

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE : WRIT PETITION NO. 4962 OF 2012**

Shivaji University Teachers' Association (SUTA) ...  
**Petitioners VERSUS** The University Grants Commission  
& ors. ... **Respondents**

Mr. C.G. Gavnekar for the petitioners., Mr. Rui Rodrigues for respondent no.1., Mr. S.R. Ganbavale for respondent no.2., Ms. M.S. Bane, AGP for respondent no.3., Mr. Harshad Shingnaparkar i/b. A.B. Borkar for respondent no.4., Mr. Sanjay D. Thokade for respondent no.5.

**CORAM : S.C.DHARMADHIKARI AND  
REVATI MOHITE DERE, JJ.  
19th December, 2013.**

**P.C. :-** On 12th September, 2013 a Division Bench of this Court passed a specific order directing the University Grants Commission to file a supplementary affidavit

**dealing with the averments in paragraph 14 of this writ petition.**

2. In terms of this direction an affidavit has been filed by the University Grants Commission and in that affidavit while dealing with para-14 of the writ petition, **it is denied that UGC failed to conduct National Eligibility Test (NET) in physical education** either itself or through its approved agency till filing of the writ petition. In paragraph 5 of this affidavit which has been affirmed by the Under Secretary of the University Grants Commission, NET Bureau, New Delhi it has been stated that National Eligibility Test for Junior Research Fellowship and eligibility for Lecturership is being conducted by UGC since 1989. National Eligibility Test is being conducted by the UGC in the subject 'Physical Education' right from the inception of NET in 1989. **We do not find any record to support this statement because in para-6 of this affidavit reliance is placed upon the National Eligibility Test conducted by UGC in various subjects including physical education as above.** Therefore, a National Eligibility Test to recruit lecturers and junior research Fellowship in which one of the subjects may or may not be physical education is not what is contemplated by this Court when it passed the order of 12th September, 2013. **This Court directed an affidavit to be filed explaining as to how an independent test styled as NET in the subject "Physical Education" has been conducted and therefore, it is a pre-qualification or a term or condition which has been complied with by all petitioners. The affidavit filed does not indicate that the UGC has given any explanation much less satisfactory on the query raised by this Court. Prima-facie, therefore, we are not satisfied with this supplementary affidavit and the writ petition deserves admission.**

3. Rule. Learned Counsel waive service for respective respondents. In the light of the averments in the writ petition and which remain uncontroverted prima facie **there would be an interim order in terms of prayer clause (d).** However, we clarify that such interim order will not create any rights in the petitioner and this is a provisional or an interim arrangement subject to final decision in the writ petition. The petitioners will have to abide by all consequences of an adverse order in the writ petition subject ofcourse to their legal rights.

(REVATI MOHITE DERE, J.) (S.C.DHARMADHIKARI, J.)

\*\*FS:P111\*\*

**CHANGE OF ADDRESS  
ACKNOWLEDGEMENT NO.27**

Requests for changes in address for the purpose of mailing and correspondence, have been reaching us frequently from the members. So to record these changes in Life Member's Register systematically, and to follow up these changes effectively, steps have been taken by The President.

2. We hereby acknowledge the receipt of the requests for change in address from members whose Life Membership Numbers and changed addresses are included in List No. 33 of Changed Addresses of Life Members of NUTA. Details of the said list are as follows:-

**LIST NO. 33 :-** Serialized Nos. of the changed Addresses from 1515 to 1597 (Notified in 2013 Ex. File on Page 105 to 107). The Life membership Numbers of those requesting members are as follows :-

0143, 0288, 0607, 0658, 0718, 0734, 0791, 0950, 1057, 1506, 1608, 1642, 1879, 1941, 2013, 2036, 2100, 2146, 2194, 2238, 2375, 2491, 2545, 2550, 2881, 3131, 3131, 3299, 3357, 3444, 3476, 3498, 3524, 3527, 3532, 3539, 3582, 3619, 3641, 3664, 3693, 3696, 3708, 3712, 3750, 3829, 3872, 3896, 3907, 3928, 3937, 3979, 4067, 4070, 4097, 4108, 4125, 4170, 4202, 4216, 4332, 4433, 4512, 4513, 4605, 4608, 4608, 4680, 4789, 4890, 4939, 4953, 4955, 4957, 4997, 5013, 5027, 5032, 5039, 5049, 5085, 5129, 5180 = Total 83

3. No separate and individual acknowledgement shall be issued in this regard.

4. Hereafter requests for change in address shall be sent only to the president NUTA on his e-mail address which is as follows :-

**pbraghuwanshi@gmail.com**

Every such e-mail communication must contain (1) Life Member No. and (2) New (changed) address of the requesting member.

