



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.11867 OF 2024

Sudeep S/o Shahurao Zirmire,
Age-43 years, Occu:Service,
R/o-Shahusadan, Makrand Society,
Morewadi, Ambajogai,
Taluka-Ambajogai, District-Beed.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Principal Secretary,
Higher and Technical Education
Department, Mantralaya, Mumbai,
- 2) The Director of Technical Education,
Maharashtra State, Mumbai,
- 3) Joint Director of Technical Education,
Regional Office, Aurangabad,
Taluka and District-Aurangabad,
- 4) Dr. Babasaheb Ambedkar Technical
University, Lonere, Through its Registrar,
Vidyavihar, Lonere, District-Raigad,
- 5) Shri Mahatma Basweshwar Education
Society, Latur, Having its office at
Shri Deshikendra Vidyalaya Area,
Signal Camp, Latur, Through its
President/Secretary,
- 6) Mahatma Basweshwar Education Society's
College of Engineering, Ambajogai,
Through its Principal,

- 7) Babu S/o Irrapa Khadakbavi,
Age-63 years, Occu:Retired,
R/o-Ishwar Niwas, Maheshnagar,
Waghala Road, Ambajogai,
Taluka-Ambajogai, District-Beed,
- 8) All India Council for Technical
Education, Head Office at Nelson
Mandela Marg, Vasant Kunj,
New Delhi-110070.

...RESPONDENTS

A N D

WRIT PETITION NO.11968 OF 2024

- 1) Anjali D/o Chanveer Birajdar,
Age-51 years, Occu:Service,
R/o-Basweshwar Nagar, Waghala Road,
Ambajogai-431517,
- 2) Indumati W/o Basvaraj Birajdar,
Age-57 years, Occu:Service,
R/o-"Shivbhadya" Building, Near Gurudev
School, Ambajogai-431517,
- 3) Varsha S/o Madhukar Jain,
Age-51 years, Occu:Service,
R/o-19-A, Siddhjin Housing Society,
1A Morarji Peth, Near Bus Stand,
Solapur-413001,
- 4) Mahesh S/o Gopalrao Khogare,
Age-54 years, Occu:Service,
R/o-Vimal Niwas, Vidyakunj Colony,
Ambajogai-431517,
- 5) Basavraj S/o Shivlingappa Biradar,
Age-58 years, Occu:Service,
R/o-"Shivbhadya" Building, Near Gurudev
School, Ambajogai-431517,

- 6) Mahesh S/o Saudagar Kale,
Age-38 years, Occu:Service,
R/o-Ganesh Nagar, Ring Road,
Ambajogai-431517,
- 7) Sachin S/o Ramesh Wale,
Age-43 years, Occu:Service,
R/o-Balaji Nagar, Omerga-413606,
- 8) Shivkumar S/o Hiremath Mallaya,
Age-51 years, Occu:Service,
R/o-H.No.9-587/3/5A, Aland Road,
Devi Nagar, Gulbarga-585101,
- 9) Rahul S/o Shrenik Limbalkar,
Age-44 years, Occu:Service,
R/o-Police Colony, Malwati Road,
Latur-413512,
- 10) Vaijanath S/o Prakash Tatkari,
Age-44 years, Occu:Service,
R/o-Near S.R.T. College, Parli Road,
Ambajogai-431517,
- 11) Meena Vilas Deshpande,
Age-59 years, Occu:Service,
R/o-Avdhut Complex, Saigaon Naka,
Ambajogai-431517.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through its Principal Secretary,
Higher and Technical Education
Department, Mantralaya, Mumbai,
- 2) The Director of Technical Education,
Maharashtra State, Mumbai,
- 3) Joint Director of Technical Education,
Regional Office, Aurangabad,
Taluka and District-Aurangabad,

- 4) Dr. Babasaheb Ambedkar Technological University, Lonere, Through its Registrar, Vidyavihar, Lonere, District-Raigad,
- 5) Shri Mahatma Basweshwar Education Society, Latur, Having its office at Shri Deshikendra Vidyalyaya Area, Signal Camp, Latur, Through its President/Secretary,
- 6) Mahatma Basweshar Education Society's College of Engineering, Ambajogai, Through its Principal,
- 7) Babu S/o Irrapa Khadakbhavi, Age-63 years, Occu:Retired, R/o-Ishwar Niwas, Maheshnagar, Waghala Road, Ambajogai, Taluka-Ambajogai, District-Beed,
- 8) All India Council for Technical Education, Head Office at Nelson Mandela Marg, Vasant Kunj, New Delhi-110070.

