

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.4605 of 2017

Dr. Wachandas Parmanand Badole

Versus

The State of Maharashtra, through its Secretary, Department of Agricultural, Animal Husbandry, Dairy Development and Fisheries, Mantralaya, Mumbai, and others.

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri B.G. Kulkarni, Advocate for Petitioner.

Ms Ritu V. Kaliya, Assistant Government Pleader for Respondent No.1.

Shri Ritesh Bade, Advocate for Respondent No.2.

Shri A.R. Patil, Advocate for Respondent No.3.

Shri Anand Parchure, Advocate for Respondent No.4.

Shri S.S. Ghate, Advocate for Respondent No.5.

Shri A.S. Agrawal, Advocate for Respondent No.6.

Shri S.S. Shingne, Advocate for Respondent No.7.

Coram : R.K. Deshpande & S.M. Modak, JJ.

Dated : 25th April, 2019

1. Heard the learned counsels appearing for the parties.
2. On 5-6-2018, we passed a speaking order, crystallizing the grievance of the petitioner and directing the respondent No.2 to take the decision in the matter. The said order is reproduced below :

“ *The petitioners in both these petitions are awarded Ph.D. by Yashwantrao Chavan Maharashtra Open University at Nashik.*

The respondent No.1 – State Government through Department of Agriculture, Animal Husbandry, Dairy Development and Fisheries, the respondent No.2 – Maharashtra Agricultural Universities Recruitment Board, respondent No.3 – Dr. Punjabrao Deshmukh Krishi Vidyapeeth, Akola have refused to recognize the Ph.D. awarded to the petitioners on the ground that it is from the Open University.

*Shri B.G. Kulkarni and Shri Anil Kilor, learned counsels appearing in both the petitions. They have invited our attention to the decision of the Hon'ble Apex Court in Civil Appeal Nos.4667-4668 of 2018 (Abdul Motin Vrs. Manisankar Maiti and ors.) decided on 2nd May, 2018 and another decision of the Hon'ble Apex Court in the case of **The State of Madhya Pradesh and ors. Vrs. Manoj Sharma and ors.**, reported in **(2018) 3 SCC 329** and the decision of this Court in Writ Petition No.29/2017 (Kishor s/o Punjahari Bhakre and others Vrs The State of Maharashtra) delivered on 04/05/2018 by the Division Bench at Aurangabad. According to them, the point is no longer res integra and since the petitioners were awarded Ph.D. prior to 2009, the action refusing to recognize their Ph.D. by respondent Nos.1, 2 and 3 is illegal.*

We direct respondent Nos.1 to 3 to take decision on the question of recognition of Ph.D. awarded to the petitioners with registration prior to 2009, in terms of the decision referred above, within eight weeks from today and file an affidavit to that effect before this Court.

The respondent – University Grants Commission is also expected to file an affidavit stating the position of law as is enunciated in the decision of the Hon'ble Apex Court and whether the case of the petitioners is covered by it.

Put up this matter after six weeks.”

3. In response to the aforesaid order, the respondent No.2 has filed an affidavit dated 23-4-2019 placing on record the Minutes of Meeting held on 19-4-2019 at Pune. The said decision is reproduced below :

“Maharashtra Agricultural Universities recruitment Board
Minutes of the meeting held on 19th April, 2019 at Pune

The following members were present:

- | | |
|-------------------------------|-------------|
| 1. Dr. Vijay Mehta | : Chairman |
| 2. Prof. M.C. Varshneya | : Member |
| 3. Dr. V.M. Bhale | : Member |
| 4. Dr. A.S. Dhawan | : Member |
| 5. Dr. S.D. Sawant | : Member |
| 6. Shri Mahendra B. Warbhuwan | : Secretary |

Dr. K.P. Viswanatha, Member, Dr. C.D. Mayee, Member and Dr. G. Venkateshwarlu, Expert Member had taken leave of absence.

Subject : Ph.D. Degree awarded by Open University

The issue of recognition of Ph.D. degree awarded by the Open Universities was again discussed in the light of orders dated 05-06-2018 and 10-04-2019 passed by the Hon.Bombay High Court, Nagpur bench in WP No.4605/2017. So also, the judgments of the Hon. Apex Court as well as the Hon. Bombay High Court, Aurangabad bench, as referred by the Hon. Bombay High Court, Nagpur Bench in its order dated 05-06-2018, were also carefully perused.

In the light of the above judgments in the MAURB meeting held on 19th April, 2019 it was decided that, the Ph.D. degree awarded prior to 2009 or the candidates who are registered for Ph.D. degree prior to 2009 by Open University shall be at par with the Ph.D. awarded by the conventional Agricultural Universities in India.

The decisions in this regard, taken in previous meetings dated 30th November, 2018 and 23rd January, 2019 shall stand cancelled.

Dr. Wachandas P. Badole has secured Ph.D in the subject "Agricultural Development", as can be seen from his Ph.D notification dated 13-10-2012. The Statute 5 of the Maharashtra Agricultural Universities Statutes, 1990, read with Section 35 of the Maharashtra Agricultural Universities Act, 1983 enlists the subjects under various faculties. The subject in which Dr. Wachandas Badole has obtained his Ph.D degree, is not listed under the Statute 5 and therefore the Ph.D. Degree of Dr. Badole cannot be considered for the purpose of promotion.

*Sd/-
Vijay Mehta
Chairman
Maharashtra Agricultural
Universities Recruitment
Board, Pune."*

4. So far as the admissibility of the Ph.D. degree prior to 2009 from the Open University is concerned, the decision is that it shall be treated at par with the Ph.D. degree awarded by the Conventional Agricultural Universities in India. The decisions taken in the previous meetings held on 30-11-2018 and 23-1-2019 are cancelled. The grievance of the petitioner to that extent, therefore, does not survive.

5. The latter part of the decision of the Maharashtra Agricultural Universities Recruitment Board, Pune states that the subject in which the petitioner has obtained his Ph.D. degree is not listed under Statute 5 of the Maharashtra Agricultural Universities (Krishi Vidyapeeths) Statutes, 1990 and, therefore, the Ph.D. degree of the petitioner cannot be considered for the purpose of promotion. Shri Kulkarni, the learned counsel appearing for the petitioner, submits that this decision shall be challenged by the petitioner by filing a separate petition. We, therefore, keep that question open to be agitated in a separate petition.

6. With these observations, the petition stands disposed of.

(S.M. Modak, J.)

(R.K. Deshpande, J.)