

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

WRIT PETITION NO.2608 OF 2006

1. Tejrao Shamrao Patil,
Age : 41 years, Occ. Service,
r/o. Plot No.13, Gut No.34,
Bendale Nagar,
Jalgaon
2. Narendra Sheshrao Patil,
Age : 41 years, Occ. Service,
r/o. Plot No.02, Gut No.79,
Deoramnagar, Jalgaon
3. Vasanttrao Ananda Patil,
Age : 36 years, Occ. Service,
r/o. Plot No.3, Gut No.31/1,
Muktai Nagar, Jalgaon
4. Mahesh Shantaram Patil,
Age : 38 years, Occ. Service,
r/o. 2/B, Navprabhat Society,
Behind D.I.C., Jalgaon
5. Ramrao Shamrao Patil,
Age : 42 years, Occ. Service,
Plot No.13, Gut No.34,
Bendale Nagar Jalgaon
6. Rajesh Ramdas Karhe,
Age : 35 years, Occ. Service,
r/o. Brook Bond Colony,
9-B, Ring Road,
Jalgaon
7. Sanjay Sudhakar Ladhe,
Age : 29 years, Occ. Service,
r/o. Plot No.7, "Sarjai",

Anupam Housing Society,
Pimprala, Jalgaon

..Petitioners

Vs.

1. State of Maharashtra,
Through the Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai
2. Directorate of Technical Education,
Maharashtra State,
3, Mahapalika Marg,
Mumbai
3. Joint Director of Technical
Education (Nasik Region),
Government Polytechnic Campur,
Samangaon Road, P.B. No.219,
Nasik
4. All India Council for Technical
Education,
Through its Regional Officer,
Western Region Office,
Industrial Assurance Building,
2nd floor, Veer Nariman Road,
Churchgate,
Mumbai
5. Sant Muktabai Sansthan, Edlabad,
Muktai Nagar, Jalgaon,
through its Chairman
Ravindra Pralhadrao Patil
6. Sant Muktabai Institute of
Technology, Muktai Nagar,
Pimprala Road, P.B. No.132,
Jalgaon, through its Principal ..Respondents

Mr.S.S.Bora, Advocate for petitioners
Mr.A.S.Shinde, AGP for respondent nos.1 to 3
Mr.S.V.Advant, Advocate for respondent no.4
Mr.V.R.Dhorde, Advocate for respondent nos.5 and 6

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**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.
DATE : JUNE 22, 2017**

JUDGMENT (PER SANGITRAO S. PATIL, J.)

The petitioners, who are serving in respondent no.6 – polytechnic institute, run by respondent no.5 Trust, as Lecturers/ Teachers, have prayed for a mandate against respondent nos.5 and 6 to pay salary and other benefits at par with their counterparts serving in Government/ Government aided polytechnic institutes as per the Circular dated 29.09.1995.

2. The learned Counsel for the petitioners submits that petitioner nos.1 to 7 were serving with respondent nos.5 and 6 since 20 years, 18 years, 11 years, 5 years, 14 years, 11 years and 6 years, respectively, at the time of filing of the petition. As per the Circular dated 29.09.1995

issued by the Directorate of Technical Education, Government of Maharashtra, Mumbai, they are entitled to get pay and perks at par with their counterparts serving in the Government/ Government aided polytechnic institutions. However, despite repeated requests, respondent nos.5 and 6 neglected the legitimate claim of the petitioners for getting such pay and perks. He submits that in the similar set of circumstances, this Court in the case of **Teachers Association for Non-Aided Polytechnics, registered Association of Teachers of Non-Aided Polytechnics, through its Bhusawal Unit President, A.V. Anilkumar and others Vs. Hindi Seva Mandal, Bhusawal through its President and others, 2003(Supp.) Bom.C.R. 846** has granted benefits of Circular dated 29.09.1995 to the petitioners therein, who also were the Members of teaching and non-teaching staff serving in non-aided polytechnic institutes. The said judgment has been confirmed by the Hon'ble the Apex Court

on 12.04.2002 in Petition for Special Leave to Appeal (Civil) No.19455 of 2001. He, therefore, submits that the claim of the petitioners may be allowed since the dispute involved in this petition is no more *res-integra*.

3. The learned Counsel for respondent nos.5 and 6 opposed the claim of the petitioners mainly on the ground of financial incapacity of respondent nos.5 and 6 to fulfil the demand of the petitioners. He further submits that the petitioners were not having requisite qualifications for being appointed as Lecturers/Teachers and therefore, they were not entitled to get the pay and perks which are meant for qualified Lecturers/Teachers fit for being appointed in polytechnic institution. Therefore, according to him, the judgment in the case of **Teachers Teachers Association for Non-Aided Polytechnics** (supra) would not be applicable to

the facts of the present case. He, therefore, submits that the Writ Petition may be dismissed.

4. We have considered the facts of the present case as well as the decision in the case of **Teachers Association for Non-Aided Polytechnics** (supra). All the grounds of objections as regards financial incapacity of the Institution, want of requisite qualification of the Lecturers/Teachers for being appointed, delay and laches in seeking implementation of the above-mentioned Circular etc., have been considered in that case and have been held in favour of the Lecturers/Teachers. It is held that when respondent no.6 got recognition from A.I.C.T.E., a body created by the Act of Parliament, after examining the qualification of the teaching staff as well as availability of infrastructure etc., the defence raised by the Institution about non-qualified Lecturers/Teachers would be without basis. It was further held that

the Management cannot take shelter of financial incapacity in the matter of payment of salaries and other service benefits to the Lecturers and the Teachers. All the points in controversy have been dealt with in detail in the above-cited judgment, which have been confirmed by the Hon'ble Apex Court. Respondent nos.5 and 6 cannot be allowed to challenge the claims of the petitioners on those grounds, more particularly when, they have taken the services of the petitioners as Lecturers/Teachers.

5. Since the controversy involved in this Writ Petition has been decided in the abovesaid case, we allow the claim of the petitioners for payment of salaries and other service benefits at par with their counterparts serving in Government/ Government aided polytechnics in view of the Circular dated 29.09.1995.

6. The petitioners have claimed arrears of the salaries and other allowances from the respective dates of their initial appointments. Respondent nos.5 and 6 are bound to fix pay of the petitioners from the date of the Circular dated 29.09.1995 or the respective dates of their initial appointments, whichever is later. However, the petitioners would be entitled to get the actual monetary benefits only from the period of three years preceding the date of filing this Writ Petition. The Writ Petition is liable to be allowed in terms of prayer clause (C) to that extent only.

7. The learned Counsel for respondent nos.5 and 6 submits that the order passed today in this petition, may be stayed for four weeks so as to enable these respondents to challenge this order. The learned Counsel for the petitioners strongly opposed the prayer.

8. Considering the fact that monetary burden is going to be placed on respondent nos.5 and 6 by this order, we are inclined to stay the execution thereof for four weeks from the date of this order.

9. The Writ Petition is allowed in the above terms. Rule is made absolute accordingly. No costs.

[SANGITRAO S. PATIL, J.]

[T.V. NALAWADE, J.]

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