

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO. 14936 OF 2024.**

Secretary, Dr. Vasanttraodada Patil Shetkari  
Shikshan Mandal and Another.

...Petitioners.

**Versus**

Ravindra Shamrao Kadam and Others.

...Respondents.

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*Mr. Kiran S. Bapat, Senior Advocate a/w Mr. Gaurav Gawade i/b Mr. Ashish P. Pawar for the Petitioner.*

*Mr. C. G. Gavnekar and Mr. Rohit Parab for Respondent No. 1.*

*Ms. Savita Prabhune, AGP for Respondent-State.*

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**Coram : Sharmila U. Deshmukh, J.**

**Date : December 9, 2024.**

**P. C. :**

1. By this petition filed under Article 227 of the Constitution of India, exception is taken to the judgment and order dated 17<sup>th</sup> January, 2024 passed by the Presiding Officer, Savitribai Phule Pune and Shivaji and Solapur University and College Tribunal, Pune by which the College Tribunal has allowed the appeal and set aside the termination order dated 2<sup>nd</sup> November, 2020 passed by the Petitioner.

2. Before this Court, the challenge was confined to the jurisdiction of the Tribunal to entertain the appeal on the ground that the Petitioner-College was previously affiliated with Shivaji University, Kolhapur and in the year 2020, the affiliation was shifted to Dr.

Babasaheb Ambedkar Technological University, Lonere and from academic year 2017-18, the petitioner-college is under the control of Dr. Babasaheb Ambedkar Technological University and therefore, the College Tribunal lacked the jurisdiction. It is not necessary to consider the merits of the matter as regards the termination/reduction in rank of Respondent No.1.

3. By the impugned judgment dated 17<sup>th</sup> January, 2024, the College Tribunal has framed and answer the issue as regards the jurisdiction in the affirmative. Perusal of the impugned judgment would indicate that the Tribunal has based its finding on jurisdiction on Sections 80, 109, 110 of the Maharashtra Public Universities Act, 2016 [for short, ***“the Act of 2016”***] and has held that unless the last batch of students of the College and the repeaters do not get their degrees from the University, the process of affiliation would not be complete. The Tribunal considered the same to be a transitory period during which the teachers and employees of the Petitioner-College have the right to choose the forum of either Shivaji University, Kolhapur or Dr. Babasaheb Ambedkar Technological University and that Respondent No.1 having chosen the forum of Shivaji University, Kolhapur, the Tribunal had jurisdiction.

4. Mr. Bapat, learned Senior Advocate appearing for the Petitioner would submit that the process of affiliation started in the year 2017

and on 17<sup>th</sup> February, 2020, the final certificate of affiliation was issued by Dr. Babasaheb Ambedkar Technological University by which the permanent affiliation was granted for the Academic Year 2018-2021. He submits that the services of Respondent No.1 were terminated on 2<sup>nd</sup> November, 2020, i.e. after the permanent affiliation and therefore, there is no question of the Tribunal exercising jurisdiction. He submits that the sanction for the affiliation was granted by the State Government on 25<sup>th</sup> April, 2017 for change of affiliating University from Shivaji University, Kolhapur to Dr. Babasaheb Ambedkar Technological University. He submits that the provisions of the Maharashtra Public Universities Act, 2016 does not have any provision for the so-called transitory period and once the final certificate of affiliation has been received despite the pending examination of the Repeaters or the conferment of degrees upon other students for the academic years by the previous University, the Tribunal did not have the jurisdiction to adjudicate the issue of termination. He submits that the reliance placed by the Tribunal on Sections 80, 109, 111 of the Act of 2016 is misplaced.

