

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

Writ Petition No.9904 of 2011

* Bhagwan S/o Govindrao Khalse,
Age 43 years, Occu: Service,
R/o Wankhede Nagar, N-13,
Plot No.14, Hari Govind Niwas,
Opp. Taj Residency, Aurangabad
District Aurangabad. .. **Petitioner.**

Versus

- 1) The State of Maharashtra,
Through Secretary,
Department of Technical
Education, Mantralaya,
Mumbai - 32.
- 2) The Director of Technical
Education, Government of
Maharashtra,
3, Mahapalika Marg,
Mumbai - 400 001.
- 3) The Joint Director,
Technical Education,
Regional Office, Osmanpura,
Aurangabad.
- 4) Dr. Babasaheb Ambedkar
Marathwada University
University Campus,
Aurangabad,
Through its Registrar.
- 5) Maulana Azad Education Society
(Trust), Rouza Baugh,
Aurangabad
Through its President/Chairman.

- 6) The Principal,
Y.B. Chavan Pharmacy College,
Dr. Rafik Zakeria Campus,
Roza Baug, Aurangabad.
- 7) All India Council for Technical
Education,
Western Regional Office,
'Industrial Assurance Bldg.,'
2nd Floor, V.N. Road,
Churchgate, Mumbai - 400 020. .. **Respondents.**

Shri. S.N. Pagare, Advocate, for petitioner.

Shri. M.M. Nerlikar, Assistant Government Pleader, for
respondent Nos.1 to 3.

Respondent No.4 - served.

Shri. A.N. Kakade, Advocate, for respondent Nos.5 and 6.

Shri. S.V. Adwant, Advocate, for respondent No.7.

With

Writ Petition No.9905 of 2011

- * Mohammad Riyaz Mohd. Abdul
Khalique,
Age 45 years, Occu: Service,
R/o House No. N-12/EF-56/6,
CIDCO, Chhatrapati Nagar,
Rozabaugh, Aurangabad.
District Aurangabad. .. **Petitioner.**

Versus

- 1) The State of Maharashtra,
Through Secretary,
Department of Technical
Education, Mantralaya,
Mumbai - 32.
- 2) The Director of Technical
Education, Government of
Maharashtra,
3, Mahapalika Marg,
Mumbai - 400 001.
- 3) The Joint Director,
Technical Education,
Regional Office, Osmanpura,
Aurangabad.
- 4) Dr. Babasaheb Ambedkar
Marathwada University
University Campus,
Aurangabad,
Through its Registrar.
- 5) Maulana Azad Education Society
(Trust), Rouza Baugh,
Aurangabad
Through its President/Chairman.
- 6) The Principal,
Y.B. Chavan Pharmacy College,
Dr. Rafik Zakeria Campus,
Roza Baug, Aurangabad.
- 7) All India Council for Technical
Education,
Western Regional Office,
'Industrial Assurance Bldg.,'
2nd Floor, V.N. Road,
Churchgate, Mumbai - 400 020. .. **Respondents.**

Shri. S.N. Pagare, Advocate, for petitioner.

Shri. M.M. Nerlikar, Assistant Government Pleader, for respondent Nos.1 to 3.

Respondent No.4 - served.

Shri. A.N. Kakade, Advocate, for respondent Nos.5 and 6.

Shri. S.V. Adwant, Advocate, for respondent No.7.

With

Writ Petition No.9906 of 2011

* Somnath s/o Tulshiram Harne,
Age 34 years, Occu: Service,
R/o At Post Harsul, Pisadevi Road,
Bhagatsingh Nagar,
Opp. Sailani Baba Dargah,
Aurangabad,
District Aurangabad. **.. Petitioner.**

Versus

- 1) The State of Maharashtra,
Through Secretary,
Department of Technical
Education, Mantralaya,
Mumbai - 32.
- 2) The Director of Technical
Education, Government of
Maharashtra,
3, Mahapalika Marg,
Mumbai - 400 001.
- 3) The Joint Director,
Technical Education,
Regional Office, Osmanpura,
Aurangabad.

