

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 348 OF 2002

Vinod Ninu Patil,
Age: 39 Years, Occu.: Service,
R/o.: 9/B Indraneel Apartment,
Vedant Nagar, Station Road,
Aurangabad

.. Petitioner

Versus

1. The State of Maharashtra ,
(through its Secretary Higher
and Technical Education Department,
Mantralaya, Mumbai)
2. The University Grants Commission
(through Secretary)
Bahadur Shah Zafar Marg,
New Delhi 110 002
3. Bar Council of India
(through its Secretary)
AB/21 Lal Bahadur Shahstri Marg
Opp. Supreme Court Building
New Delhi – 110 001
4. Dr. Babasaheb Ambedkar
Marathwada University
(through its Registrar)
Aurangabad
5. Chairman
Peoples Education Society
(through its Assistant Secretary)
Milind Science College Campus
Nagsenvan, Aurangabad
6. The Principal,
Dr. Ambedkar College of Law
Aurangabad

7. Bar Council of Maharashtra and Goa
through its Secretary,
High Court of Bombay Building Annex,
Mumbai .. **Respondents**

Mr. Milind M. Patil, Advocate for the Petitioner.
Mr. K. S. Patil, A.G.P. for the Respondent No. 1.
Mr. Pradeep Deshmukh, Advocate for Respondent
No. 4.

**CORAM: S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.**

DATE: 07th DECEMBER, 2018

ORAL JUDGMENT (Per S. V. Gangapurwala, J.):

1. We had heard Mr. Patil, learned Advocate for the petitioner, the learned A.G.P. and Mr. Deshmukh, learned Advocate for the University.

2. The petitioner assails the Government Resolution dated 18.10.2001, issued by respondent no. 1 prescribing qualification of NET / SET.

3. The petitioner claims to have been appointed as a regular lecturer on 25.02.2000. Prior to that he was working as contributory lecturer since the year-1995. The learned counsel submits that it is not necessary for the petitioner to achieve the

qualification of NET / SET and relies on the judgment and order of this Court dated 13.09.2013 in Writ Petition No. 9494 of 2013.

4. Mr. Patil, the learned Advocate submits that, the University has also forwarded the proposal seeking exemption of NET / SET on 04.08.2008.

5. We have also heard the learned A.G.P. and the learned Advocate for the University.

6. This Court in Writ Petition No. 5271 of 2013 with connected writ petitions had disposed of the similar matters. Based on the judgment in Writ Petition No. 5271 of 2013, the Court also decided Writ Petition NO. 9494 of 2013 with connected writ petition under judgment and order dated 13.09.2013.

7. It is not disputed that the petitioner herein is appointed as a full time lecturer on 25.02.2000, after following due selection process since then he is officiating on the said post.

8. The Government Resolution dated 18.10.2001 was subject matter of consideration before this Court in Writ Petition No. 5271 of 2013 with connected writ petitions, so also, Writ Petition No. 9494 of 2013 with connected writ petition decided on 13.09.2013. The Court reproduced the observations of the judgment delivered in Writ Petition No. 5271 of 2013 with connected writ petitions. The same reads thus -

"15. It appears that in Writ Petition (Lodging) No. 1326/2012, a statement was made on behalf of the State Government that Government Resolution would be issued exempting teachers, who were appointed after following prescribed procedure during the period from 19.09.1991 to 03.04.2000, and stating that a GR will be issued granting exemption from NET / SET to those teachers who were appointed during 1991 to 2000 and the Government and the Universities would protect the pay fixation, including increments already paid to the teachers and, therefore, there will be no recovery of annual increments which the teachers have already earned. It appears that subsequently, Government Resolution dated 27.06.2013 has been issued from which it emerges that it has been decided that -

1. Notification dated 19.09.1991 of the UGC has been adopted by the State Government under a Resolution dated 23.10.1992 and, as such, the stipulations

in the notification dated 19.09.1991 would not be applicable to the lecturers appointed before 23.10.1992.

2. The lecturers, who are appointed during 23.10.1992 to 03.04.2000, who do not possess NET/SET/Ph.D./ M.Phil. would be considered for all purposes, on fulfillment of the conditions that -

(a) Their appointments should be on regular basis.

(b) Their appointments should be made after following the prescribed procedure.

(c) The lecturers shall have all other qualifications except NET/SET.

(d) Proposals of such lecturers should have been forwarded to the UGC for approval."

9. Considering the decisions of the Court in the Writ Petitions referred to supra, it would be clear that this Court has categorically held that the Government Resolution dated 18.10.2001 would be of not much consequence in view of the Government Resolution dated 27.06.2013.

10. In the light of above, the writ petition is allowed and the Government Resolution dated 18.10.2001 would not be an impediment for considering the qualification of the petitioner possessed by him as a proper qualification for the

post of lecturer. Rule accordingly made absolute in above terms.

11. The writ petition accordingly stands disposed of. No costs.

[R. G. AVACHAT, J.] [S. V. GANGAPURWALA, J.]

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