

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1008 OF 2023

Dr.Anil s/o Bhanudas Pawar,
Age: 50 years, Occu. Service,
(as Librarian, Arts, Science and
Commerce College, Kolhar,
Tal.Rahata, Dist.Ahmednagar),
R/o 'Swamini Bungalow',
Datta Nagar, Loni Babbhleshwar
Road, At Post Loni (Kh),
Tal.Rahata, Dist.Ahmednagar.

E-mail id: pawaranil8121972@gmail.com
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...PETITIONER

-VERSUS-

1. The State of Maharashtra.
Through it's Secretary,
Higher and Technical Education
Department, M.S., Mantralaya,
Mumbai-32.
2. The Joint Director of Education
(Higher Education), Pune Division,
17, Dr.Ambedkar Road,
Pune-01.
3. The Savitribai Phule Pune
University, Pune,
Ganeshkhind, Pune-01.
4. The Pravara Rural Education
Society, Pravaranagar,
Through it's Secretary,
Loni (Khurd), Tal.Rahata,
Dist.Ahmednagar.

5. The Principal,
Pravara Rural Education Society's
Arts, Science and Commerce College,
Kolhar, Tal.Rahata,
Dist.Ahmednagar.

...RESPONDENTS

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Advocate for the Petitioner : Shri Avinash S. Deshmukh
AGP for Respondents 1 and 2/State : Shri V.M. Kagne
Advocate for Respondent 3/University : Shri V.P. Golewar i/by
Shri Arvind R. Joshi
Advocate for Respondents 4 and 5 : Shri A.V. Hon

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**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 21st March, 2023

ORAL JUDGMENT (*Per Ravindra V. Ghuge, J.*):-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. On 30.01.2023, we had passed the following order:-

- “1. *The petitioner, working as a Librarian and a Ph.D. holder, is aggrieved by the impugned letter dated 29.11.2022, issued by respondent No.2, the Joint Director of Education, by which his salary has been stopped. There has been no enquiry conducted. There are no charges levelled against the petitioner.*
2. *Issue notice to the respondents, returnable on 13.03.2023. The learned A.G.P. waives service of notice on behalf of respondent Nos. 1 and 2.*
3. *We direct respondent No.2 to deposit the*

unpaid salary of the petitioner for the months of November and December 2022, and for the months of January and February, 2023, in this court, on or before 28.02.2023.”

3. The Petitioner was appointed as a Librarian by Respondent No.4/Educational Institution on 14.10.1997 on no grant basis. On 05.06.2012, he was appointed as a full time Librarian on grant in aid establishment. His appointment has been approved by the order dated 06.11.2012. On 04.01.2013, the Petitioner's pay fixation was carried out. In 2014, he was awarded the honour of Doctor of Philosophy (Ph.D.) by the Shri Jagdishprasad Jhabarmal Tibrewala University, Jhunjhunu.

4. By the communication dated 29.11.2022, Respondent No.2 completely stopped the payment of salary of the Petitioner on the pretext that when he was appointed, he did not hold the NET/SET/Ph.D. qualification. The Petitioner made representations to Respondent No.2 praying for the salary to be released and tendering an explanation, but in vain. Consequent thereto, Respondent No.3 issued the show cause notice dated 28.12.2022 to the Petitioner calling upon him to explain as to why it should not be concluded that he was not qualified to be appointed as a Librarian. It cannot be ignored that it is the same

University, which had granted him permanent approval, long ago.

5. The learned AGP has relied upon the affidavit in reply filed by the Joint Director of Higher Education, Pune Region, Dr.Kirankumar Laxman Bondar, stating therein that the Petitioner was granted temporary approval, which was subject to the condition of passing NET/SET examination. The Petitioner acquired Bachelor in Library Science in 2006, M.Phil. in 2008 and Ph.D. in 2014. Reliance is placed upon the notification dated 30.06.2010 issued by the UGC which mandates the qualification of NET/SET/ Ph.D. for appointment of Lecturers and Librarians in the Government/ Non Government aided colleges. It is, therefore, canvassed that since the Petitioner did not acquire any of these qualifications on 15.06.2012, he could not have been approved as a full time Librarian on the grant in aid establishment.

6. It is well settled that if salary of an employee is to be reduced/ halted or some deductions are to be carried out, the principles of natural justice have to be complied with. Merely because the employer believes that the employee has certain deficiencies, would not empower the employer to straightaway

proceed to pass an order without even granting an opportunity of hearing to the concerned employee. This amounts to alteration in service conditions, which is impermissible without adhering to the principles of natural justice. The Petitioner is deprived of his salary for the months of November, 2022 payable in December, 2022 and onwards, only because Respondent No.2 believes that he was not qualified in 2012.

7. Waking up after more than ten years and issuing an adverse order without adhering to the principles of natural justice, as atrocious as halting the payment of monthly salary of a person who, by now has acquired Ph.D., is unsustainable. Apparently, Respondent No.2 has passed the order, highhandedly. The University has followed the appropriate course of issuing a show cause notice to the Petitioner. Needless to state, the University would follow the due procedure laid down in law and take the issue to its logical conclusion.

8. In view of the above, **this Writ Petition is partly allowed**. The impugned order dated 29.11.2022 is quashed and set aside.

9. Considering our first order dated 30.01.2023, the salary for the months of November-2022, December-2022,

January-2023 and February-2023 have been deposited in this Court. The same would be withdrawn by the Petitioner through proper identification by the learned Advocate and by placing a copy of the Adhaar Card and the identity card issued by the Election Commission of India, on record.

10. Salary of the Petitioner would be continued to be paid until any action is initiated by following the due procedure laid down in law, by a competent authority. Needless to state, this would be without prejudice to the rights of the Petitioner, who would be at liberty to avail of the legal remedies for redressal of his grievance.

11. Considering the above, we deem it appropriate to impose costs of Rs.10,000/- (Rupees Ten Thousand) on Respondent No.2, which shall be deposited in this Court within 15 days from today, from his salary account. The said amount shall be withdrawn by the Petitioner as costs.

12. Rule is made partly absolute in the above terms.

kps

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)