...RESPONDENTS

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Mr. R.N. Dhorde, Senior Counsel a/w. Mr. Pravin S. Dighe Advocate i/by Mr. Vikram R. Dhorde Advocate for Petitioners in both Writ Petitions.

Mr. S.D. Ghayal, Additional G.P. for Respondent Nos. 1 to 3 in both Writ Petitions.

Mr. N.P. Patil Jamalpurkar Advocate for Respondent No.5 in both Writ Petitions.

Mr. Vijay V. Deshmukh Advocate for Respondent No.6. in both Writ Petitions.

Mr. Abhijeet G. Choudhari Advocate for Respondent No.7. in both Writ Petitions.

Mr. Chaitanya V. Dharurkar Advocate for Respondent No.8 in both Writ Petitions.

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**CORAM: SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.**

DATE OF RESERVING ORDER : 29th SEPTEMBER 2025

DATE OF PRONOUNCING ORDER : 05th DECEMBER 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present petitioners are contending that they are the employees of respondent No.5 society. Respondent No.5 was established in the year 1965 by one Shri Mallikarjun Bidwe. The trust is running various schools and colleges including respondent No.6 college at Ambajogai since 1993. There was dispute in the two groups of the management during 2002 to 2018. In 2018 as the employee of the trust and various other members made complaint to the Deputy Charity Commissioner, an administrator came to be appointed. Directions were given to conduct the elections. Accordingly, the elections were held for the period 2018-2023 and the change report No.5548/2018 was filed before the Deputy Charity Commissioner, Latur. The said change report was accepted provisionally by order dated 18th August 2018. However, the group headed by one Mr. Girwalkar filed Writ Petition No.8593 of 2018 before this Court challenging

the provisional acceptance of the said change report. After hearing the parties, this Court by Judgment and order dated 22nd February 2019, issued specific directions with regard to the admission of the patron members as per the new constitution of the trust as well as proceeded to appoint the learned Joint Charity Commissioner as administrator and directed the administrator to proceed to hold the elections of all the posts by deputing competent person. The said Judgment and order passed by this Court was challenged by filing SLP (Diary) No.8089-8090/2019. The Hon'ble Supreme Court by order dated 29th March 2019, confirmed the order passed by this Court. In view of the order passed by this Court on 22nd February 2019, learned Joint Charity Commissioner appointed Deputy Charity Commissioner as election officer and the elections were held. In the said elections, group headed by Mr. Shivshankar Mallikarjunappa Bidwe came to be elected for the period 2019-2024. Change report No.1420 of 2019 was filed before the Deputy Charity Commissioner. Rival group raised objection to the said change report. In the first round of litigation, the change report was rejected on 25th June 2021. It was then challenged by filing Appeal No.10 of 2021. Learned Joint Charity Commissioner, Latur remanded the matter by order dated 21st

February 2022, to the Deputy Charity Commissioner, Latur. In the meantime the Girwalkar group prepared certain record of holding elections in the year 2021 and filed change report No.596 of 2021. The change report No.1420 of 2019 was allowed by order dated 9th September 2022, by the learned Deputy Charity Commissioner, Latur and rejected the change report No.596 of 2021 by separate Judgment. Girwalkar group filed Appeal Nos.35 of 2022 and 36 of 2022 to challenge the change reports. Learned Joint Charity Commissioner, by order dated 31st July 2023, dismissed both the Appeals and thereby confirmed the acceptance of change report No.1420 of 2019 filed by Bidwe group. Again the said order in the Appeals was challenged before this Court in Writ Petition Nos.11919 of 2023 and 11880 of 2023. This Court by order dated 28th February 2024, dismissed both the Writ Petitions filed by Girwalkar group. It was then directed by this Court that further elections by appointing Joint Charity Commissioner be held. Accordingly, further elections were held and group headed by Mr. S.T. Girwalkar came to be elected through draw of lots as there was equal voting. Pursuant to the said decision in the election, change report No.350 of 2024 was filed before the Deputy Charity Commissioner, Latur, which came to be allowed on 14th June 2024, provisionally. Newly elected

executive body was permitted to manage the day-to-day affairs of the trust, however, restrained from taking any policy decision till disposal of the change report.