- 4) Dr. Babasaheb Ambedkar
Marathwada University
University Campus,
Aurangabad,
Through its Registrar.
- 5) Maulana Azad Education Society
(Trust), Rouza Baugh,
Aurangabad
Through its President/Chairman.
- 6) The Principal,
Y.B. Chavan Pharmacy College,
Dr. Rafik Zakeria Campus,
Roza Baug, Aurangabad.
- 7) All India Council for Technical
Education,
Western Regional Office,
'Industrial Assurance Bldg.,'
2nd Floor, V.N. Road,
Churchgate, Mumbai - 400 020. .. **Respondents.**

Shri. S.N. Pagare, Advocate, for petitioner.

Shri. M.M. Nerlikar, Assistant Government Pleader, for
respondent Nos.1 to 3.

Respondent No.4 - served.

Shri. A.N. Kakade, Advocate, for respondent Nos.5 and 6.

Shri. S.V. Adwant, Advocate, for respondent No.7.

With

Writ Petition No.9907 of 2011

* Satyendra Bhaurao Dabhade,
Age 43 years, Occu: Service,
R/o Bungalow No.9,
Cantonment Area, Chawani,
Aurangabad.
District Aurangabad.

.. Petitioner.

Versus

- 1) The State of Maharashtra,
Through Secretary,
Department of Technical
Education, Mantralaya,
Mumbai - 32.
- 2) The Director of Technical
Education, Government of
Maharashtra,
3, Mahapalika Marg,
Mumbai - 400 001.
- 3) The Joint Director,
Technical Education,
Regional Office, Osmanpura,
Aurangabad.
- 4) Dr. Babasaheb Ambedkar
Marathwada University
University Campus,
Aurangabad,
Through its Registrar.
- 5) Maulana Azad Education Society
(Trust), Rouza Baugh,
Aurangabad
Through its President/Chairman.
- 6) The Principal,
Y.B. Chavan Pharmacy College,
Dr. Rafik Zakeria Campus,
Roza Baug, Aurangabad.

- 7) All India Council for Technical Education,
Western Regional Office,
'Industrial Assurance Bldg.,'
2nd Floor, V.N. Road,
Churchgate, Mumbai - 400 020. .. **Respondents.**

Shri. S.N. Pagare, Advocate, for petitioner.

Shri. M.M. Nerlikar, Assistant Government Pleader, for
respondent Nos.1 to 3.

Respondent No.4 - served.

Shri. A.N. Kakade, Advocate, for respondent Nos.5 and 6.

Shri. S.V. Adwant, Advocate, for respondent No.7.

With

Writ Petition No.9908 of 2011

- * Abdul Rahim Abdul Majid,
Age 43 years, Occu: Service,
R/o C/9, Shariff Colony,
Galli No.1, Kiradpura,
Aurangabad.
District Aurangabad. .. **Petitioner.**

Versus

- 1) The State of Maharashtra,
Through Secretary,
Department of Technical
Education, Mantralaya,
Mumbai - 32.
- 2) The Director of Technical
Education, Government of
Maharashtra,
3, Mahapalika Marg,
Mumbai - 400 001.

- 3) The Joint Director,
Technical Education,
Regional Office, Osmanpura,
Aurangabad.
- 4) Dr. Babasaheb Ambedkar
Marathwada University
University Campus,
Aurangabad,
Through its Registrar.
- 5) Maulana Azad Education Society
(Trust), Rouza Baugh,
Aurangabad
Through its President/Chairman.
- 6) The Principal,
Y.B. Chavan Pharmacy College,
Dr. Rafik Zakeria Campus,
Roza Baug, Aurangabad.
- 7) All India Council for Technical
Education,
Western Regional Office,
'Industrial Assurance Bldg.,'
2nd Floor, V.N. Road,
Churchgate, Mumbai - 400 020. .. **Respondents.**

Shri. S.N. Pagare, Advocate, for petitioner.

