

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

WRIT PETITION NO. 15239 OF 2019

Somnath Ramchandra Yadav

.. Petitioner

Versus

Maharashtra Animal & Fishery
Sciences University
Through its Registrar and another

.. Respondents

Mr. Ajay S. Deshpande, Advocate for the Petitioner.

Mr. Krishna P. Rodge h/f Mr. P. G. Rodge, Advocate for Respondent
No. 1.

Mr. Bhushan B. Kulkarni, Advocate for Respondent No. 2.

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

Reserved for orders on : 13th March, 2020.

Order pronounced on : 30th April, 2020.

FINAL ORDER (Per S. V. Gangapurwala, J.) :

. The petitioner assails the office order dated 22.11.2019 issued by the respondent No. 2, the modified order of respondent No. 1 dated 07.12.2019, the communication of Vice Chancellor of respondent No. 2 addressed to the Vice Chancellor of respondent No. 1 dated 07.12.2019 along with endorsement made on the synopsis on 06.12.2019. The

petitioner further seeks directions against the respondents to allow the petitioner to prosecute the Ph. D. degree programme 2018-2021 as per the calendar of events scheduled.

2. Mr. Deshpande, learned counsel for the petitioner contends that since 2007, the petitioner is in employment with respondent No. 1. The respondent No. 1 sought willingness from the faculties desirous of completing Ph. D. outside MAFSU. The petitioner submitted his application and also passed written test as well as interview conducted therefor. The petitioner is selected for Ph. D. programme by respondent No. 2. The respondent No. 1 granted NOC to the petitioner after following due procedure. On or about 16.10.2018 the petitioner joined Ph. D. programme upon getting relieved from Udgir college. On 12.12.2018, the respondent No. 1 sanctioned one year study leave to the petitioner. Subsequently, on 02.11.2019 the petitioner is sanctioned one more year study leave. On or about 22.11.2019 the respondent No. 2 relieved the petitioner. The learned counsel submits that the petitioner would be required to abandon his Ph. D. programme in the midst at Udgir. There is no coast line around 600 Kms. available. The research subject of the petitioner pertains to Aquaculture that has to be done at the coastal area. The learned counsel further submits that there is no Major Advisor or Co-Advisor available at Udgir in the said subject.

The learned counsel submits that the ground put forth by the respondent No. 1 of paucity of faculties is incorrect. The same number of faculties exists when the petitioner was relieved. Additional faculty has been appointed by the respondents for the subject of the petitioner. The decision was already taken granting one more year study leave by respondent No. 1 on 02.11.2019. Abruptly the same cannot be cancelled.

3. Mr. Deshpande, learned counsel for the petitioner refers to the circular dated 11.03.2020 of the respondent University to contend that the University was also contemplating grant of one year sabbatical leave in addition to 24 months study leave for prosecuting the Ph. D. course. According to the learned counsel, grant of 24 months study leave is a matter of course.

4. Mr. Rodge, learned counsel for respondent No. 1 submits that the study leave was granted to the petitioner from 17.10.2018 to 16.10.2019 to pursue the Ph. D. course. Thereafter, based on the proposal dated 21.08.2019 received from Associate Dean, College of Fishery Science, Udgir, additional study leave from 17.10.2019 to 16.10.2020 was sanctioned in continuation with the earlier study leave. The learned counsel submits that the respondent No. 1 has signed memorandum of understanding with respondent No. 2 which facilitates

the Ph. D. student to carry out research at his respective college under the University where he is working. It was in tune with the MOU, the respondent No. 2 - Institute under communication dated 22.11.2019 communicated that the competent authority has given permission to carry out his further research at COFS, Udgir and he is deemed to have been relieved with effect from 15.11.2019. The request letter was submitted by the petitioner to cancel the relieving order. There is paucity of staff. The respondent No. 1 was not aware about the exact date of completion of Ph. D. course of the petitioner and to avoid unwarranted hardship to the petitioner, the respondent No. 1 extend the study leave for one more year under order dated 22.11.2019. Upon receipt of the letter dated 22.11.2019 from respondent No. 2 the study leave of the petitioner was curtailed by the respondent No. 1 under order dated 07.12.2019. The synopsis submitted by the petitioner of the proposed research work for Ph. D. degree in which he proposed Dr. B. R. Chavan Professor, Department of Aquaculture, College of Fisheries, Ratnagiri as a Major Advisor was rejected. The respondent No. 2 under letter dated 07.12.2019 directed the petitioner to submit fresh synopsis. It was communicated to the petitioner that the Major Advisor as well as Co-Chair must be either by CIFE, Mumbai or MAFSU, Nagpur. The learned counsel submits that the respondent No. 1 is having only 18 faculty members in its Fishery Colleges at Nagpur and

Udgir. Out of that 10 candidates availed study leave and allowed to pursue Ph. D. outside the University since 2014-2015. Out of 10 candidates who availed study leave, only three have come back and resumed their duties and remaining candidates are still pursuing Ph. D. Therefore, University is facing acute shortage of staff. The interest of the students also have to be taken care of.