2. It has been contended that the petitioner in Writ Petition no.11867 of 2024 is teaching staff appointed in respondent No.6 college which was started in the year 1993. The petitioner completed his diploma in Engineering in 2002, degree in 2005 and completed his post-graduation, M.E. in 2014 in CAD CAM (Mechanical Engineering). The petitioner came to be appointed as lecturer with respondent No.6 college on 21st August 2012 and while in service, he completed his post-graduation. The petitioner was accommodated as Assistant Professor in 2014 and since then he was working on the said post. Till July 2020, the salary of the petitioner has been paid however, from July 2020 to November 2022 his salary as well as EPF contribution has not been paid. Later on it came to be paid for the period December 2022 to July 2023. From August 2023, he has been transferred as In-charge Principal in T.G. Girwalkar Polytechnic College, Ambajogai, where he worked till May 2024. His salary has been paid till May 2024, however, after the new management took the charge, the petitioner was asked to handover the charge of the

post of Principal to another person. The petitioner says that he has not been repatriated and since 24th June 2024, he has not been allowed to sign the muster roll and he has not been given the salary, as well as his EPF contribution is not paid since 27th April 2023. Time and again he has made communications, however, it has not been paid. Hence, he has filed the Petition.

3. The petitioners in Writ Petition No.11968 of 2024 are the teaching and non-teaching staff appointed in respondent No.6 College. They are working since last more than fifteen years and they are the permanent employees. Respondent No.7 is stated to have made misappropriation of the amount of Rs.1,38,03,219/-. Regular salary was not paid to the petitioners and even yearly increments were also not given to the petitioners and this has happened in view of the change in the management. They have made allegations in respect of the illegal acts of respondent No.7 and thus they have also filed the present Petition. The petitioners in both the Petitions have prayed to declare that act on the part of respondent Nos.5 and 6 restraining them from signing the muster roll after May 2024 is illegal and arbitrary. They prayed for reinstatement in service by granting back wages as they were not allowed to sign the

muster roll and they have also prayed for release of their salary and also direction to respondent No.4 university and respondent No.8 AICTE, who is controlling authority, to take action against respondent Nos. 5 and 6.

4. Respondent No.5 has filed affidavit of one Madhavrao Hanmantrao Patil, the secretary of respondent No.5 society. It is stated that there is alternate efficacious remedy available to the petitioners. According to respondent No.5, there are no outstanding arrears of salary remained to be paid to the petitioner. It is stated that since long all the petitioners are not in service of the society and therefore, there is no question of monthly salary or the arrears of salary. As regards petitioner Sudeep Zirmire (petitioner in Writ Petition No.11867 of 2024) is concerned, it is stated that he joined the service on 21st August 2012 as lecturer, however, his services have not been approved. His last working day was 30th June 2020 and thereafter he has not been continued. Till that date whatever amount was due, has been paid to him. It is stated that he was working on temporary and ad-hoc basis and when he started misbehaving with the higher authorities for which there is evidence, his services were not continued from academic year starting from 1st July 2020.

The petitioner got fresh appointment as In-charge Principal for T.B.G. Polytechnic, Ambajogai, where he is now claiming to have been transferred. It was in fact his fresh appointment. He has received the salary for the period December 2022 to December 2023 but there is no record available in the institute. The previous record has been taken away by Mr. M.G. Poddar. The petitioner – Zirmire was paid all dues regarding provident fund and an order to that effect which was passed on 24th March 2025 by the Regional P.F. Commissioner-II, would demonstrate the payment. If at all any grievance is there as regards the recovery of the salary then he can file civil suit or dispute before the Industrial Court or before the College Tribunal, as permissible under law, but certainly Writ Petition under Article 226 of the Constitution of India is not maintainable.