Shri. M.M. Nerlikar, Assistant Government Pleader, for
respondent Nos.1 to 3.

Respondent No.4 - served.

Shri. A.N. Kakade, Advocate, for respondent nos.5 and 6.

Shri. S.V. Adwant, Advocate, for respondent No.7.

With

Writ Petition No.9909 of 2011

* Shaikh Moizuddin s/o Shaikh Amiruddin,
Age 41 years, Occu: Service,
R/o Kotwalpura, House No.5/5/72,
Opp. Manikrao Palodkar's Bungalow,
Aurangabad, Dist. Aurangabad. .. **Petitioner.**

Versus

- 1) The State of Maharashtra,
Through Secretary,
Department of Technical
Education, Mantralaya,
Mumbai - 32.
- 2) The Director of Technical
Education, Government of
Maharashtra,
3, Mahapalika Marg,
Mumbai - 400 001.
- 3) The Joint Director,
Technical Education,
Regional Office, Osmanpura,
Aurangabad.
- 4) Dr. Babasaheb Ambedkar
Marathwada University
University Campus,
Aurangabad,
Through its Registrar.
- 5) Maulana Azad Education Society
(Trust), Rouza Baugh, Aurangabad
Through its President/Chairman.
- 6) The Principal,
Y.B. Chavan Pharmacy College,
Dr. Rafik Zakeria Campus,
Roza Baug, Aurangabad.

- 7) All India Council for Technical Education,
Western Regional Office,
'Industrial Assurance Bldg.,'
2nd Floor, V.N. Road,
Churchgate, Mumbai - 400 020. .. **Respondents.**

Shri. S.N. Pagare, Advocate, for petitioner.

Shri. M.M. Nerlikar, Assistant Government Pleader, for respondent Nos.1 to 3.

Respondent No.4 - served.

Shri. A.N. Kakade, Advocate, for respondent Nos.5 and 6.

Shri. S.V. Adwant, Advocate, for respondent No.7.

With

Writ Petition No.9910 of 2011

- * Shaikh Abdul Sattar Shaikh Khairatti,
Age 41 years, Occu: Service,
R/o. H. No.5-2-76, Behind Alankar Hotel,
Kotwalpura, Opp. M.S.E.B. Office,
Aurangabad.
District Aurangabad. .. **Petitioner.**

Versus

- 1) The State of Maharashtra,
Through Secretary,
Department of Technical
Education, Mantralaya,
Mumbai - 32.
- 2) The Director of Technical
Education, Government of
Maharashtra, 3, Mahapalika Marg,
Mumbai - 400 001.

- 3) The Joint Director,
Technical Education,
Regional Office, Osmanpura,
Aurangabad.
- 4) Dr. Babasaheb Ambedkar
Marathwada University
University Campus,
Aurangabad,
Through its Registrar.
- 5) Maulana Azad Education Society
(Trust), Rouza Baugh,
Aurangabad
Through its President/Chairman.
- 6) The Principal,
Y.B. Chavan Pharmacy College,
Dr. Rafik Zakeria Campus,
Roza Baug, Aurangabad.
- 7) All India Council for Technical
Education,
Western Regional Office,
'Industrial Assurance Bldg.,'
2nd Floor, V.N. Road,
Churchgate, Mumbai - 400 020. .. **Respondents.**

Shri. S.N. Pagare, Advocate, for petitioner.

Shri. M.M. Nerlikar, Assistant Government Pleader, for
respondent Nos.1 to 3.

Respondent No.4 - served.

Shri. A.N. Kakade, Advocate, for respondent Nos.5 and 6.

Shri. S.V. Adwant, Advocate, for respondent No.7.

