.

NUTAN D. SARDESSAI, J.

ssm.

F.M. REIS, J.