

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.11187/2015

Surekha Sharad Patil (Khairnar),
age 38 yrs., occu.service,
r/o 309/3, Hanuman Nagar,
Near Mahadev Temple, Shirur Naka,
Amalner. Dist.Jalgaon.

...Petitioner..

Versus

- 1] State of Maharashtra,
through its Secretary,
Department of Surface Transport,
Mantralaya, Mumbai - 400032.
- 2] Maharashtra State Road Transport
Corporation Ltd., through
Divisional Controller, Divisional
Office, Jalgaon Division,
Tq. & Dist.Jalgaon.

...Respondents...

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WRIT PETITION NO.11189/2015

Prashant s/o Suresh Lad,
age 35 yrs., occu.service,
r/o Plot No.19 Gut No.52/1,
Shiv Colony, Jalgaon.
Tq. & Dist.Jalgaon.

...Petitioner..

Versus

- 1] State of Maharashtra,
through its Secretary,
Department of Surface Transport,
Mantralaya, Mumbai - 400032.

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- 2] Maharashtra State Road Transport Corporation Ltd., through Divisional Controller, Divisional Office, Jalgaon Division, Tq. & Dist.Jalgaon.

...Respondents...

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WRIT PETITION NO.11195/2015

Vaishali w/o Pradeep Tapre (Pingle),
age 35 yrs., occu.service,
r/o Satti Bazaar, at post
Nashirabad. Tq. & Dist.Jalgaon.

...Petitioner..

Versus

- 1] State of Maharashtra,
through its Secretary,
Department of Surface Transport,
Mantralaya, Mumbai - 400032.
- 2] Maharashtra State Road Transport Corporation Ltd., through Divisional Controller, Divisional Office, Jalgaon Division, Tq. & Dist.Jalgaon.

...Respondents...

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Shri S.G. Chapalgaonkar, Advocate for petitioners.
Shri V.S. Badakh, AGP for respondent no.1.
Shri M.K. Goyanka, Advocate for respondent no.2.

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**CORAM: ANOOP V. MOHTA &
SUNIL K. KOTWAL, JJ.**

DATE: 12.06.2017

ORAL JUDGMENT (Per Anoop V. Mohta, J.) :

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1] Heard learned counsel appearing for parties. Rule. Rule made returnable forthwith and with the consent of learned counsel for the parties, petition is taken up for final disposal at this stage.

2] We are inclined to dispose of all these petitions by a common order as identical issues / facts are involved, so also the prayers against the same respondents.

3] All petitioners have challenged show cause notice dated 19/21.10.2015 issued by respondents whereby their explanation is called as to why their services should not be terminated for want of qualification in question.

4] This Court has issued notice to respondents and also protected the services of petitioners who have been appointed on respective posts on compassionate ground based upon the degrees which they possess.

5] Similar issue was raised earlier in various other petitions. This Court on 30.7.2014 in the case of *Pawan Subhash Marale v. Maharashtra State Road Transport Corporation, Mumbai & others* in Writ Petition No.6503/2013, after considering rival submissions and the Government resolution, has recorded as under:-

"3. We have perused the Government Resolution

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and its corrigendum dated 14.06.1999, which has unequivocally laid down that the degree of Sahitya Sudhakar issued by the Bombay Hindi University is equivalent to B.A. degree and this equivalence is applicable for appointment in State Government and Corporations as per G.R. dated 28.02.2007."

6] The submission is, therefore, in view of above judgment, the similar / same degrees held by petitioners are required to be held as degrees from recognized University and, therefore, there is no question of terminating their services so referred in the show cause notice.

7] Submission is also made, referring to another order passed by this Court on 10.12.2015 in Writ Petition No.5901/2015 wherein to the similar challenge, another Division Bench, accepting the finding given by the Division Bench in *Pawan Subhash Marale* (supra), reinforced that the degree issued by the Bambai Hindi Vidyapeeth Bambai is equivalent and, therefore, directed respondents to consider the cases of such persons for the

posts in question.

8] In Writ Petition No.9879/2015, another Division Bench by order dated 4.12.2016, by following above judgments, even set aside the termination order issued by respondents by overlooking the judgments / orders passed by this Court.

9] In the present case, as noted, in spite of above factual position and in spite of orders passed by this Court, respondents again threatened to terminate the services of petitioners by issuing show cause notice. This, in our view, is unacceptable position and specifically when respondents have not even considered and/or referred the orders passed by this Court so recorded above. After perusing the show cause notice, it is clear that there is no reason whatsoever reflected, referring to the orders passed by this Court, therefore, we are inclined to permit petitioners to reply to the show cause notice within two weeks. Respondents to deal with the said reply as early as possible and preferably within four weeks and give reasons before taking any such coercive steps against petitioners. This Court would like to pass appropriate orders once the reasons are

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reflected in the order based upon the said show cause notice considering the judgments / orders passed by this Court so recorded above. Unless specific reasons and/or case is made out, all concerned are bound to follow the judgments / orders passed by the Court on similarly placed facts and circumstances and the interpretation so given by the orders of this Court.

10] It is made clear that the interim order passed by this Court to continue till the decision of respondents and shall continue further four weeks if still adverse order is passed against petitioners.

11] Taking overall view of the matter and to void further complication and to avoid respondents to take coercive action against petitioners, who are otherwise eligible, having in possession of qualified service and degree as recognized by the concerned University and as confirmed by this Court, there is no question of terminating the services of petitioners in such a fashion. Therefore, this order.

ORDER

12] Petitioners to file representations to the show cause notice within two weeks.

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13] Respondents to deal with the same and pass reasoned order as early as possible and preferably within four weeks.

14] The interim order passed by this Court shall continue till the decision by respondents and if adverse order is passed against petitioners, the interim order to continue to operate for a period of four weeks further from the date of communication of adverse order, if any, to petitioners.

15] All these petitions are accordingly disposed of with liberty to petitioners. No costs.

(SUNIL K. KOTWAL, J.)

(ANOOP V. MOHTA, J.)