With

Writ Petition No.9911 of 2011

* Shaikh Yusuf Shaikh Tajoddin,
Age 38 years, Occu: Service,
R/o Muzaffar Nagar,
Near Aboo Bakar Masjid,
Behind N-13, Hudco,
Aurangabad.
District Aurangabad. **.. Petitioner.**

Versus

- 1) The State of Maharashtra,
Through Secretary,
Department of Technical
Education, Mantralaya,
Mumbai - 32.
- 2) The Director of Technical
Education, Government of
Maharashtra,
3, Mahapalika Marg,
Mumbai - 400 001.
- 3) The Joint Director,
Technical Education,
Regional Office, Osmanpura,
Aurangabad.
- 4) Dr. Babasaheb Ambedkar
Marathwada University
University Campus,
Aurangabad,
Through its Registrar.
- 5) Maulana Azad Education Society
(Trust), Rouza Baugh,
Aurangabad
Through its President/Chairman.

- 6) The Principal,
Y.B. Chavan Pharmacy College,
Dr. Rafik Zakeria Campus,
Roza Baug, Aurangabad.
- 7) All India Council for Technical
Education,
Western Regional Office,
'Industrial Assurance Bldg.,'
2nd Floor, V.N. Road,
Churchgate, Mumbai - 400 020. .. **Respondents.**

Shri. S.N. Pagare, Advocate, for petitioner.

Shri. M.M. Nerlikar, Assistant Government Pleader, for
respondent Nos.1 to 3.

Respondent No.4 - served.

Shri. A.N. Kakade, Advocate, for respondent Nos.5 and 6.

Shri. S.V. Adwant, Advocate, for respondent No.7.

With

Writ Petition No.9912 of 2011

- * Qureshi Hafeez Ahmed Habib Ahmed,
Age 45 years, Occu: Service,
R/o. House No.4/11/43-P,
Azam Colony, Roshan Gate,
Aurangabad.
District Aurangabad. .. **Petitioner.**

Versus

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

- 2) The Director of Technical Education, Government of Maharashtra,
3, Mahapalika Marg,
Mumbai - 400 001.
- 3) The Joint Director,
Technical Education,
Regional Office, Osmanpura,
Aurangabad.
- 4) Dr. Babasaheb Ambedkar
Marathwada University
University Campus,
Aurangabad,
Through its Registrar.
- 5) Maulana Azad Education Society
(Trust), Rouza Baugh,
Aurangabad
Through its President/Chairman.
- 6) The Principal,
Y.B. Chavan Pharmacy College,
Dr. Rafik Zakeria Campus,
Roza Baug, Aurangabad.
- 7) All India Council for Technical
Education, Western Regional Office,
'Industrial Assurance Bldg.,'
2nd Floor, V.N. Road,
Churchgate, Mumbai - 400 020. .. **Respondents.**

Shri. S.N. Pagare, Advocate, for petitioner.

Shri. M.M. Nerlikar, Assistant Government Pleader, for
respondent Nos.1 to 3.

Respondent No.4 - served.

Shri. A.N. Kakade, Advocate, for respondent nos.5 and 6.

Shri. S.V. Adwant, Advocate, for respondent No.7.

With

Writ Petition No.2411 of 2012

- 1) Dr. Sayyad Ayaz Ali,
Age 37 years,
Occupation : Service as
Assistant Professor,
R/o. H. No.1/24/23, Flat No.53,
Near Faiz Kirana Store,
Ganesh Colony,
Aurangabad.
- 2) Santosh N. Mokale,
Age 37 years, Occupation service as
Assistant Professor,
R/o. 129, Pethe Nagar,
Bhavsingpura, Aurangabad. .. **Petitioners.**

Versus

- 1) The State of Maharashtra,
Through Secretary,
Technical Education Department,
Mantralaya, Mumbai.
- 2) Joint Director of Technical Education,
Near Polytechnic College,
Osmanpura, P.O.Box 516,
Aurangabad.
- 3) Principal Secretary,
All India Council for Technical
Education, 7th Floor,
Chandralok Building,
Janpath, New Delhi 110 001.
- 4) Chairman (Regional)
All India Council of Technical
Education (Western Region)
7th Floor, LIC Building,
Nariman Road, Churchgate,
Mumbai.

