

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

95 WRIT PETITION NO.10829 OF 2018

SUNITA SHANKARRAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Thombre S.S.
AGP for Respondents/State : Mr. S.B. Yawalkar

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**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**
DATE : 03.06.2019

PC. :-

Mr. Thombre the learned counsel for the petitioner submits that the petitioner is appointed on 01.08.1992, whereas one Dr. Magar Nivrutti is appointed on 01.08.1994. The petitioner completed his PhD on 06.05.2004 whereas Dr. Magar Nivrutti completed his PhD on 31.01.2009. In view of Government Resolution dated 12.08.2009 said Dr. Magar Nivrutti is given benefit of additional increment only on the ground that he has obtained Ph.D. after 01.01.2006.

2. The learned counsel submits that Dr. Magar Nivrutti 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 case of **Sudamrao Keshawrao Aher and Ors. V/s. The State of Maharashtra and Ors.** reported in **2014(1) ALLMR 697.**

3. Mr. Yawalkar, the learned A.G.P. submits that if the petitioner and Dr. Magar Nivrutti 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-à-vis that of Dr. Magar Nivrutti and if he is junior to the petitioner and the petitioner is equal in all respects with Dr. Magar Nivrutti and if Dr. Magar Nivrutti is granted better pay scale only on the basis of Government Resolution dated 12.08.209 then the pay scale of the petitioner shall accordingly be stepped up to that of Dr. Magar Nivrutti. The said decision shall be taken by the Joint Director of Higher Education expeditiously preferably within four months from today. Writ petition is accordingly disposed of. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]