

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

86 WRIT PETITION NO. 5702 OF 2020

**BAPU MADAHV KOTHAWADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner: Mr. Nagargoje Prashant M
AGP for Respondents/State: Mr. A. R. Kale
Advocate for Respondent No. 4:
Mr. Avinash Deshmukh

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**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 07th DECEMBER, 2020

PER COURT:

1. Mr. Nagargoje, the learned Counsel submits that inquiry was instituted against the present petitioner. In the inquiry the petitioner is exonerated. No inquiry is pending against the petitioner. Still the petitioner is not sanctioned the pension. The proposal is submitted for sanction of the provisional pension. As no inquiry is pending the petitioner is entitled for pension.

2. Mr. Kale, the learned A.G.P. submits that, in fact, in the inquiry some of the charges are proved against the petitioner. Offence is also

registered against the petitioner U//Sec. 7 of the Maharashtra Prevention of Malpractices at Universities, Boards and Other Specified Examinations Act, 1982 at Police Station, Soygaon and the same is pending in the Soygaon Court.

3. Mr. Deshmukh, the learned Counsel for respondent no. 4 submits that some of the charges are proved against the petitioner in the inquiry. The inquiry report is forwarded to the Education Officer and it is the Government that would take a decision under Rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982. The proposal is already forwarded for grant of provisional pension.

4. As far as inquiry is concerned it stands concluded. The further decision pursuant to the inquiry is not before the Court.

5. Be that as it may, the offence is already registered against the petitioner bearing no. 92/2019, U/Sec. 7 of the Maharashtra Prevention

of Malpractices at Universities, Boards and Other Specified Examinations Act, 1982 in the Soygaon Court, the same is pending. In view of the pendency of the criminal case the petitioner would be entitled for provisional pension and subject to the decision that would be taken in the criminal case and the inquiry if any further steps can be taken.

6. In light of the above, the respondents shall sanction the provisional pension to the petitioner as per Rule 132 of the Maharashtra Civil Services (Pension) Rules, 1982. The said process shall be completed within four (04) weeks.

7. Writ Petition is accordingly disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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