

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

CIVIL APPLICATION NO. 1229 OF 2019
IN WRIT PETITION NO.6920 OF 2018

Ashok Ramchandra Mandlik ... Petitioner

- Versus -

The State of Maharashtra and others ... Respondents

Shri Y.S. Gorle, Advocate for Petitioner.

Shri D.P. Thakare, Additional Government Pleader for
Respondent Nos.1, 2 and 8.

Shri P.R. Puri, Advocate for Respondent Nos.3 and 4.

Shri N.P. Lambat, Advocate for Respondent No.5.

Shri P.D. Meghe, Advocate for Respondent Nos.6 and 7.

CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.

DATE : 16 FEBRUARY 2021

P.C. :

Heard learned Counsel for the parties. Perused the
application.

2) The application for amendment to place on record
communication dated 19/1/2019 granting approval for closure of

Chemical Engineering Course is granted. Amendment to be carried out within a period of two weeks. For the purpose of disposal of the Petition, the documents annexed to the amendment application are taken up for consideration.

WRIT PETITION NO.6920 OF 2018

The Petitioner was appointed as Lecturer in Chemical Engineering Department in Respondent No.7 Shri Datta Meghe Polytechnic, Wanadongri, Nagpur. He has challenged the order passed by the Respondent No.5 All India Council of Technical Education granting no-objection for closure of the Chemical Engineering Course and the institution on the ground that there are irregularities in the procedure while granting the no-objection. Reply-affidavits have been filed where the said assertion has been denied.

2) Shri Gorle, learned Counsel for the Petitioner, has drawn our attention to the no objection certificate issued by the Maharashtra State Board of Technical Education on 5 February 2018 and states that the no-objection is conditional.

3) We are not shown any right vested in the Petitioner in a statute governing his relationship with the College to oppose

grant of approval to closure of Chemical Engineering Course and insist upon continuation of the Course in an institution akin to a right conferred under Labour Jurisprudence. The no-objection postulates that the closure of the Course is conditional upon teaching and non teaching staff to be absorbed suitably in another Organization or upon payment of appropriate compensation.

4) The learned Counsel for the parties have placed on record judgment rendered by the Division Bench of this Court on 5 March 2020 in the petition filed by other Lecturers working in the same institution objecting to closure of Electronics Engineering Course. The Division Bench has observed thus :

“Rule returnable forthwith. Heard finally by consent of learned counsels appearing for the parties.

2] Out of the eight courses run by the respondent No.4-Shri Datta Meghe Polytechnic, Wanadongari two courses were proposed to be closed down which are (1) Electronics Engineering (2) Electronics and Communication. Each of these two courses having intake capacity of 120 students. The All India Council of Technical Education, which is the Apex Body, passed an order on 19.01.2019 granting permission of closure of these courses from the academic year 2018-19 with the conditions that the institutions shall follow and adhere to the regulations, guidelines and directions issued by AICTE from time to time and the undertaking/affidavit given by

the institution along with the application submitted by the institution on portal. The Maharashtra State Board of Technical Education also granted its No objection Certificate for closure of these two courses on 27.03.2017 with the conditions that the current staff strength, re-arrangements and dues, if any, shall be settled as per existing norms and regulations on that behalf.

3] The contention by the petitioners is that without payment of arrears of 5th and 6th pay commission and without making arrangements for absorption of the petitioners in some other appropriate institution or payment of compensation in lieu of that, it is not permissible for the respondents to close down the courses.

4] Undisputedly, these two courses are in the process of closing down in a phased manner in accordance with the rules and the permission and approval from the academic session 2018-19. The grievance made by the petitioners according to us stands satisfied in view of the statement made by Shri Sunil Manohar, the learned Senior Counsel appearing for the respondent Nos.3 and 4. The first statement made is that all the employees retrenched/terminated shall be paid the salary arrears for a period of last three years as per the recommendations of 5th and 6th pay commission within a period of three months. The second statement is that the steps shall be taken to absorb the retrenched staff suitably as far as possible in the other organizations run by the respondent No.3 or in the alternative to pay them appropriate compensation as shall be determined by the Maharashtra Board of Technical Education, which imposed such conditions.

5] In view of the aforesaid position, we dispose of this writ petition by an order as under :

ORDER

i] The respondent Nos. 3 and 4 shall pay all arrears as per the 5th and 6th pay commission recommendations to the teacher and non-teaching employees who shall be retrenched on account of closure of the courses for a period of last three years. This shall be done within a period of three months from today.

ii] If the amount is not paid within a period of three months it shall carry interest @ of 12% p.a. from the date of expiry of the period stipulated by this Court till the payment is made.

iii] The respondent Nos. 3 and 4 shall take all necessary steps to absorb the retrenched employees in any other institutions run by the respondent No.3 as far as possible. If it is not possible, in that event appropriate compensation as shall be determined by the Maharashtra State Board of Technical Education shall be paid to the concerned employees within a period of one month from the date of such determination. The adjudicating authority in respect of compensation shall specify the period during which the amount of compensation shall become payable to the employee.

iv] The writ petition stands disposed of.

v] Rule is made absolute in the aforesaid terms. No order as to costs."

5) Since identically situated Lecturers of the same institution have challenged the same order of closure and the aforesaid order was passed, following the principle of judicial consistency, we pass

the same order. Accordingly, Writ Petition is disposed of in terms of the judgment dated 5 March 2020 in Writ Petition No.4364/2018.

(ANIL S. KILOR, J.)

(NITIN JAMDAR, J.)

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Kamal
Jeswani

Digitally signed
by Kamal Jeswani
Date: 2021.02.22
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