

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

WRIT PETITION NO. 2348 OF 2021

Shri Santoshrao s/o Madhavrao Thakare,
aged about 57 years, Occ. Service (Principal),
R/o Aashirvad Heights, Aashirvad Nagar,
Murtizapur, District – Akola – 444107.

PETITIONER

.....VERSUS.....

1. Shri Gadge Maharaj Vidyalaya Mandal,
A registered trust under the Maharashtra
Public Trust Act, 1950, Murtizapur,
District – Akola,
through its President.
2. Sant Gadgebaba Amravati Vidyapeeth (University),
Amravati, through its Registrar.
3. Vice-Chancellor, Sant Gadgebaba Amravati Vidyapeeth,
Amravati.
4. Rakesh Amarchand Badgujar,
aged about 42 years, Occ. Service,
R/o Rajapeth, Amravati, Taluka & District – Amravati.
5. Akshay Keshavprasad Chavhan,
aged about 46 years, Occ. Service,
R/o Sai Nagar, Amravati, Taluka & District – Amravati.
6. Dr. Sau. Rita Tushar Deshmukh,
aged about 43 years, Occ. Service,
R/o Mohan Colony, Camp Amravati,
Taluka & District – Amravati.
7. Prof. Dilip Dyanobaji Shahade,
aged about 56 years, Occ. Service,
R/o C/o Kaware house, Vrundavan Nagar,
Akola Road, Murtizapur, District – Akola.
8. Prof. Sachin Shivdas Matode,
aged about 46 years, Occ. Service,
R/o Station Area, Gurudwara Road,
Murtizapur, District – Akola.

9. Dr. Nitin Shivdas Satpute,
aged about 41 years, Occ. Service,
R/o near Hanumar Mandir, Motinagar,
Amravati, District – Amravati.

RESPONDENTS

Shri S.P. Bhandarkar, Advocate for the petitioner.
Shri A.S. Dhore, Advocate for respondent No.1.
Shri S.S. Ghate, Advocate for respondent Nos. 2 and 3.
Shri S.P. Dharmadhikari, Senior Advocate with Shri S.M. Vaishnav, Advocate for
respondent Nos. 4 to 9.

WITH
WRIT PETITION NO. 2570 OF 2022

Shri Gadge Maharaj Vidyalaya Mandal (Society)
Registration No. AKL/ F-22,
through its President Advocate Suhasrao
Bhagwantrao Tidke, Tah. Murtijapur, District – Akola.

PETITIONER

.....VERSUS.....

1. State of Maharashtra,
through Secretary, Higher and Technical Education Department,
Mumbai – 400032.
2. Sant Gadge Baba University,
through its Registrar, Camp area,
near Tapovan Gate, Amravati – 444602.
3. Shri Gadge Maharaj Mahavidyalaya, Murtizapur,
District – Akola, through its Principal
Shri Santoshrao @ Bhujangrao Madhavrao Thakare.
4. Shri Santoshrao @ Bhujangrao Madhavrao Thakare,
Principal, Shri Gadge Maharaj Mahavidyalaya,
Murtizapur, District – Akola.

RESPONDENTS

Shri C.S. Kaptan, Senior Advocate with Shri P.S. Chawhan, Advocate for the
petitioner.
Ms N.P. Mehta, Assistant Government Pleader for respondent No.1/ State.
Shri S.S. Ghate, Advocate for respondent No.2.
Shri A.A. Naik, Advocate for respondent Nos. 3 and 4.
Shri S.P. Dharmadhikari, Senior Advocate with Shri S.M. Vaishnav, Advocate for
the intervenors (CAW No. 1385/2022).

WITH
WRIT PETITION NO. 2190 OF 2021

1. Rakesh Amarchand Badgujar,
aged about 42 years, Occ. Service,
R/o Rajapeth, Amravati, Taluka & District – Amravati.
2. Akshay Keshavprasad Chavhan,
aged about 46 years, Occ. Service,
R/o Sai Nagar, Amravati, Taluka & District – Amravati.
3. Dr. Sau. Rita Tushar Deshmukh,
aged about 43 years, Occ. Service,
R/o Mohan Colony, Camp Amravati,
Taluka & District – Amravati.
4. Dr. Nitin Shivdas Satpute,
aged about 41 years, Occ. Service,
R/o near Hanumar Mandir, Motinagar,
Amravati, District – Amravati.