5. Mr. Rodge, learned counsel for respondent No. 1 submits that the circular dated 11.03.2020 would apply to those persons who have availed the study leave before the memorandum of understanding. The said circular would not be relevant for the petitioner.

6. We have considered the submissions canvassed by the learned counsel for respective parties.

7. The petitioner possesses the post graduate qualification viz. M. F. Sc. (Aquaculture) from Dr. Balasaheb Sawant Konkan Agricultural University. The petitioner is appointed as an Assistant Professor in the college of Fishery Science, Udgir, Dist. Latur. The respondent No. 1 invited applications from the aspiring faculties working under it and interested in prosecuting the doctoral studies from institution other than the respondent No. 1. The petitioner applied pursuant to the advertisement. The respondent No. 2 conducted written examination

for the purpose of admission to doctoral degree. The written examination was followed by viva-voce. The petitioner, it appears is selected from general category for the subject Aquaculture. Upon application made by the petitioner the respondent No. 1 issued no objection certificate for admission to the Ph. D. degree programme. On 11.10.2018 the respondent No. 1 upon application of the petitioner also sanctioned study leave for a period of one year commencing from 17.10.2018 to 16.10.2019. The petitioner submitted undertaking to serve respondent No. 1 for a period of five years, upon completion of Ph. D. degree, else he would be liable to pay an amount of Rs. 45,46,560/- (Rupees Fourty Five Lakhs Fourty Six Thousand Five Hundred Sixty only). The petitioner was relieved by the respondents.

8. It appears that the Ph. D. degree programme was to be continued after the period of sanctioned study leave. The petitioner submitted application for extension of the study leave to respondent No. 1 on 08.08.2019. The respondent No. 1 under order dated 02.11.2019 sanctioned further study leave to the petitioner for another year commencing from 17.10.2019 to 16.10.2020. The petitioner was also required to submit the undertaking as was submitted during the sanction of the first study leave.

9. It appears that on 27.11.2019 the petitioner was informed by respondent No. 2 that on 22.11.2019 his relieving order has been issued and the petitioner was granted permission to carry out his further research at College of Fishery Science, Udgir.

10. The contention of the respondents is that MOU has been executed between the respondent University with various Universities in India, so that after completion of the course work at other University (where the admission is sought) the candidate would complete his research work at parent University i.e respondent No. 1 may be the intention of the MOU is to ensure the interest of the students.

11. The prima donna contention of the petitioner is that he has to perform research work near coastal area as the subject is Aquaculture. The facilities would not be available at Udgir where coast line does not exist. It is further contention that there is no Major Advisor available at Udgir in the subject Aquaculture and that no research work would be undertaken for doctoral degree programme in Aquaculture under respondent No. 1 either at Udgir or at Nagpur.

12. It appears that the position of the staff remains the same as was when the petitioner was granted first study leave. One person is given additional charge of subject Aquaculture. It appears that the petitioner

would face with the hardship, if he is directed to return back to his parent institution in the midst. The petitioner was already sanctioned with the study leave for the second year on or about 02.11.2019 and the same appears to have been cancelled after about few days. It is not the case of the respondents that the study leave was sanctioned to the petitioner for the second year on 02.11.2019 by a person without authority. We would not enter into the debate of the memorandum of understanding executed by the petitioner with other Universities. However, it appears from the doctoral programme of Central Institute of Fisheries Education that the synopsis submitted cannot be modified unless recommended by Board of Studies after the recommendation of the Major Guide and approved by the Dean.

13. If for this year the study leave as was sanctioned on 02.11.2019 is not continued, it appears that the petitioner would face more hardship. We would look into the matter on equity and strike balance between the rights and obligations of the parties.

14. Considering that the staff for subject Aquaculture is the same and the petitioner would be required to perform his work at the coast line and further that the study leave for one year was also sanctioned on 02.11.2019, we are inclined to allow the petitioner to continue his

course at Ratnagiri for a period of one year commencing from 17.10.2019 to 16.10.2020. The respondents may not grant further study leave if according to the respondents the students would be at loss. However, for this year as the decision was taken to grant study leave for one year up to 16.10.2020 the same deserves to be continued.

15. In the light of the above, the office order dated 22.11.2019 issued by respondent No. 2, the modified order dated 07.12.2019 issued by respondent No. 1, the communication of Vice Chancellor of respondent No. 2 to Vice Chancellor of respondent No. 1 dated 07.12.2019 are quashed and set aside. The synopsis of the petitioner, if any, may as required be considered. The petitioner be allowed to continue his Ph. D. course at Ratnagiri up to 16.10.2020 as per the study leave sanctioned on 02.11.2019 by respondent No. 1.

16. Writ petition is allowed in above terms. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.