

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1072 OF 2015

Dr.(Mrs.) Dnyaneshwari Dharampal Ingle (Ku.Dnyaneshwar Sukhram Wankhede) Vs. State of Maharashtra through Secretary Deptt. Of Higher & Technical Edu. & Ors.

WITH

WRIT PETITION NO. 1073 OF 2015

Dr. (Mrs.) Minal Mohan Kherde Vs. State of Maharashtra through Secretary Deptt. Of Higher & Technical Edu. & Ors.

WITH

WRIT PETITION NO. 1074 OF 2015

Dr. Rajusing Mahasing Patil Vs. State of Maharashtra through Secretary Deptt. Of Higher & Technical Edu. & Ors

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Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

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Shri B. G. Kulkarni Adv for petitioners.
Shri Ambarish Joshi AGP for respondents 1 to 3.

**CORAM: SMT. VASANTI A. NAIK &
A. S. CHANDURKAR JJ.**

DATED: 22nd FEBRUARY, 2016.

Since the issue involved in these petitions is identical,
they are heard together and are decided by this common order.

By these petitions, the petitioners impugn the orders of
the Joint Director of Higher Education, Amravati directing the
recovery of the amount paid to the petitioners towards the benefits
of the Career Advancement Scheme with effect from the date of

their appointment after holding that the petitioners would have been entitled to the said benefit only after securing the NET/SET/Ph. D. Qualification.

According to the petitioners, the impugned orders have been passed by the Joint Director of Higher Education without affording an opportunity of hearing to the petitioners. It is stated that in view of the aforesaid, the impugned orders are liable to be set aside.

Shri Ambarish Joshi, the learned Assistant Government Pleader appearing on behalf of the Joint Director of Higher Education states that, the issue whether the teachers would be entitled to the benefits of the Career Advancement Scheme from the date of their appointment or from the date of acquiring the said qualifications was considered by the Division Bench of this Court at the Principal Seat in Writ petition no. 2082 of 2013 and others and by the judgment dated 23.12.2015, it was held that the Teachers/Professors/Lecturers that had not cleared the NET/SET/Ph.D Qualification would not be entitle for the benefits of the Career Advancement Scheme and other related benefits, until they acquire the said qualification. It is stated that it is held by the Division Bench at the Principal Seat that the

Lecturers/Teachers/Professors would be entitled to the benefits of the Career Advancement Scheme from the date of acquiring the qualification of NET/SET/Ph.D. and not from the date of their appointment. It is stated that since the issue stands answered against the petitioners, the impugned order may not be quashed and an opportunity of hearing may not be granted to the petitioners. It is stated that granting of an opportunity of hearing to the petitioners in the aforesaid set of facts would be an empty formality as the Joint Director of Higher Education would be required to pass orders similar to the impugned orders in view of the judgment dated 23.12.2015 in the bunch of Writ Petitions, bearing Writ Petition No. 2082 of 2013 and others. It is stated that in the circumstances of the case, the writ petitions are liable to be dismissed.

We find much force in the submissions made on behalf of the respondents. Since it is held at the Principal Seat that Teachers/Lecturers/Professors would not be entitled to the benefits of the Career Advancement Scheme from the date of their appointment, if they do not possess NET/SET/Ph.D. Qualifications and they would be entitled to the benefits only from the date of acquiring the qualifications, it would not be proper in the interest

of justice to quash and set aside the impugned orders merely because an opportunity was not granted to the petitioners before the impugned orders were passed. Granting of an opportunity to the petitioners in the aforesaid circumstances would be an empty formality, as submitted on behalf of the respondents.

Hence, for the reasons recorded in the judgment dated 23.12.2015 in Writ Petition No. 2082 of 2013 and others, we dismiss these writ petitions with no order as to costs.

As per the observations made in paragraph 88 of the judgment dated 23.12.2015 in the Writ Petition Nos. 2082 of 2013 and others, we continue the ad interim relief granted by this Court in these writ petitions till the Hon'ble Supreme Court decides Civil Appeal No. 10759 of 2013-State of Maharashtra Vs. Aasha Bidkar along with connected matters. Order accordingly.

JUDGE

JUDGE