PETITIONERS

.....VERSUS.....

1. The Joint Director of Education,
Amravati Division, Amravati.
2. The Registrar, Sant Gadgebaba Amravati University,
Amravati, Taluka & District – Amravati.
3. The President/ Secretary,
Shri Gadgemaharaj Vidyalaya Mandal,
Murtizapur, Taluka – Murtizapur, District – Akola.
4. Dr. Santoshrao Madhaorao Thakre,
aged about 56 years, Occ. Service,
R/o Aashirwad Heights, Aashirwad Nagar,
Murtizapur, Taluka – Murtizapur, District – Akola.

RESPONDENTS

Shri S.P. Dharmadhikari, Senior Advocate with Shri S.M. Vaishnav, Advocate for
the petitioners.

Ms N.P. Mehta, Assistant Government Pleader for respondent No.1/ State.

Shri S.S. Ghate, Advocate for respondent No.2.

Shri A.S. Dhore, Advocate for respondent No.3.

Shri S.P. Bhandarkar, Advocate for respondent No.4.

CORAM : A.S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 27th APRIL, 2023

JUDGMENT (PER : A.S. CHANDURKAR, J.)

Since common issues arise in these Writ Petitions, they are being decided together by this common judgment. The petitioner in Writ Petition No. 2348/2021 – hereinafter referred to as ‘Principal’ came to be appointed as a Principal at Shri Gadge Maharaj Vidyalaya, Murtizapur, District – Akola – hereinafter referred to as ‘the College’ on 22/11/2016. Respondent Nos. 4 to 9 – hereinafter referred to as ‘the aggrieved employees’ filed a complaint against the Principal on 13/11/2020 at Police Station – Murtizapur. They pursued the matter by making various other complaints to the Authorities. Based on the complaint made to Sant Gadge Baba Amravati University on 17/11/2020, the Vice-Chancellor on 18/11/2020 constituted a three member Committee to consider the grievances made by the aggrieved employees and particularly with regard to failure on part of the Principal in avoiding to send relevant placement papers of some Lecturers from the year 2017-18, use of abusive language by the Principal since complaints were made against him and the act of the Principal of issuing notices to the aggrieved employees so as to demoralize them. The three member Committee sought to enquire into the matter which was objected to by the Principal. The said three member Committee submitted its report to the Vice-Chancellor and hence on

18/2/2021, the Vice-Chancellor directed the College to hold disciplinary proceedings against the Principal and submit a report to the Vice-Chancellor. The Principal is thus aggrieved by the said action and has challenged the direction issued by the Vice-Chancellor on 18/11/2020 constituting a three member Committee to enquire into the complaints as well as the communication dated 18/2/2021 issued by the Vice-Chancellor to the College to conduct disciplinary proceedings against the Principal.

2. The aggrieved employees have filed Writ Petition No. 2190/2021 seeking implementation of the communication dated 18/2/2021 issued by the Vice-Chancellor to the College and disciplinary enquiry to be conducted against the Principal. The other ancillary prayers with regard to taking necessary steps for pay fixation as well as payment of salary for eleven days are also made in the said Writ Petition.

Shri Gadge Maharaj Vidyalaya Mandal – hereinafter referred to as ‘the Management’ has preferred Writ Petition No. 2570/2022 and it seeks consideration of its proposal dated 22/10/2021 seeking approval to re-appointment of the Principal for another term of five years. By amending the Writ Petition, the order dated 12/8/2022 passed by the Registrar of the University refusing to approve the proposal for re-

appointment of Principal is also under challenge.

