

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

1025 WRIT PETITION NO.840 OF 2023

NILKANTH RAMRAO PAWAR
VERSUS
MAHARASHTRA ANIMAL AND FISHERY SCIENCES UNIVERSITY
THROUGH ITS REGISTRAR
WITHD
1026 WRIT PETITION NO.844 OF 2023

SANTOSH SAMBHARAO CHOPADE
VERSUS
MAHARASHTRA ANIMAL AND FISHERY SCIENCES UNIVERSITY
THROUGH ITS REGISTRAR

Mr.A.N.Sabnis, Advocate for the petitioners.
Mr.K.P.Rodge h/f Mr.P.G.Rodge, Advocate for respondent No.1.
Mr.P.S.Patil, AGP for the respondent/State.

(CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.)

DATE : JANUARY 20, 2023

PER COURT :

1. Leave to add the State as respondent No.2. The learned AGP causes an appearance on behalf of the State.

2. Both these petitioners are identically placed. Both have been selected for the Ph.D. programme with the ICAR-National Dairy Research Institute at Karnal in the State of Haryana, which is

undisputedly known to be a premier institute in Animal and Fisheries Sciences. The petitioners contend that this is a golden opportunity for them to undergo the Ph.D. programme in Dairy Chemistry and Dairy Engineering respectively. It is a once in a lifetime opportunity, which, if lost, would never render another chance to the petitioners.

3. This matter was heard for quite some time and was granted a pass over to enable the learned AGP to collect further instructions. We started dictating this order at 5.45 p.m.

4. A short issue is before us as to whether the petitioners should be granted NOC and lien by the respondent/university so as to undertake the Ph.D. programme in the respective specialization subjects at Karnal. They would be away for 2 years from the respondent/University and would not be available for imparting education to the students.

5. The learned Advocate representing the University has ably assisted us in stating the circumstances in which the NOC to the first petitioner namely Nilkanth Ramrao Pawar has not been granted and the

NOC granted to the second petitioner namely Santosh Sambharao Chopade has been stayed. According to him, the sanctioned strength of the teaching and non teaching staff, commensurate to the students intake, is 49. 10 posts are available for Assistant Professors. 6 posts have been filled in. These 2 petitioners are amongst these 6 posts. He, therefore, submits that when the first petitioner has to undertake 10 hours of teaching per week in Dairy Chemistry and the second petitioner has 33 hours per month in Dairy Engineering, allowing them to be away from academics would be difficult for the University to handle. Besides, they also have additional responsibilities of other departments like Library, Research Coordinator and Technical Officer. Both are HOD.

6. An order passed by this Court dated 01.08.2014 in WP No.6432 and 6433 of 2014, is cited. In the said order, permission to the two petitioners to pursue Ph.D. programmes was granted by this Court as the advertisement was published on 07.07.2014 for filling in 11 posts of Assistant Professors in the faculty of Veterinary medicine. By imposing the condition that the petitioners must have completed the probation period and 5 years in continuous service, that the relief

sought was granted. There were 6 colleges affiliated to the same University. In the present case, there are 2 Government colleges under the said University. The petitioners are working in the Government Colleges.

7. The difficulty expressed by the University for not granting NOC to the Petitioners is paucity of teachers and impediments in the recruitment of the teachers in regular employment as well as on clock hour basis (CHB). We find that the Government has issued a GR dated 02.11.2022 with regard to granting permission to the University before us, to recruit 58 positions on CHB, out of the vacant positions available. The University expressed its apprehension about the sanction of the Government to recruit CHB employees to overcome the crisis of lack of teaching staff. It is in this backdrop that the learned AGP had sought a pass over and who has now informed us on instructions from the Desk Officer of Agriculture, Animal Husbandry, Dairy Development and Fisheries Department, that the said GR would permit the University to recruit people on CHB basis. Clauses 5, 13 and 14 have been specifically pointed out. It is contended that the University is precluded from recruiting teachers on regular basis since 2016 and, hence, the GR

dated 02.11.2022 has been issued by the government.

8. By taking a holistic view of this matter, we deem it appropriate to allow these two petitions, since a golden opportunity is available to these two petitioners and coupled with the liberty to the University to immediately proceed for recruiting the teaching staff on CHB. It would be a matter of a short period of time that the University would be able to have teachers on CHB to cater to the teaching curriculum in the University and its Colleges. As it is, the 6 Assistant Professors were shouldering a large burden. Such burden can be distributed amongst the teachers on CHB strictly in accordance with the GR dated 02.11.2022.

9. In view of the above, these two petitions are partly allowed. We direct the respondent University to issue the NOC to Nilkanth Ramrao Pawar, by 2.00 p.m. tomorrow, since he has to report at Karnal on 23.01.2023. Similarly, the embargo dated 04.01.2023 clamped by the respondent / University on the NOC granted to Santosh Chopade, stands quashed and set aside. The NOC issued to him stands revived.

10. Since this order would take some time to be formalized and uploaded, the learned Advocates representing the litigating sides would act upon the directions issued, as this order is dictated in the open Court.

11. We appreciate the assistance rendered by the learned Advocates and the learned AGP, in this matter.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)