5. *Per contra* Mr. C. G. Gavnekar, learned Advocate appearing for Respondent No.1 would submit that under Section 6 of the Act of 2016, the jurisdiction and admission to privileges of University is provided and sub-section (3), (4) and (5) provides for change of

affiliation to another University. He would further submit that under Dr. Babasaheb Ambedkar Technological University Act, 2014 [for short, **"BATU"**] Section 2(3) defines the expression "affiliated college" to mean a college which has been granted affiliation by the University. He submits that Section 109 of BATU Act provides that notwithstanding anything contained in the Act, Statutes or regulations, if the Universities specified in Schedule-I has held any examination in any courses except the courses excepted therein, wherein degrees have not been conferred or results have not been published then the examination shall be deemed to be held by such University which provides for affiliation to be changed from existing University to Babasaheb Ambedkar Technological University established under BATU. He submits that the Tribunal has considered the cumulative effect of various provisions of the Act and in view of transitory period as the degrees are to be conferred by the previous University has held that the Tribunal of Shivaji University, Kolhapur would have the jurisdiction.

6. I have considered the submissions and perused the record.

7. It is undisputed that on 25<sup>th</sup> April, 2017, the sanction was granted by the State Government for change of Affiliating University from Shivaji University, Kolhapur to Dr. Babasaheb Ambedkar Technological University, Lonere and the final Certificate of Affiliation was granted

on 17<sup>th</sup> February, 2020 and the permanent affiliation is granted for Academic Year 2018-2021. The termination/reduction in rank of Respondent No.1 was effected by the Petitioner on 2<sup>nd</sup> November, 2020 by which time, the final permanent affiliation certificate was already issued by Dr. Babasaheb Ambedkar Technological University. The College therefore, stood affiliated to Dr. Babasaheb Ambedkar Technological University from 17<sup>th</sup> February, 2020 for all purposes except for the purpose of grant of degree to the students to whom the degrees had not yet been conferred by the Shivaji University, Kolhapur or the results of the examination had not been published by the said University. The provisions of the Act of 2016 when perused do not govern any such transitory period i.e. the period from change to affiliation to the final clearance of all the students admitted under the previous affiliation, which would confer jurisdiction on concerned Tribunal when the College seeks change of affiliation from one University to another University.

**8.** For the purpose of exercising jurisdiction, there has to be a conferment of jurisdiction under the statute and the same cannot be implied in the manner as is sought to be done by the Tribunal. The reliance upon the provisions of Section 80, 109 and 110 of the Act of 2016 by the College Tribunal is clearly misplaced. Section 80 provides for constitution of one or more University and College Tribunals for

one or more Universities governed by Act and also certain other Universities specified therein for adjudicating the disputes between the employees of the enumerated Universities and their respective University and between the employees of the affiliated colleges or recognized institutions of these Universities. Similarly, provisions of Section 109 and 110 of the Maharashtra Public Universities Act provides the procedure for permission for opening new colleges, new courses and the procedure for affiliation. As far as the procedure for affiliation contained in Section 110 of Act of 2016 is concerned, perusal of the said statutory provision does not carve out any exception for the transitory period. The Tribunal has considered these three provisions to hold that unless the last batch of students and the students who were allowed to keep terms are cleared, the process of affiliation would not be completed. The statutory provisions, on the contrary, reveal that as far as such students are concerned, the degrees are required to be conferred by erstwhile University and not by the University with whom the subsequent affiliation has taken place. In respect of those students, the degrees are bound to be conferred by Shivaji University and not by Dr. Babasaheb Ambedkar Technological University, however, for the purpose of adjudication of the dispute of the nature which arises in the present case, the provisions of the Act of 2016 does not confer any jurisdiction on the College Tribunal of the

erstwhile University. As far as Dr. Babasaheb Ambedkar Technological University Act, 2014 is concerned, there is no provision under which adjudication in respect of termination/reduction of rank can be carried by the College Tribunal and therefore, the appropriate remedy for Respondent No.1 would be to challenge the same before this Court.

9. In light of the discussion above, the Petition succeeds and the impugned order dated 17<sup>th</sup> January, 2024 is hereby quashed and set aside on the ground that the Tribunal had no jurisdiction to adjudicate the said dispute. It is open for Respondent No.1 to adopt appropriate proceedings for challenging the order of termination/reduction of rank passed by the Petitioner. Considering that the submissions were limited to the jurisdiction of the College Tribunal, this Court has not expressed any opinion on the merits of the matter.

**[Sharmila U. Deshmukh, J.]**