5. By way of separate affidavit-in-reply filed in Writ Petition No.11968 of 2024, the same person on behalf of respondent No.5 raises similar questions and it is stated that a common Writ Petition for different facts is not maintainable. In respect of each of the petitioner the tabular chart has been given, as to what was the joining date, whether services were approved and then it is stated that the petitioners have left the institution

voluntarily without reporting to the duty. It is also stated that there is evidence to show that these petitioners were not available in the college premises. It is stated that the claim of these petitioners for salary is false. Petitioner No.5 - Basvaraj Biradar, came to be appointed on temporary and ad-hoc basis and that appointment was not continued from 30th June 2019, petitioner No.6 - Mahesh Kale came to be appointed on temporary and ad-hoc basis from 5th September 2018 and that appointment was not continued from 31st March 2020, petitioner No.8 - Shivkumar Mallaya came to be appointed on temporary and ad-hoc basis from 10th December 1999 and it was not continued since 31st March 2020, petitioner No.9 - Rahul Limbalkar came to be appointed on 24th January 2018 on temporary and ad-hoc basis and the said appointment was not continued since 31st March 2020, petitioner No.10 - Vaijnath Todkari came to be appointed on 1st April 1999 on temporary and ad-hoc basis and he was not continued since 31st March 2020, petitioner No.11 - Meena Deshpande came to be appointed on temporary and ad-hoc basis and her appointment was not continued since 31st March 2020, for the reasons stated in the reply. As the college could not work in absence of qualified teaching and non-teaching staff, the advertisement was issued,

however, this Court has granted interim relief against respondent No.5.

6. Respondent No.8 has filed affidavit of Mr. John Hongray, Assistant Director, AICTE. It is stated that there are about 10000 AICTE approved institutions having a faculty/staff of about around 6,00,000 members. It is not possible for AICTE to entertain individual grievance of faculty/staff on service matters. AICTE as a matter of policy has delineated this aspect to the respective university/ State DTE. A mandatory grievance redressal system has to be set up in each institution to look into the grievance of faculty/staff. There is policy promulgated by the AICTE, namely 'AICTE (Redressal of Grievance of Faculty/Staff Member) Regulations, 2021' for service/salary related matters. All technical institutions should address the grievance of faculty/staff members including service matters at the institution level itself and grievance redressal committee shall be constituted by each institution to look into the grievance of the faculty/staff members. In case of faculty/staff member is not satisfied with such decision, then the grievance can be raised before the university.

7. The petitioners in Writ Petition No.11968 of 2024 have filed rejoinder. Petitioner No.4 - Mahesh Gopalrao Khogare has filed the said rejoinder and denied that some of the petitioners have left the job voluntarily. It is stated that the dates of absence allegedly shown in the affidavit of respondent No.5 are the dates during the lock down period in Covid Pandemic situation. Respondent No.4 university had issued notification dated 15th March 2020, suspending all academic and co-curricular along with extracurricular activities of all affiliated institutions due to Covid-19 Pandemic situation. Similarly, respondent No.6 college had also issued such notification. The petitioners have continuously worked till the oral termination from June 2024. Respondents have prepared fraudulent record showing appointment of petitioner No.6 in the department of civil engineering. Respondent No.5 is trying to take old issues even in respect of maternity leave, which was of the year 2009-2010. Again the dispute between the rival groups of management has been stated and the claim has been reiterated.

8. Learned Senior Counsel Mr. R.N. Dhorde, instructed by learned Advocate Mr. V.R. Dhorde, after reiterating the facts submits that since there is dispute between the two groups of

management for which the proceedings are going on before the learned Deputy Charity Commissioner, the petitioners are required to suffer. Respondent No.7, who is holding the post of Principal of respondent No.6 College, is the supporter of Girwalkar group. When in fact university has granted approval to the appointment of In-charge Principal Dr. M.G. Poddar, then respondent No.7 who was the earlier Principal was handing over the office record along with keys and therefore, letter was issued on 12th December 2022 to him by the elected management. Then upon the complaint made by Girwalkar group, the respondent university had withdrawn the approval of Dr. M.G. Poddar, the in-charge principal on 9th May 2023. Respondent No.7 then became active. Respondent No.7 has deducted the contribution of provident fund from the salaries of the petitioners but has not deposited it with the Provident Fund authorities, thereby there is a misappropriation of the amount of the contribution. The petitioners had made representations regarding the same to the management, however, the new management, which was elected in the month of June 2024, had restrained the petitioners from signing the muster roll. The petitioners have communicated the said fact to the university as well as the respondent Government authorities by making grievance, but no

action has been taken. Hence the petitioners are before this Court.