3. Shri S.P. Bhandarkar, learned Counsel for the Principal submitted that there is no jurisdiction vested with the Vice-Chancellor of the University to direct the Management of an affiliated College to initiate disciplinary action against its employees. The Management, being the master of its employees which included the Principal, could alone initiate disciplinary action against him. Section 12 of the Maharashtra Public Universities Act, 2016 (for short “the Act of 2016”) which provides for the powers and duties of the Vice-Chancellor does not confer any specific power on the Vice-Chancellor to initiate disciplinary action against an employee of the Management is the submission. A reference was made to the absence of such power by referring to the provisions of Section 12(14) of the Act of 2016. It was submitted that the aggrieved employees could take recourse to the provisions of Section 79 of the Act of 2016 and approach the Grievances Committee in that regard. The Grievances Committee was empowered to deal with the grievances that were sought to be raised by the aggrieved employees. In absence of there being any power conferred on the Vice-Chancellor to entertain such grievances, the impugned communication dated 18/11/2020 being without any authority of law was liable to be set aside. Consequently, the inquiry conducted by the three member Committee also did not have any legal basis and hence

the direction issued by the Vice-Chancellor on 18/2/2021 to the Management to hold disciplinary enquiry against the Principal would not survive. It was thus submitted that the impugned communications dated 18/11/2020 and 18/2/2021 issued by the Vice-Chancellor were liable to be set aside.

4. Shri S.P. Dharmadhikari, learned Senior Counsel for the aggrieved employees opposed the aforesaid submissions. Inviting attention to the provisions of Section 12(14)(a) of the Act of 2016, it was submitted that the said provisions were wide enough to empower the Vice-Chancellor to look into any complaint made by employees of an affiliated College and cause an inquiry to be conducted in the matter. Since the Management and the College failed to consider the grievances/complaints made by the aggrieved employees, the exercise of power by the Vice-Chancellor was keeping in view the spirit of Section 12 of the Act of 2016. Merely because the source of power that was exercised by the Vice-Chancellor was not clearly indicated in the impugned communication, the same would make no difference for the reason that a wrong reference made to a provision would be of no consequence when the power to direct holding of inquiry existed with the Vice-Chancellor. In that regard, the learned Senior Counsel placed reliance on the decision in *N. Mani Vs. Sangeetha Theatre And Others [(2004) 12 SCC 278]*. A

reference was made to the nature of complaints made by the aggrieved employees and it was submitted that since the College and the Management refused to take cognizance of these complaints, the aggrieved employees were constrained to approach the Vice-Chancellor. It was thus submitted that there is no reason to interfere with the communication dated 18/11/2020 by which the Vice-Chancellor constituted a three member Enquiry Committee. Since the inquiry was held and the Vice-Chancellor on perusing the said report had directed the Management to take disciplinary action against the Principal, the same did not call for any interference. If at all the petitioner was aggrieved by any steps taken on the basis of the inquiry report, he was free to challenge the same in accordance with law.

5. Shri C.S. Kaptan, learned Senior Counsel for the Management disputed the power of the Vice-Chancellor to constitute a three member Enquiry Committee as well as the further direction issued to the Management to conduct disciplinary enquiry against the Principal. He submitted that the Management, being the master of its employees, alone had the authority to take disciplinary action against an erring employee. It was further submitted that the Principal was initially appointed on 19/11/2016 for a period of five years. Since the Management intended to re-appoint the Principal for a further period of five years, a resolution to

that effect came to be passed on 21/1/2021. Despite making various requests to the University to constitute an External Peer Review Committee to consider the matter with regard to the re-appointment of the Principal, no steps were taken by the University. Despite the fact that all deficiencies in the proposal had been removed, the University failed to nominate the Chairperson of the External Peer Review Committee. Ultimately, on 21/10/2021, the Management had issued a communication to the Vice-Chancellor stating therein that since the External Peer Review Committee had recommended the name of the Principal for re-appointment, the same was liable to be approved. The University was not justified in refusing to do so by the communication dated 12/8/2022. It was thus submitted that the communication dated 12/8/2022 was liable to be set aside and re-appointment of the Principal ought to be approved.

6. Shri S.S. Ghatge, learned Counsel for the University opposed the stand as taken by the Principal as well as the College. He supported the stand as taken by the aggrieved employees and submitted that by virtue of provisions of Section 12 of the Act of 2016, a three member Enquiry Committee had been constituted to consider the complaints made against the Principal. He referred to the affidavit-in-reply placed on record and submitted that on account of failure on part of the

Management as well as the College to consider the complaints made by the aggrieved employees against the petitioner, such Enquiry Committee was constituted. After holding a preliminary inquiry, substance was found in the complaints as made and therefore the Management was directed to hold inquiry against the Principal. No interference with the said action was liable to be taken.