- 5) President,
Pharmacy Council of India,
Combined Council's Building,
Kotla Road, Aiwan-E-Ghalib Marg,
New Delhi 110 002.
- 6) The Registrar,
Dr. Babasaheb Ambedkar
Marathwada University,
University Campus, Aurangabad.
- 7) Chairman,
Maulana Azad Education Trust,
Rauza Baug, P.O. Box 27,
Aurangabad 431 001.
- 8) Principal,
Y.B. Chavan College of Pharmacy,
Rauza Baug, P.O. Box 27,
Aurangabad - 431 001. **.. Respondents.**

Shri. Sanjay R. Choukidar, Advocate, for petitioners.

Shri. M.M. Nerlikar, Assistant Government Pleader, for
respondent Nos.1 and 2.

Shri. S.V. Adwant, Advocate, for respondent Nos.3 & 4.

Respondent No.5 - deleted.

Respondent No.6 - served.

Shri. A.N. Kakade, Advocate, for respondent Nos.7 and 8.

**Coram: T.V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

Date: 23 February 2018.

JUDGMENT (Per T.V. Nalawade, J.):

1) All the petitions are filed under Articles 14, 21 and 226 of the Constitution of India. The petitioners have prayed for giving direction to the State Government, to the concerned University and the All India Council for Technical Education (in short "AICTE") to see that the respondent-management from all the proceedings gives salary and allowances payable to the petitioners in accordance with the revised pay scales as proposed by 6th Pay Commission. These pay scales are granted by AICTE and the State Government has also adopted the revised pay scales. Writ Petition No.2411/2012 is filed by the teaching staff (Assistant Professors) and other petitions are filed by non teaching staff. Both the sides are heard.

2) The respondent, management of Maulana Azad Education Society is a public trust registered under the Maharashtra Public Trusts Act. With effect from academic year 2008-2009, status of minority institution is granted to it. It runs Pharmacy College and it is having courses like B. Pharmacy and M. Pharmacy. It is unaided College. The

College is affiliated with Dr. Babasaheb Ambedkar Marathwada University Aurangabad and the courses are recognized and approved by AICTE. It is not disputed that all the petitioners are working on the posts as contended by them in the petition, they are working on full time posts.

3) It is contention of the petitioners that as the permission is granted to the respondent-management to run the college by the respondent-authorities, the conditions imposed for granting such permission, affiliation and recognition need to be fulfilled by the respondent-management. It is the case of the petitioners that the conditions include the salary of teaching and non teaching staff fixed by the Government from time to time. It is the contention of the petitioners that by various Circulars and Government Resolutions issued in the year 1995 the State Government has made it clear that the pay scales which are made applicable to the employees of the State shall be applicable to self financed institutions. It is contended that recommendations of 6th Pay Commission are accepted by the Central Government and AICTE and

these revised scales are adopted by the State Government also. It is the contention of the petitioners that AICTE has framed Regulations in respect of pay scales of teaching staff in the year 2010 and as the recognition is given by AICTE to the respondent-management's courses, the respondent-management is bound to give those scales. The other Government Resolutions of the State Government of the years 2009 and 2010 are referred by the petitioners and the Notification issued by the concerned University in the year 2009 is also referred by the petitioners.

4) The non-teaching staff has contended that they are also entitled to get pay scales as per recommendations of the 6th Pay Commission and in that regard the State Government has issued Government Resolution dated 7-5-2010.

5) The petitioners from all the proceedings had admitted that the revised pay scale as per the recommendations of 6th Pay Commission is implemented by the respondent-management with effect from the year

2011 but the petitioners have contended that they are entitled to get the benefit of the revision with effect from 1-1-2006. For that they had made various representations to the respondents but no steps are taken to implement the pay scales with effect from 1-1-2006 and so they have approached this Court.

