

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

WRIT PETITION NO.1053/2020

The Renuka Shikshan Prasarak Mandal, Nagpur through its Secretary and
another
...Versus...
The Rashtra Sant Tukadoji Maharaj Nagpur University through its Registrar and
others

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

Court's or Judge's orders

Shri O.R. Deshpande, Advocate for petitioners
Shri R.D. Bhuibhar, Advocate for respondent nos.1 and 2
Shri A.B. Mahajan, Advocate for respondent no.3

CORAM : AVINASH G. GHAROTE, J.

DATE : 02/09/2021

1. Heard Shri Omkar Deshpande, learned Counsel for the petitioners, Shri R.D. Bhuibhar learned Counsel for the respondent nos.1 and 2 and Shri A.B. Mahajan, learned Counsel for the respondent no.3.

2. Without adverting to the merits of the matter, by inviting my attention to the impugned order, dated 10/10/2019, passed by the Grievances Committee, learned Counsel for the petitioners submits, that the same has been passed only by the Chairman and not by the Committee.

Inviting my attention to Section 79 of the Maharashtra Public Universities Act, 2016 (for short, "the M.P.U. Act, 2016" hereinafter), he contends that such an order, may be passed by the Committee, as constituted under Sub Section 3 of Section 79 of the M.P.U. Act, 2016. He, therefore, submits that whatever justification is being stated that the order has been circulated amongst the members of the Committee *et al*, the same, would not satisfy the requirement of law that it is the Committee, which takes the decision and not otherwise. He, therefore, submits that on this ground itself, the impugned order should go.

3. Shri Mahajan, learned Counsel appearing for the respondent no.3, contending otherwise, places his reliance upon the ***State of Madhya Pradesh through Principal Secretary and another Vs. Mahendra Gupta and others, (2018) 3 SCC 635***, wherein it has been held that in a case where decision by a multi-member body is to be taken in the meeting of the Committee as per statutory Rules, there being no such majority provided for taking a decision, the decision by majority has to be accepted as the opinion.

4. Shri Bhuihar, learned Counsel for the respondent nos.1 and 2 justifies the impugned order contending that the draft order was circulated amongst the Committee members, who were present at the time of the

hearing of the grievance petition and it is upon their concurrence that the same has been issued by the Chairman. It is pertinent to note that the reply is absolutely silent as to who were the members of the Committee, who were present at the time of hearing of the petition or the mode in which the concurrence was given.

5. It is pertinent to note that when Section 79 of the Maharashtra Public Universities Act, 2016 contemplates a decision by the Committee, as constituted under Section 79 (3), the decision has to be reflected as having been taken by the Committee and not otherwise.

6. In *Mahendra Gupta* (supra), the decision was taken in a meeting of the State Transport Authority, wherein the Madhya Pradesh Motor Vehicles Rules, 1994 expressly provided for a quorum of the meeting in which circumstances, it was held that when the quorum was fulfilled, the decision by the majority would be acceptable. *Mahendra Gupta* (supra), which is not the case in the present matter and therefore is of no assistance to the argument advanced by Shri Mahajan, learned Counsel for respondent no.3

7. In the above view of the matter, on this ground alone, the impugned order cannot be sustained. The same is hereby quashed and set aside and the matter is remanded

back to the Committee to take a decision, in accordance with law and what has been indicated above, within a period of two months from the date of receipt of this order.

8. Writ Petition stands disposed of accordingly.
There shall be no order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar