

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

Civil Application (CAO) No. 957 of 2022

and

Misc. Civil Application (Review) St. No. 12883 of 2022

in

Writ Petition No. 4288 of 2021 (D)

[Bapurao Deshmukh Foundation, Wardha, having its office at Sevagram, Tah. and Dist. Wardha
through its Secretary Shri S. B. Deshmukh and anr. ..vs.. Pranjali Bhojraj Ulhe]

with

Civil Application (CAO) No. 958 of 2022

and

Misc. Civil Application (Review) St. No. 12449 of 2022

in

Writ Petition No. 1057 of 2021 (D)

[Bapurao Deshmukh Foundation, Wardha, having its office at Sevagram, Tah. and Dist. Wardha
through its Secretary Shri S. B. Deshmukh and anr. ..vs.. Sumit Ramkrishna Vaidya]

with

Civil Application (CAO) No. 959 of 2022

and

Misc. Civil Application (Review) St. No. 12891 of 2022

in

Writ Petition No. 4292 of 2021 (D)

[Bapurao Deshmukh Foundation, Wardha, having its office at Sevagram, Tah. and Dist. Wardha
through its Secretary Shri S. B. Deshmukh and anr. ..vs.. Aniket Vijaykumar Bhoyar]

with

Civil Application (CAO) No. 960 of 2022

and

Misc. Civil Application (Review) St. No. 12889 of 2022

in

Writ Petition No. 4290 of 2021 (D)

[Bapurao Deshmukh Foundation, Wardha, having its office at Sevagram, Tah. and Dist. Wardha
through its Secretary Shri S. B. Deshmukh and anr. ..vs.. Madhuri Marotrao Pal]

with

Civil Application (CAO) No. 961 of 2022

and

Misc. Civil Application (Review) St. No. 12895 of 2022

in

Writ Petition No. 4293 of 2021 (D)

[Bapurao Deshmukh Foundation, Wardha, having its office at Sevagram, Tah. and Dist. Wardha
through its Secretary Shri S. B. Deshmukh and anr. ..vs.. Bhawana Jaywant Chilke]

with

Civil Application (CAO) No. 962 of 2022

and

Misc. Civil Application (Review) St. No. 12886 of 2022

in

Writ Petition No. 4291 of 2021 (D)

[Bapurao Deshmukh Foundation, Wardha, having its office at Sevagram, Tah. and Dist. Wardha
through its Secretary Shri S. B. Deshmukh and anr. ..vs.. Pravin Ramrao Lakhe]

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

Court's or Judge's orders

Mr. S. K. Bhoyar, Advocate for the applicants/petitioners
Mr. P. N. Shende, Advocate for non-applicants/respondents

CORAM : ROHIT B. DEO, J.

DATED : 25-11-2022

The petitioners are seeking review of the common judgment in Writ Petitions 1057 of 2021, 4288 of 2021 and 4290 to 4293 of 2021 whereby the common judgment dated 3-3-2020 rendered by the University and College Tribunal, Nagpur (Tribunal) in Appeals N-3/2019, N-4/2019, N-7/2019, N-9/2019, N-10/2019, N-23/2019 and N-24/2019 is upheld and the petitions are dismissed.

2. The Tribunal allowed the appeals preferred by the Assistant Professors of Suresh Deshmukh College of Engineering and directed reinstatement with back wages. The Tribunal, however, clarified that the back wages shall be payable from the date of the termination till legal closure of the Engineering College after receiving the requisite permission from the competent authority. In certain appeals, the said relief was further moulded

in view of the alternate employment secured by the concerned Assistant Professors.

3. The case of the management and the college is that it was on 15-9-2017 that the society resolved to close down the college. An application was submitted to the University on 29-1-2019 seeking approval to effect closure of the Engineering College from the academic year 2018-19 and similar application was submitted to All India Council for Technical Education (AICTE). It is the case of the management that while the university permitted closure of the engineering college from academic year 2018-19, the condition was that the financial dues of the employees shall be settled.

4. In the judgment under review, it is noted that the management did not dispute that the appointment of the Assistant Professors was after following due process of law. The termination of the Assistant Professors vide order dated 26-4-2018 was further not in dispute. This Court noted the finding recorded by the Tribunal that in view of the provisions of Section 121 of the Maharashtra Public Universities Act, 2016, the termination is illegal in

as much as unless the statutory procedure and approval is conspicuously absent.

5. It would be useful to extract paragraphs 9, 10 and 11 of the judgment under review.

“9. Even according to the management, as on the date of the termination, the application submitted to the University seeking permission for closure, was pending. The report of the expert committee of the University, which according to the management was received in July, 2018, recommends that the closure may be permitted only after settling all financial dues and legal liabilities and after scrupulously following the procedure laid down by AICTE for closure of the institution. The report notes that the salary of the existing staff is unpaid.

10. While the management avers in the memo of petition that the Nagpur University has permitted closure of the Engineering College vide communication dated 19.07.2018, it is apparent that what is communicated is the report of the recommendation of the committee which observes that the closure may be permitted subject to payment of dues of the staff and further subject to following the procedure laid down by AICTE.

11. While the petitioners contend that the conditional approval or recommendation of the expert committee is challenged in Writ Petition 930/2020, it is irrefutable, that as on the date of the termination neither the University nor the State Government nor the AICTE had approved the closure. Indeed, even as on date, there is no approval for closure of the Engineering College granted by the State Government or the AICTE

and the recommendation of the expert committee of the University at best is an in principle approval subject to the fulfillment of the condition to settle the dues of the employees.”

6. In the review application, the ground is non consideration of the no objection certificate issued by the Nagpur University dated 28-5-2021. Perusal of the said communication dated 28-5-2021 reveals that Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur gave no objection for the closure of the institution. The courses and the intake are specifically referred. Certain conditions are prescribed in the said communication. It is specifically prescribed that current staff strength, rearrangement and dues, if any, shall be settled as per the existing norms and regulations in that behalf.

7. In my considered view, there is absolutely no case made out for review. The judgment of the Tribunal is that the employees shall be entitled to wages till the institution is legally closed. It was not even argued by the management that there is a legal closure. Rather, it is an admitted position that the process of closure is only half complete in as much as after receiving the no objection from the University, the management has applied for sudden closure to the AICTE. Even if it is

assumed that AICTE approves of the closure, the closure shall come into effect only after State Government accords sanction. In this view of the matter, the document which according to the review applicant is not considered, makes no difference whatsoever to the fate of the litigation. No error, as such, much less error apparent on the face of record, is demonstrated. The review applications are dismissed.

JUDGE

wasnik