9. Learned Advocate Mr. Dharurkar for respondent No.8 AICTE submits that it is the internal affair of the management.

10. Learned Advocate Mr. N.P. Patil Jamalpurkar for respondent No.5, the institution, reiterated the stand taken in the affidavit in reply and submits that in fact cause of action for each of the petitioners is different. The petitioners have mixed several of cause of actions in the present Petitions. As multiple cause of actions have been challenged in these petitions therefore, the Petitions are not maintainable. He also then brings to our notice the observations by the Co-ordinate Bench in ***Chandrakant S/o Gundiba Katwate vs. the Registrar, Dr. Babasaheb Ambedkar Technological University, Lonere and others (Writ Petition No.2292 of 2023, decided on 25th June 2024)***, wherein it is observed that though respondent No.1 therein is constituted under Dr. Babasaheb Ambedkar Technical University Act, 2014, yet till 2024 the grievance committee for the redressal of the grievance of teachers in the affiliated colleges has not been constituted as contemplated under Section 86 of the Act of 2014.

It is then submitted that though these are the observations, yet, the petitioners have alternate and efficacious remedy. Since there are disputed facts involved in the Writ Petitions, the same cannot be gone into under Article 226 of the Constitution of India.

11. Learned Senior Counsel Mr. Dhorde, as regards the maintainability of the Writ Petitions is concerned, relies on the decision in *Janet Jeyapaul vs. SRM University and others, (2015) 16 S.C.C. 530*, wherein it has been observed in Paragraph Nos.24 and 25, as under:-

"24. The English Courts applied the aforesaid test in *Reg. vs. Panel on Take-overs and Mergers, ex p Datafin Plc. and another, (1987) 1 All ER 564*, wherein Sir John Donaldson, MR speaking for three-Judge Bench of Court of Appeal (Civil Division), after examining the various case laws on the subject, held as under: (All ER p.564g-h)

"In determining whether the decisions of a particular body were subject to judicial review, the court was not confined to considering the source of that body's powers and duties but could also look to their nature. Accordingly, if the duty imposed on a body, whether expressly or by implication, was a public duty and the body was exercising public law functions the court had jurisdiction to entertain an application for judicial review of that body's decisions."

25. In *Andi Mukta* case, (1989) 2 SCC 691, the question before this Court arose as to whether mandamus can be issued at the instance of an employee (teacher) against a Trust registered under the Bombay Public Trusts Act, 1950 which was running an educational institution (college). The main legal objection of the Trust while opposing the writ petition of their employee was that since the Trust is not a statutory body and hence it cannot be subjected to the writ jurisdiction of the High Court. The High Court accepted the writ petition and issued mandamus directing the Trust to make payments towards the employee's claims of salary, provident fund and other dues. The Trust (Management) appealed to this Court."

12. Further in the said decision in *Janet Jeyapaul vs. SRM University and others*, (supra), the reliance has been placed on the decision of the Constitution Bench of the Hon'ble Supreme Court in *Zee Telefilms Ltd. vs. Union of India*, (2005) 4 SCC 649, wherein it is made clear that when a private body exercises its public functions even if it is not a State, then the aggrieved person has a remedy not only under the ordinary law but also under the Constitution, by way of a writ petition under Article 226 of the Constitution of India.

13. Before we proceed further, we would like to deal with the issue of maintainability of the Writ Petitions. Learned Advocate for respondent No.5 has pointed out the observations from

Chandrakant S/o Gundiba Katwate vs. the Registrar, Dr. Babasaheb Ambedkar Technological University, Lonere and others, (supra). It was also the writ petition under Article 226 of the Constitution of India challenging the order of dismissal of the petitioner therein passed by respondent No.2 Management. The college run by respondent No.2 therein was also affiliated to present respondent No.4 - Dr. Babasaheb Ambedkar Technological University, Lonere and as per Paragraph No.11 of the said decision, the grievance committee as contemplated under Section 86 of Dr. Babasaheb Ambedkar Technical University Act, 2014 was not established as on 25th June 2024. It was not produced on record that such committee has been formed and it is functional as on today. Therefore, it is very much clear that the present petitioners cannot approach to any such mechanism provided under the Act.