As regards approval to the proposal for re-appointment of Principal is concerned, it was submitted that re-appointment was to be undertaken in the manner prescribed by Clause 6(VI) of the Government Resolution dated 8/3/2019. Since the Vice-Chancellor had already directed the Management to hold an inquiry against the Principal and that direction was not being complied with, there was no question of the Vice-Chancellor's nominee being sent to be part of the External Peer Review Committee. Pendency of the present proceedings was also indicated as a reason for not proceeding in the matter. It was thus submitted that after conclusion of the departmental enquiry and based on the outcome thereof, the issue with regard to re-appointment of the Principal could be considered. He therefore submitted that the Writ Petitions preferred by the Principal as well as the College were liable to be dismissed.

7. We have heard the learned Counsel for the parties and we have perused the documentary material placed on record. The challenge raised to the communication dated 18/11/2020 is based on the premise that the Vice-Chancellor is not empowered under the Act of 2016 to issue any directions to the Management of a private affiliated College to take disciplinary action against an employee of the Management. The University seeks to rely upon the provisions of Section 12 of the Act of 2016 in this regard and it is the specific case of the University that the Vice-Chancellor has been empowered by the said provision to entertain and respond to the complaints as made by the aggrieved employees. Emphasis is placed on the provisions of Section 12(14) of the Act of 2016. A perusal of the said provision indicates that the Vice-Chancellor has a right to cause inspection to be made by the Pro-Vice-Chancellor or such person or persons or body of persons of the University, its buildings, laboratories, libraries, etc. and to cause an inquiry to be made in a like manner regarding any matter connected with the administration or finance of the University, affiliated or autonomous College. In a case where the Vice-Chancellor proposes to exercise such right of inspection, notice has to be given to the Management of such affiliated or autonomous College of his intention to cause an inspection or an inquiry to be made. In that situation, the Management has been given a right to make a representation to the Vice-Chancellor before such inspection or

inquiry. The further provisions indicate the manner in which consequential steps may be taken based on such inspection or inquiry.

8. On a plain reading of sub-section (14) of Section 12 of the Act of 2016, we find that the said provision does not provide for any power to the Vice-Chancellor to entertain any complaint or grievance made by an employee of an affiliated College with regard to the conduct of another employee/ Principal of such affiliated College. The Vice-Chancellor is principally concerned with the activities that relate to the University and its properties, examinations, teachings and other works conducted by or on behalf of the University. He can also cause an inquiry to be made regarding any matter connected with the administration or finance of the University including the affiliated Colleges. Section 12 does not indicate any power conferred on the Vice-Chancellor to issue any direction to the Management of an affiliated College with regard to a matter pertaining to the internal conduct of such College, especially dispute amongst its employees.

In this context, it would be necessary to refer to the provisions of Section 79 of the Act of 2016 by which a Grievances Committee is required to be constituted in each University to deal with “all types of grievances” except grievances against the State Government including its

officials, the grievances of teachers and other employees of the University and includes affiliated Colleges. The said provision therefore clearly indicates the wide scope of jurisdiction conferred on the Grievances Committee since it can deal with all types of grievances of Teachers and other employees of the University. Section 79(3) of the Act of 2016 indicates the Members who constitute the Grievances Committee which includes a teacher belonging to the reserved category as well as a non-teaching employee nominated by the Senate. It is therefore clear that the nature of grievance as made by the aggrieved employees is of nature that could be entertained by the Grievances Committee under Section 79(1) of the Act of 2016. In this regard, reference can be made to the following observations in paragraphs 36 and 37 of the decision of the Hon'ble Supreme Court in *Maharashtra University of Health Sciences and others Vs. Satchikitsa Prasarak Mandal And Others [(2010) 3 SCC 786]* which read as under :

“36. The purpose of setting up the Grievance Committee under Section 53 of the Act is to provide an effective grievance redressal forum to teachers and other employees. XXXX

37. By creating such a forum the University virtually exercised its authority and jurisdiction as a loco parentis over teachers – both approved and unapproved and who are working in various colleges affiliated with it. The idea is to give such teachers and employees a protection against any kind of harassment which they might

receive in their workplace. The creation of such a forum is in tune with protecting the “dignity of the individual” which is one of the core constitutional concepts.”

