

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

WRIT PETITION NO.123/2015

1. Arvind Manikrao Tatte,
Aged about : 40 years,
Occupation : Service,
R/o Sai Sangam Colony,
Near Phiske Mangal Karyalaya,
Temburkheda Road, Warud,
Tah: Warud, Dist: Amrawati.
2. Manoj Gangaram Rathod,
Aged about : 40 years,
Occupation : Service,
R/o. Sai Deep Colony,
Near Phiske Mangal Karyalaya,
Temburkheda Road, Warud,
Tah: Warud, Dist : Amrawati.

... PETITIONERS

...VERSUS...

1. The State of Maharashtra through
its Secretary, Ministry of Higher
and Technical Education,
Mantralaya, Mumbai -32.
2. Director of Higher Education,
Central Building, Pune.
3. Joint Director,
Higher Education, Amravati Division,
Shasakiya Vidarbha Dyan
Vidyan Sanstha Parisar,
Amrawati 444 604
4. Sant Gadgebaba Amrawati University
Amrawati, through its Vice Chancellor,
University Campus, Amrawati.
5. Raje Sambhaji Maharaj Shikshan
Sanstha, through its Secretary,
9, Jog Market, Station Erwin Road,
Amrawati.

6. Late Panchafullabai Pawde
Arts and Commerce Mahila
Mahavidyalaya, Warud,
Tahsil : Warud, Dist : Amrawati.

...RESPONDENTS

Mr. U. J. Deshpande, Advocate for petitioners.
Mr. K. L. Dharmadhikari, A.G.P. for respondent nos. 1 to 3.
Mr. Amol Mardikar with Mr. A.Y. Kapgate, Advocates for
respondent no.5.

CORAM:- ROHIT B. DEO & ANIL L. PANSARE, JJ.

Date of Reserving the Judgment : 11.08.2022

Date of Pronouncing the Judgment : 24.08.2022

JUDGMENT (Per: Anil L. Pansare, J.)

Rule. Rule made returnable forthwith. Heard
finally by consent of learned counsel for the parties.

2. The petitioners, being aggrieved by
communication dated 13.11.2014, issued by respondent
no.3-Jt. Director of Higher Education, Amravati Division,
Amravati in favour of Principal of respondent no.6-Late
Panchafullabai Pawde Arts and Commerce Mahila
Mahavidyalaya, Warud, have preferred the present petition.
A copy of the aforesaid communication has been forwarded
to the petitioners. By the said communication, the respondent

no.3 has advised respondent no.6 to take necessary action in respect of appointments of the petitioners in terms of the Government Resolution (G.R.) dated 18.10.2001.

3. Learned counsel for the petitioners submits that by the aforesaid G.R. dated 18.10.2001, passing of National Eligibility Test (NET)/State Eligibility Test (SET) has been made mandatory for the appointment of lecturers made on or after 04.04.2000. The petitioner no.1 has been appointed on 10.01.2000 and the petitioner no.2 has been appointed on 16.03.2000. Thus, both the petitioners were appointed prior to the cut off date i.e. 04.04.2000 and therefore they are exempted from passing NET/SET, as prescribed by the University Grants Commission (UGC). However, by the aforesaid G.R. dated 18.10.2001, appointees prior to 03.04.2000, were given two years period to clear NET/SET examinations. Petitioners contend that subsequently the UGC has taken a decision to grant exemption from passing NET/SET exam to the lecturers appointed during the period from 19.09.1991 to 03.04.2000. However, respondent no.3

has advised respondent no.6 to take action in terms of above G.R. Learned counsel for the petitioners are apprehending their termination pursuant to the impugned communication.

4. Learned counsel for the respondent no.5-society, which runs the respondent no.6-College, has vehemently argued that no exemption from passing NET/SET has been granted to the petitioners. According to him, the exemption was granted by the UGC for the period of two years vide communication dated 27.04.2007.

5. Learned counsel for the petitioners has drawn our attention to a letter of August-2011, issued by the UGC in favour of Principal Secretary, Government of Maharashtra, Higher and Technical Education Department. The communication indicates that representations were received in respect of lecturers appointed on regular basis in the State of Maharashtra from 19.09.1991 till 03.04.2000. The Commission has deliberated on the issue and resolved that all such appointments made on regular basis by various

universities in the State of Maharashtra, where the university has granted exemption to the teachers from the requirement of NET in terms of the UGC Regulations of 1991 and subsequent notification dated 24.12.1998 and where the representation has been forwarded to the Commission seeking further approval in relation to such regular appointments made during the said period w.e.f. 19.09.1991 till 03.04.2000 has been approved.

6. There is no dispute that the petitioners are covered in the category mentioned in the aforesaid letter.

7. Our attention has then been drawn to order dated 04.04.2013 passed by coordinate bench of this Court in Writ Petition No.4537/2011. The petitioners therein had challenged the order of withdrawal of approval complaining that the same is unsustainable. The coordinate Bench has noted that during the pendency of challenge, the UGC as also respondent no.1 therein have filed affidavits and in the affidavits, it has been stated that regular appointments made

from 19.09.1991 to 03.04.2000 have been approved as per the resolution dated 08.07.2011.

8. Our attention has further been drawn to order dated 04.04.2013 passed by coordinate Bench of this Court in a bunch of petitions. The petitioner no.1 herein was also party to one of the writ petitions therein viz. Writ Petition No.1257/2012. This petition came to be disposed of, in view of admitted position as recorded in the writ petition mentioned above i.e. Writ Petition No.4537/2011.

9. Taking cognizance of the order dated 04.04.2013 passed by this Court, the respondent no.6-college has issued a letter dated 05.02.2020 in favour of respondent no.4-Vice Chancellor, Sant Gadgebaba Amravati University, mentioning therein that the petitioner no.1 has been appointed on 10.01.2000 and petitioner no.2 has been appointed on 16.03.2000 and that the university has granted approval to their appointments from the academic session 2000-2001 and that the said approval, in view of the order passed by the

High Court, ought to have been from the academic session 1999-2000 onwards. A copy of letter has also been forwarded to the petitioners.

10. In view of the facts noted hereinabove, we find that the apprehension of the petitioners that their services will be terminated, is uncalled for. We did not come across and the respondents could not point out to us that the case of the petitioners is not covered by the communication made in August-2011, addressed by the UGC to the Principal Secretary granting exemption to the teachers from the requirement of passing NET/SET.

11. We, accordingly hold that the impugned communications/letters dated 13.11.2014 *qua* the petitioners are erroneous and are accordingly quashed and set aside.

Rule is made absolute in the above terms. No order as to costs.

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)

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Digitally signed by YOGESH
ARVIND KAHALE
Signing Date: 24.08.2022
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