

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

WRIT PETITION NO. 14158 OF 2017

1. Dr. Santosh Shivrajsing Chowhan
Age : 43 years, occu.: Assistant Professor
R/o Flat No. 304, Malankunj, Deshpande
Colony, Nandi Stop, Latur.
2. Mohnish Ramesh Mahamune
Age : 34 years, occu : Assistant Professor
R/o Gajanan Nagar, Ward No.16,
Khandala Road, Chikhali,
District Buldana.
3. Makrand Dashrath Wangikar
Age : 37 years, occu.: Assistant Professor
R/o Harsh Nagar, Nanded,
Taluka and District Nanded.

Petitioners.

Versus

1. The State of Maharashtra
Through its Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai.
2. The University Grant Commission
Through its Chairman
Bahadurshah Zafar Marg,
New Delhi.
3. Swami Ramanand Teerth Marathwada
University, Vishnupuri, Nanded
Through its Registrar

Respondents

Mr. A.R. Borulkar, Advocate for the petitioners.

Mr. S.S. Dande, A.G.P. for the State.

Mr. V.P. Latange, Advocate for respondent No.2

Mr. A.D. Aghav, Advocate for respondent No.3.

WITH**WRIT PETITION NO. 14174 OF 2017**

Mahesh Shyamsundar Darak

Age : 32 years, occu.: Assistant Professor

R/o Shyamkiran Building, Shivaji Nagar,

Nanded.

Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai.
2. The Director of Education,
Maharashtra State, having office in
Central Building, Pune.
3. University Grant Commission
Bahadurshah Jaffar Marg,
New Delhi.
Through its Secretary.
4. Swami Ramanand Teerth Marathwada
University, Dnyan Teerth, Vishnupuri,
Nanded
Through its Registrar

Respondents

Mr. S.S. Rathi, Advocate for the petitioner.

Mr. S.S. Dande, A.G.P. for the State.

Mr. V.P. Latange, Advocate for respondent No.3.

Mr. A.D. Aghav, Advocate for respondent No.4.

WITH**WRIT PETITION NO. 14306 OF 2017**

Gajanan Panditrao Mudholkar

Age : 32 years, occu.: service

R/o Gajanan Niwas, Near Railway

Over bridge, Datta Nagar, Nanded.

Petitioner.

Versus

1. The State of Maharashtra
Through Principal Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai-32.

2. Swami Ramanand Teerth Marathwada
University, Nanded
Through its Registrar,
“Dnyanteerth”, Vishnupuri,
Nanded.

Respondents

Mr. Mahesh V. Ghatge, Advocate for the petitioner.

Mr. S.S. Dande, A.G.P. for the State.

Mr. A.D. Aghav, Advocate for respondent No.2.

WITH
WRIT PETITION NO. 14309 OF 2017

Ashok Pandurangrao Gingine
Age : 41 years, occu.: service
R/o New Mondha, Palam,
District Parbhani.

Petitioner.

Versus

1. The State of Maharashtra
Through Principal Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai-32.

2. Swami Ramanand Teerth Marathwada
University, Nanded
Through its Registrar,
“Dnyanteerth”, Vishnupuri,
Nanded.

Respondents

Mr. Mahesh V. Ghatge, Advocate for the petitioner.

Mr. S.S. Dande, A.G.P. for the State.

Mr. A.D. Aghav, Advocate for respondent No.2.

CORAM : **PB. VARALE AND**
SUNIL K. KOTWAL, JJ.

Dated : 11-12-2017.

ORAL ORDER (PER P.B. VARALE, J.) :-

. All the petitioners in the respective Writ Petitions are before this Court seeking a challenge to their proposed termination of services.

2. Mr. A.R. Borulkar, Mr. S.S. Rathi and Mr. M.V. Ghatge, learned Counsels appearing for the petitioners submitted before us that these petitioners were appointed in view of an advertisement issued by Swami Ramanand Teerth Marathwada University for the posts of Assistant Professor. Our attention was invited to the appointment orders of the petitioners. Learned Counsel Mr. Borulkar submitted that in the appointment order itself it was made clear that the appointment was temporary appointment for 5 years tenure period and by way of the guidelines, the University Grants Commission made it clear that the financial assistance for these posts, namely teaching staff, would be provided by the University Grants Commission only for plan period of 5 years. Beyond the period of first 5 years, the financial burden was to be borne by the respective University. Reliance was placed on Clause 5.18-2 of the Guidelines for General Development Assistance to Central, State Universities and Institutions Deemed to be Universities

during XII Plan. The learned Counsel then submitted that by communication of April 2015, the University Grants Commission raised certain queries with the Registrar of the respondent No.2-Swam Ramanand Teerth Marathwada University (Hereinafter referred as the “University” for the sake of brevity). The first query was for clarifying as to whether the appointments are on temporary basis or permanent and the second query was to clear the assurance from the Vice-Chancellor/Management Council that the University will take the liability and responsibility for the salary of these posts after XII Plan Period. In response to the said communication, the Registrar of the University, by letter dated 20/23 May, 2015, then made it clear that the University is giving clear assurance for taking the liability and responsibility of the salary of appointed teachers after XII Plan Period. It is submitted that the assurance was re-iterated by Annexure to the communication dated 20/23 May, 2015.

3. It is further submissions of the learned Counsels for the petitioners that now the University is changing its stand and stance and shifting its burden on the State Government. Resolution is also passed by the Management Council so as to

shift the burden on the State Government. By way of Resolution the University showed its unwillingness to continue the services of these petitioners. The said resolution of the Management Council dated 24.07.2017 is placed at Page No.53 of Writ Petition No. 14158/2017.

4. While hearing learned Counsels for the petitioners, Mr. Ghatge fairly submitted that out of these 7 persons, who were appointed as Assistant Professor in the year 2012, Mr. Kalyankar Tukaram Mohanrao who was served with an order for termination dated 24.07.2017, approached this Court by filing Writ Petition No. 9559/2017. He also made available copy of the order of the Division Bench of this Court dated 26.07.2017 in Writ Petition No. 9559/2017. Its copy is taken on record and is marked 'X' for identification. A perusal of the order of this Court dated 26.07.2017 shows that in view of the submission of the learned Counsel for the respondents that there is an alternate remedy available for the petitioner for redressal of grievance under the provisions of Maharashtra Public Universities Act and the petitioner can avail that remedy and approach the Tribunal by filing the appeal, the Division Bench

disposed of the petition by permitting the petitioner to avail the alternate remedy. The order of the Division Bench further shows that the order of termination impugned in the petition dated 24.07.2017 was stayed for a period of 8 weeks so as to enable the petitioner to approach to alternate Forum. This Court also made it clear that the Tribunal to consider the case of the petitioner on its own merit without being influenced by the interim protection granted by this Court.

5. In view of this peculiar fact, namely the order of this Court dated 26.07.2017, we permit these petitioners to approach the alternate redressal forum namely the University Tribunal by filing an appeal. Needless to state that, the petitioners may pray for interim orders in view of the apprehension of termination of their services by way of an application.

6. In view of the liberty granted to the petitioners, learned Counsels Mr. Borulkar, Mr. Ghatge and Mr. Rathi pray for withdrawal of the petitions. At the request of the learned Counsels appearing for the petitioners, petitions are allowed to withdraw. Petitions are disposed of as withdrawn. In so far as

petitioner No.3 Mr. Makrand Dashrath Wangikar in Writ Petition No. 14158/2017 and the petitioners in Writ Petition Nos.14306/2017 and 14309/2017 i.e. Mr.Gajanan Mudholkar and Mr. Ashok Gingine respectively are concerned, it is submitted that the service tenure of Mr. Mudholkar expires on 12.12.2017, service tenure of Mr. Wangikar expires on 12.12.2017 and the service tenure of Mr. Gingine expires on 11.12.2017. The learned Counsels, thus, submitted that the service of these petitioners be protected for the period they approach the University Tribunal and avail the remedies by filing an appeal as well as application seeking interim orders. The learned Counsels appearing for these respective petitioners submit that the petitioners would immediately file an appeal by 13.12.2017 alongwith the applications with prayer for interim orders. The learned Counsels submit that till the orders are passed on the application seeking interim orders, the services of these petitioners be protected.

7. In view of the submissions of the learned Counsels, we direct the respondent-University not to take any coercive action against these three petitioners till the orders are passed

by the Tribunal on their applications seeking interim orders. Needless to state that, as soon as the order is passed by the Tribunal, the interim protection granted to these petitioners would stand vacated.

8. Mr. Ghatge, learned Counsel submitted that Mr. Gingine and Mr. Mudholkar have already approached the Tribunal and submitted applications praying for interim orders. Till today no orders were passed on those applications.

9. We hope and trust that the learned Presiding Officer of the Tribunal of University would pass necessary orders on the applications as expeditiously as possible considering the apprehension expressed by these petitioners.

10. If such appeals and applications are filed by other petitioners, the Tribunal to consider their applications as expeditiously as possible without being influenced by the order of this Court.

11. The petitions are disposed of with these directions.

(SUNIL K. KOTWAL)
JUDGE

(P.B. VARALE)
JUDGE