These observations have been made while considering provisions of Section 53 of the Maharashtra University of Health Sciences Act, 1998. Section 53(1) of the said Act reads as under :

“18. Section 53 of the said Act provides as follows :

53. (1) There shall be a Grievances Committee in the University to deal with the grievances of teachers and other employees of the University, colleges, institutions and recognised institutions and to hear and settle grievances as far as may be practicable within six months, and the Committee shall make a report to the Management Council.

(2) XXXX

(3) XXXX

(4) XXXX”

It therefore cannot be held that Section 12(14) of the Act of 2016 empowers the Vice-Chancellor to enquire into the complaints/grievances of employees of an affiliated College as made against its Principal.

9. It was urged on behalf of the aggrieved employees that mere

reference to the provisions of Section 12 of the Act of 2016 without specifying the exact provision applicable would not render the communication dated 18/11/2020 to be without authority of law. It is well settled that quoting a wrong provision of law would not vitiate exercise of that power if such power exists with the Authority exercising the same. Reference in that regard was made to *N. Mani (supra)*. There cannot be any quarrel with the said position. However, if it is found that there is absence of existence of such power itself, the said principle would not be applicable and it would have to be held that power has been exercised without the same having been conferred by statute. It is also to be noted that Section 12(14) of the Act of 2016 prescribes the modality to be followed when such inquiry is made by the Vice-Chancellor. It has not been shown that at any point of time, the Vice-Chancellor had given notice of his intention to cause any inspection or inquiry as stipulated either to the College or the Management. As a result, there is no representation made by the Management to the Vice-Chancellor in that regard. In any event, we find that Section 12(14) of the Act of 2016 does not empower the Vice-Chancellor to direct constitution of a three member Committee to enquire and look into the grievances of teachers of an affiliated College as regards the conduct of their Principal. Consequently, it is held that the impugned communication dated 18/11/2020 issued by the Vice-Chancellor is without any statutory authority and has no legal

basis. As a result, all further acts undertaken pursuant to the impugned communication dated 18/11/2020 would also fall to the ground. This would include the report of the said three member Committee along with its recommendations on the basis of which the Vice-Chancellor has on 18/2/2021 directed the Management to hold a departmental enquiry against the Principal. That communication is also liable to be set aside. The grievances/ complaints made by the aggrieved employees are required to be addressed to the Grievances Committee constituted under Section 79 of the Act of 2016 for its consideration.

10. Coming to the proposal for re-appointment of Principal, we find that it would be necessary for the Management to follow the procedure prescribed by the Government Resolution dated 8/3/2019 and especially Clause 6.1(vi) which pertains to appointment of Principal including his re-appointment. The External Peer Review Committee includes a nominee of the Vice-Chancellor amongst other members. The stand taken by the University that it had not sent the name of its representative to act as Member for the External Peer Review Committee and hence the proposal submitted by the Management was not liable to be accepted deserves to be upheld. If the Management desires to re-appoint the Principal, the procedure prescribed by Clause 6.1(VI) would have to be followed by it in terms of the Government Resolution dated

8/3/2019 in the said matter. Hence, no directions in this regard can be issued as prayed for in Writ Petition No. 2570/2022 since the Vice-Chancellor has not yet named his nominee as Member of the External Peer Review Committee.

11. In the light of the aforesaid discussion, the following order is passed :

ORDER

i. The communication dated 18/11/2020 issued by the Vice-Chancellor is set aside. Consequently, the further steps taken on the basis of the said communication do not survive. The communication dated 18/2/2021 is also set aside. Accordingly, Writ Petition No. 2348/2021 is allowed.

ii. In view of the adjudication of Writ Petition No. 2348/2021, Writ Petition No. 2190/2021 stands dismissed. The petitioners are free to approach the Grievances Committee for seeking redressal of their grievances in accordance with Section 79 of the Act of 2016.

iii. The Management shall act in accordance with Clause 6(VI) of

the Government Resolution dated 8/3/2019 in the matter of appointment/ re-appointment of the Principal.

iv. The judgment shall come into effect on expiry of period of four weeks.

12. Rule in all the Writ Petitions is disposed of in the aforesaid terms. Pending Civil Applications are also disposed of. No costs.

(M.W. CHANDWANI, J.)

(A.S. CHANDURKAR, J.)

SUMIT