

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

WRIT PETITION NO. 2157 of 2021

Dr. Avinash Mukund Asnare,
Age @ 51 years, Occupation-Service,
(Director of Sports & Physical Education
S.G.B.A.U. Amravati University, Amravati.)
R/o. Budhwara, Amravati, Tq.and Dist. Amravati.

..... **PETITIONER**

...VERSUS...

1. The State of Maharashtra,
through its Secretary for Higher and Technical
Education Department,
Mantralaya, Mumbai.
2. The Director of Higher Technical Education,
State of Maharashtra, Pune.
3. The Joint Director of Higher Education,
Amravati Region, Amravati.
4. The Registrar,
Sant Gadgebaba Amravati University.
Amravati, Tq, and District Amravati.

..... **RESPONDENTS**

Shri S.M.Vaishnav, Advocate for petitioner.
Ms S. S. Jachak, Assistant Government Pleader for respondent nos. 1 to 3.
Shri S.S.Ghate, Advocate for respondent no.4.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.
DATE :- 26th JUNE, 2023.

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned
counsel for the parties.

2. The challenge raised in the present writ petition is to the communication dated 22.03.2021 that has been issued by the Joint Director of Education, Amravati Region, Amravati pursuant to the directions issued by this Court in Writ Petition No. 1021 of 2020 (Dr.Avinash Mukund Asnare Vs. State of Maharashtra and ors). The petitioner who was appointed on 15.12.2020 as Director of Physical Education with the respondent no.4- University had sought approval to his appointment in that regard. In the said writ petition, the proposal dated 23.01.2013 that was forwarded by the Sant Gadgebaba Amravati University, Amravati- respondent no.4 was directed to be decided in accordance with law.

3. After hearing the learned counsel for the parties and after perusing the impugned order dated 22.03.2021, we find that there is no specific consideration of the proposal that was moved by the University for seeking approval to the post of Director of Physical Education at the University except for referring to the communications dated 07.12.1983 and 21.07.1984 only. Even the request made by the University for grant of such approval in view of availability of work load has not been considered.

4. On 01.11.2022 this Court has noted that the earlier incumbent Shri V.N.Sharma, who had retired from the post of Director of Physical Education prior to petitioner's appointment was receiving pension. The learned Assistant Government Pleader on instructions does not dispute this

aspect factually.

5. We further find that there are various relevant aspects that require consideration by the respondent no.1 since the matter pertains to grant of necessary permission and approval to the University for having the post of Director of Physical Education. Availability of work load is also a relevant factor. In this backdrop, the following order would serve the ends of justice.

(i) The respondent no.1 through its Secretary, Higher and Technical Education shall re-consider the proposal that has been submitted by the University seeking permission and approval to have the post of Director of Physical Education by granting opportunity to the petitioner as well as the University to place before the said Authority all relevant documents in that regard.

(ii) After considering the totality of the facts the respondent no.1 shall take a fresh decision on the aforesaid proposal.

(iii) To facilitate consideration of the petitioner's proposal, the petitioner as well as the Registrar/authorized representative of the University shall appear before the respondent no.1 on 05.07.2023.

(iv) The respondent no.1 shall consider all relevant aspects and take a decision on the said proposal within a period of four weeks from that date. The respondent no.1 shall consider the proposal without being influenced by

the communication dated 14.07.2017. Needless to state that if such adjudication is not to the satisfaction of any of the parties, they are free to take such steps as are permissible in law.

With these directions, the writ petition is disposed of. Rule accordingly. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..