6) Respondent-management has filed reply affidavit. It has opposed the prayers by contending that the Government Resolutions of the revision of pay scales of the employees are not applicable to it. Two grounds are given by management viz. firstly, it is unaided institution and secondly because it is religious minority institution. It is contended that being a religious minority institution it has protection under Article 30(1) of the Constitution of India and the Government cannot compel it for giving the pay scales as proposed by the 6th Pay Commission.

7) In the affidavit it is contended by the management that it is charging fee which is comparatively less than the fee charged by other private institutions as it wants to see that the education is affordable to poor

persons of minority community, Muslim. It is contended that due to less charging of fee it has no resources to pay the salary as proposed by 6th Pay Commission. In the reply affidavit, the respondent-management has referred some decisions of the Supreme Court in support of its contention that it being a minority institution it has a protection under Article 30(1) of the Constitution of India.

8) It is the case of the management that from the fees collected, it is required to spend 81 to 83 per cent amount on salaries and meagre amount is left with it for giving amenities to the students and for development of the courses as expected from it. It is contended that, if it is compelled to give the pay scales as requested by the petitioners it will be over-burdened and it will not be able to achieve the object for which it has come in existence. It is contended that, it implemented the pay scales with effect from the year 2011 and so the petitioners have no cause of action.

9) The authorities and the State have contended that in view of the power of the State Government to make

regulations even in respect of minority institutions in this field, it is not open to the management to make aforesaid contentions. It was submitted for other respondents that the Apex Court has settled this issue and so the respondent-management cannot defend the matter by making the aforesaid contentions.

10) This Court has already held that teaching staff of private unaided Pharmacy College is entitled to get the aforesaid revised scales in the decision of **Writ Petition No.5150/2013 at this Seat (Kiran Bhusare and Others vs. State of Maharashtra and others)**. In the past, this Court had given decision in respect of teaching and non teaching staff of private unaided institutions running professional courses and it is held that private unaided institutions are bound to implement the aforesaid scales. This decision is confirmed by the Apex Court in the case reported as **2017(1) ALL MR 947 (SC) (Secretary Mahatma Gandhi Mission and Anr. vs. Bhartiya Kamgar Sena and Ors)**. As in that matter also technical institution was involved, it can be said that the respondent management cannot contend that private unaided

institution cannot be compelled to implement the aforesaid pay scales.

11) The contention of the respondent-management that it is charging less fees cannot be considered in a proceeding like present one as a defence. Firstly because in respect of most of the students who are unable to pay the fees, the management gets reimbursement of their fees under various Government schemes like schemes made for Backward Classes students, Economically Backward Classes students and the Other Backward Classes students. Further, as per the procedure laid down for fixing the fees of such courses by Fee Regulatory Committee, the Fee Regulatory Committee is bound to consider the liability of such institution to pay salary to teaching and non-teaching staff. On this point, the case reported as **2011 DGLS(SC) 830 (Fee Regulatory Committee v. Kalol Institute of Management)** can be referred. The Apex Court has made it clear that the Fee Regulatory Committee is bound to consider the amount spent by the institution for implementing the revision of pay scales.

12) The contention of the respondent-management that it has the protection of Article 30(1) of the Constitution of India and no such direction can be given by other respondents to it, can be dealt with separately. On this point, there are both the sides cited many reported case and they are as under :

- (i) **AIR 2003 SC 355 (T.M.A. Pai Foundation v. State of Karnataka);**
- (ii) **AIR 2003 SC 3724 (Islamic Academy of Education v. State of Karnataka);**
- (iii) **AIR 2005 SC 3226 (P.A. Inamdar v. State of Maharashtra).**

13) In the case of T.M.A. Pai Foundation (cited supra), the Apex Court has discussed the extent and nature of protection which is available to the minority institutions under Article 30(1) of the Constitution of India. For the present purpose, the relevant observations, in respect of the rights of non-minority unaided institutions and minority unaided institutions are at paragraphs Nos.66, 117, 138, 139 and 162 of the aforesaid reported case. In paragraph 162-G., there is sum and substance of the observations on the point involved in the present matter and the observations and the decision

on that point are as under.

