

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.1724/2020.

Mrs. Archana Uddhavrao Barabde. ... Petitioner.

VERSUS

1.State of Maharashtra and another. ... Respondents.

**WITH
WRIT PETITION NO.1332/2020.**

Moreshwar Bhagwantrao Wankhede Petitioner.

VERSUS

1.State of Maharashtra and another. ... Respondents.

Mr.A..M. Sudame, Advocate for Petitioners.
Mr.N. Rode, A.G.P. for Respondent No.1.
Mr.A. Sambre, Advocate for Respondent No.2.

**CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.**

DATE : 7 MARCH 2022

P.C.

In these two Writ Petitions, Petitioners were

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nominated Members of the Executive Council of the Respondent – University under the provisions of Section 30[1][ix] of the Maharashtra Agricultural Universities Act, 1983. By a common Government order dated 5 March 2022 their nomination were cancelled. Petitioners by way of these petitions have challenged the order cancelling their nominations.

2. In Writ Petition No.1332/2020, Petitioner No.1 Moreshwar Bhagwantrao Wankhede on 12 July 2019 was nominated to serve as a Member of the Executive Council of the Respondent University. Thereafter by the impugned order, the nomination was cancelled.

3. In Writ Petition No.1724/2020, the Petitioner – Mrs. Archana Uddhavrao Barabde was nominated on 30 August 2019. The nomination was cancelled by the impugned order dated 5 March 2020.

4. Petitioners have challenged the order cancelling their nominations on the ground that it gives no reason whatsoever and the appointment to the Executive Council by way of nomination cannot be cancelled merely because the Respondent Authority do not desire to continue the nomination. Reliance is placed on the decision of the Constitution Bench of the Supreme Court in case of *B.P. Singal .vrs. Union of India and another*¹, and orders passed by the Division Bench (Aurangabad) in Writ Petition

¹ (2010) 6 SCC 331.

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No.6665/2020 on 23 November 2020 (*Dr.Aditi Subhashchandra Sarda .vs. The State of Maharashtra and another*).

5. It is not necessary to detail the controversy in respect of the legal issues involved as the Division Bench in case of *Dr.Aditi Subhashchandra Sarda*, has followed the decision of the Supreme Court in case of *B.P. Singal (supra)*, to hold that the nomination cannot be cancelled arbitrarily without giving any reason.

6. Even assuming that the State has exercised its power and invoked the *doctrine of pleasure*, still the orders cannot be passed arbitrarily. Neither in the impugned Government order, nor in the reply any reason is given as to why Petitioners nominations were cancelled. We have not been shown any reason why the decision of the Division Bench in case of *Dr. Aditi Sarda* should not be followed, which is identical in facts, where the petitioner therein was also nominated on the Executive Council of the University.

7. In view of the above, the petitions are entitled to succeed. The impugned order dated 5 March 2020 qua the Petitioners is quashed and set aside.

8. Writ Petitions are accordingly allowed.

(ANIL L. PANSARE, J)

(NITIN JAMDAR, J)