

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

WRIT PETITION NO. 6432 OF 2019

Sumitra Vijay Pawar	... Petitioner
Versus	
The State of Maharashtra and others	... Respondents

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Mr. P. A. Pisal, Advocate for petitioner.
Mr. A. B. Girase, Govt. Pleader for the respondent – State.

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**CORAM : S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ**

DATED : 06th JUNE, 2019.

PER COURT:-

1. Mr. Pisal, the learned counsel for the petitioner submits that the petitioner completed her Ph.D. Degree on 02.08.2004, whereas one Dr. Shilpa Chandrakant Patil, who is junior to the petitioner has obtained Ph.D. Degree on 25.05.2016. In view of Government Resolution dated 12.08.2009 said Dr. Shilpa Chandrakant Patil is given benefit of additional increment only on the ground that she has obtained Ph.D. after 01.01.2006.

2. The learned counsel submits that Dr. Shilpa Patil is junior to the petitioner and a junior to the petitioner cannot get more salary than the petitioner and on the ground of Government

Resolution dated 12.08.2009. The learned counsel relies on the judgment of the Division Bench of this Court in the case of Sudamrao Keshawrao Aher and others Vs. The State of Maharashtra and others reported in 2014(1) ALLMR 697.

3. Mr. Girase, the learned Government Pleader submits that if the petitioner and Dr. Shilpa Patil are working in the same college and are similarly situated then only the case of the petitioner can be considered by the Joint Director of Higher Education.

4. It is trite that a junior cannot be paid more emoluments than the senior in the same department and possessing same qualification. The Government Resolution dated 12.08.2009 has been interpreted by this Court in catena of judgments, one of such judgments is referred to by the petitioner (supra).

5. In light of the above, the Joint Director of Higher Education shall examine the case of the petitioner vis-a-vis that of Dr. Shilpa Patil and if she is junior to the petitioner and the petitioner is equal in all respects with Dr. Shilpa Patil and if Dr. Shilpa Patil is granted better pay scale only on the basis of Government Resolution dated 12.08.2009, then the pay scale of the petitioner shall accordingly be stepped up to that of Dr.

Shilpa Patil. The said decision shall be taken by the Joint Director of Higher Education expeditiously preferably within four months from today.

6. The writ petition is accordingly disposed of. No costs.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

SMS