"162-G. Q.5(c) Whether the statutory provisions which regulate the facets of administration like control over educational agencies, control over governing bodies, conditions of affiliation including recognition/withdrawal thereof and appointment of staff, employees, teachers and Principals including their service conditions and regulation of fees, etc., would interfere with the right of administration of minorities ?

A. So far as the statutory provisions regulating the facets of administration are concerned, in case of an unaided minority educational institution, the regulatory measure of control should be minimal and the conditions of recognition as well as the conditions of affiliation to an University or board have to be complied with, but in the matter of day-to-day management, like the appointment of staff, teaching and non-teaching, and administrative control over them, the management should have the freedom and there should not be any external controlling agency. However, a rational procedure for the selection of teaching staff and for taking disciplinary action has to be evolved by the management itself.

For redressing the grievances of employees of aided and unaided institutions who are subjected to punishment or termination from service, a mechanism will have to be evolved and in our opinion, appropriate Tribunals could be constituted, and till then, such Tribunals could be presided over by a Judicial Officer of the rank of District Judge.

The State or other controlling authorities, however, can always prescribe the minimum qualification, experience and other conditions bearing on the merit of an individual for being appointed as a teacher or a principal of any educational institution.

Regulations can be framed governing service conditions for teaching and other staff for whom aid is provided by the State, without interfering with the overall administrative control of the management over the staff.

Fees to be charged by unaided institutions cannot be regulated but no institution should charge capitation fee."

14) In Islamic Academy Of Education's case (cited supra) the Apex Court has quoted permissible regulations/restrictions governing the enjoyment of Article 30(1) of the Constitution of India and it is laid down that framing of rules and regulations governing the conditions of service of teaching and non teaching staff and their pay and allowances is a permissible restriction.

15) In the case of P.A. Inamdar (cited supra), the Apex Court observed that the professional educational institutions constitute different classes from Under Graduate education and merit and excellence assume special significance in the case of professional courses. This aspect needs to be kept in mind while deciding the matter like the present one. If there are no meritorious excellent teachers, the students selected even on the basis of merit may not become excellent professionals. If the

service conditions of such institutions are not similar to the teachers of other institutions, quality teachers will not get attracted to such institutions and that will definitely affect the standard of education in such institution. Thus in the interest of students of such colleges who are mainly from minority community and poor families, will get affected and the object of creation of the institution will get defeated. The society in general will also suffer.

16) This Court has already decided similar proceeding in the past and in view of the decision of the Apex Court with regard to the private unaided technical courses in the case of Secretary M.G.M. (cited supra) and also the power of the State Government to make rules and regulations in this regard even in the case of minority institution as laid down by the Apex Court in the cases cited supra this Court holds that the petitioners are entitled to get the revised scales. Thus, minority educational institution is bound to implement the pay scales adopted/prescribed by the State Government for teaching and non teaching staff. In the result, following order :

(A) All writ petitions are allowed with no order as to costs.

(B) The State Government and authorities like Dr. Babasaheb Ambedkar Marathwada University, Aurangabad, All India Council for Technical Education etc. are hereby directed to see that the respondent-management implements the pay scales suggested by 6th Pay Commission as applied by the Maharashtra Government to the petitioners, teaching and non teaching staff members with effect from 1 January 2006.

(C) If the respondent-management fails to implement the recommendations in respect of application of pay scales, the State Government, respective University and All India Council for Technical Education are to take steps for withdrawal of affiliation given by the respective University and withdrawal of recognition given by All India Council for Technical Education.

(D) Aforesaid orders are to be carried out within six months from today.

(E) Rule made absolute in aforesaid terms.

Sd/-
(SUNIL K. KOTWAL, J.)

Sd/-
(T.V. NALAWADE, J.)

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