14. Another fact is that in view of ***Zee Telefilms Ltd. vs. Union of India*** (supra) and ***Janet Jeyapaul vs. SRM University and others,*** (supra), certainly respondent No.6 College and respondent No.5, the management herein are doing the activities akin to public duties or same functions. The management is imparting education, that means doing public

function and therefore, the Writ Petition under Article 226 of the Constitution of India is maintainable in the present case.

15. The second limb of the argument or objection is that since disputed facts are arising, those cannot be gone into under Article 226 of the Constitution of India. Though this is a widely accepted rule, but the fact remains is that respondent Nos. 5 and 6 are not disputing a fact that the petitioners were the employees of the College. Respondent Nos.5 and 6 contends that some of the petitioners were not continued on their service, however, for discontinuation, there is no record. How and in what manner some of the petitioners were not continued and some of them had voluntarily left the services, is a question. Now, for voluntarily leaving the job, whether they had made any kind of communication, is also not brought on record. It is then remark that 'left voluntarily without reporting to duty'. If they had not reported for their duty, then what the management/college has done, is a question. In the normal course, a college would issue notice to such persons who are not voluntarily reporting asking them, whether disciplinary action should be initiated against such persons and then the management would undertake such disciplinary action as contemplated under law. No such action

has been taken by respondent No.6 college. Therefore, there is absolutely no force in the said submission. Rather it supports the contention of the petitioners that they were not allowed to sign the muster roll. Without taking disciplinary action or without proving that there is voluntary resignation, it cannot be stated that services of the petitioners have come to an end.

16. It appears that there was dispute between the two groups of management and after one group came in power, the appointments made by the other group were not approved or some such action has been taken which has caused prejudice to the service of the employees appointed by the rival group. The dispute between the management has nothing to do with the services of the employees. Even their services are approved or not, they cannot be deprived of their duties, salaries and other benefits.

17. Respondent No.8 AICTE can be stated to be the controlling authority, however as per the affidavit of Mr. John Hongray Honrei Hongray on behalf of respondent No.8, it is stated that the individual grievances cannot be looked into by the AICTE. According to us, AICTE can take note of the fact that because of

the disputes in the management large section of the employees are affecting and at least remedial measures should be then suggested.

18. Another point that is raised, is that each petitioner has his own grievance and they have different facts and joint Petition by them is not maintainable. We do not agree with this submission. Though facts regarding the appointment and the date from which the concerned petitioner was asked not to sign the muster roll is different, but the fact remains is that they were stopped from signing the muster roll only after respondent No.5, present management came into power i.e. the petitioners were, in a way terminated otherwise, from the services without adopting due procedure. Similar action has been taken against all the petitioners and therefore, both the Petitions deserve to be partly allowed.

19. For the reasons stated above, we pass following order:-

ORDER

(I) Both the Writ Petitions i.e. Writ Petition No.11867 of 2024 and Writ Petition No.11968 of

2024, are partly allowed.

(II) The action on the part of respondent Nos. 5 and 6 restraining the petitioners from signing the muster roll after May 2024, is quashed and set aside. Respondent Nos.5 and 6 should allow the petitioners to resume their duties forthwith.

(III) Respondent No.6 college to take steps for release of the back wages and consequential benefits to the petitioners and to go on paying the regular monthly salaries to the petitioners, henceforth.

(IV) Unpaid salaries be paid to the petitioners within a period of three months from today.

(V) The Writ Petitions stand rejected in respect of prayer clause "E]" to the Writ Petitions.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

LATER ON:-

. After the pronouncement of the order, learned Advocate for respondent No.6 seeks stay to the order since respondent No.6 intends to approach Higher Court. In view of this position, we grant stay to the order passed today for a period of four (4) weeks only.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE