

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

60 WRIT PETITION NO. 252 OF 2018

MAHENDRAKUMAR SUPDU PAGARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. B.L.Sagar Killarikar h/f Mr. Awasarmol
Rahul O.

AGP for Respondents 1 to 3 : Mr. S.B.Yawalkar
Advocate for Respondent no.4 : Mr. Y.B.Bolkar h/f Mr. A.B.Girase
Advocate for Respondent no.5 : Miss. P.S.Talekar

**CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.**

DATE : JULY 31, 2018

O R D E R :

Mr. Sagar Killarikar, learned counsel for the petitioner submits that the impugned communication thereby staying the pecuniary benefits of the promotional post to the petitioner is erroneous, illegal and against the facts on record. Twice inquiry has been conducted with regard to the legality of the promotion given to the petitioner and inquiry report in

unequivocal words suggests that the promotion was in accordance with the Rules. No illegality has been committed in according promotion to the petitioner. Respondent no. 5 time and again filed false complaints. Even after filling of the present petition, fresh inquiry report has been submitted by the inquiry committee constituted by the University. The said inquiry committee also records that the promotion of the petitioner is proper.

2. Miss Talekar, learned counsel for respondent no.5 submits that in fact the inquiry ought to have been conducted by the Joint Director of Higher Education as per the directions of the Director of Education. The Joint Director had given two separate reports. In view of that, the order was passed by the Director of Education during inquiry. Self-appraisal reports were not signed by the Head of the Department at the relevant time. The petitioner did not deserve to be promoted. No steps are taken by

the Joint Director of Higher Education to conduct the inquiry.

3. Mr. Bolkar, learned counsel for the University submits that considering the complaint, the University resolved to constitute an independent inquiry committee. The inquiry committee was constituted of four persons. The Chairman of the inquiry committee was one Mr. Maldar, Ex-Vice Chancellor, Solapur University, Another member of the Committee was Professor Dr. Bhamre of Ramanand Arya D.A.V. College Bhandup, Mumbai, one member of Management Council of University Mr.D.R.Patil and fourth member was the Registrar of the University Mr.D.B.Patil. The said Committee scanned all the documents and the record and thereafter have given the report that the promotion of the petitioner to the post of Professor was in accordance with law. The said report has been accepted by the Management Council and has been sent to the Government for

further action.

4. We have also heard learned AGP.

5. It is submitted that some cases are filed by petitioner and Respondent no.5 against each other. The only subject matter of consideration in the present petition is with regard to the promotion of the petitioner. It appears that earlier also the inquiry was conducted and it was opined that there is no violation of any provision while giving promotion to the petitioner. The same was pursuant to the complaint filed by respondent no.5. After the orders were passed by the Director of Higher Education asking the Deputy Director of Higher Education to submit the report, the inquiry committee was constituted by the University of four responsible persons as referred to above. They have conducted the inquiry by going through the record and documents and thereafter submitted the report that there is

nothing illegal in the promotion of the petitioner. It appears that they have thread bare considered the documents. It was proposed in the report that considering all the aspects as referred to in the report there should not be any impediment to recommend to the Director of Education for giving promotional benefits to the petitioner. The report is also accepted by the Management Council.

6. The persons of the Inquiry Committee as constituted by the University are the experts in the field of education. Once they have given the report after considering the record, it would not be proper for this Court to again reconsider the same or to substitute the views of inquiry committee. Considering the above, the matter with regard to the promotion of the petitioner as a Professor needs to be put to rest. The resolution of the Management Council is also forwarded to the Joint Director of Higher Education to consider the promotion of the

petitioner as legal and regular. In view of above, the Joint Director of Higher Education shall now act upon the report submitted by the University and implement it preferably within six weeks from today.

7. Writ Petition accordingly is disposed of.
No costs.

[SUNIL K.KOTWAL, J.] [S.V.GANGAPURWALA, J.]

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