5. Members may please note that such requests sent by any other mode and to any other office bearer of NUTA Executive may not be speedily and effectively followed up. We hope that the members shall continue to cooperate with us to serve them better.

6. Acknowledgement No. 26 was published on page No 110 of 2013 NUTA Bulletin, containing address changes from 1486 to 1514 in List No. 32 of changed addresses.

15.01.2014

**Dr.Pravin Raghuvanshi**  
President, NUTA

\*\*\*\*\*

**WRIT PETITION NO. 4962 OF 2012**

**PRAYER CLAUSE (d)**

**(d)** Pending the hearing and final disposal of the Writ Petition, your Lordships be pleased to direct the Respondent Nos. 3 to 5 to regularise the services of Petitioner Nos. 2 to 19 **and give the benefits of Permanency, Annual increments and Placements under Career Advancement Scheme** without awaiting the sanction from Respondent No. 1

# N.M. GANGULI : C.R. SADASIVAN

## Advocates High Court

A/205 R.K. Gokuldham S.V. Road, Borivli (W) Nr. Kora Kendra Bus Stop Mumbai 400 092

3 rd JANUARY 2014

To  
The Secretary  
University Grants Commission  
Bahadur Shah Zafar Marg , New Delhi 110 002.

**Re:** Contempt committed by the UGC of the Judgment of the Hon'ble Supreme Court of India in the University of Delhi, Appellant v/s. Raj Singh & Ors, Respondents (AIR-1995 SC, 336)

Sir:

I am concerned for my client Maharashtra Federation of University & College Teachers' Organizations (MFUCTO for brevity) through its Secretary, Dr. Tapati Mukhopadhyay and under instructions from my client I have to state as under:

1. My client states that through the said Judgment of the Hon'ble Supreme Court of India rendered through Hon'ble Justice A.M. Ahmadi and Hon'ble S.P. Bharucha, JJ (AIR 1995 SC, 336) the Delhi High Court Judgment on the 1991 UGC Regulation and the UGC Regulation, 1991 came to be examined and analyzed. It was clearly ruled that the 1991 UGC Regulations were (i) valid; (ii) **recommendatory in character** and (iii) the application of the provisions was prospective. The Hon'ble Supreme Court in para.21 of its Judgment observed as under:

"...The first proviso to cl. 2 permits relaxation in the prescribed qualifications by a University provided it is made with the prior approval of the UGC. This is because the said Regulations, made under the provisions of S. 26(1)(e), define the qualifications that are ordinarily and not invariably required of a lecturer.

**"The second proviso to clause 2 makes the application of the said Regulations prospective.**

"Clause 3 of the said Regulations provides for the consequence of the failure of a University to comply with the recommendations made in clause 2 by employing as lecturers only such persons as fulfill the requirements as to qualifications for the appropriate subject provided in the schedule to the said Regulations. It would also be open, in specific cases for the University to seek the prior approval of the UGC to relax these requirements. Yet again it would be open to the University not to comply with the provision of clause 2, in which case, in the event that it failed to satisfy the UGC that it had done so for good cause, it would lose its grant from the UGC. The said Regulations do not impinge upon the power of the University to select its teachers. The University may still select its lecturers by written test and interview or either. Successful candidates at the basic eligibility test prescribed by the said Regulations are awarded no marks or ranks and therefore all who have cleared it stand at the same level. There is therefore no element of selection in the process. The University's autonomy is not entrenched upon by the said Regulations."

In the last para.24 the Supreme Court clarified the Delhi High Court Judgment as under:

"...It held that the notification dated 19<sup>th</sup> September 1991 by which the said Regulations were published, was valid and mandatory and Delhi University was obliged under law to comply

therewith. The Delhi University was directed to select lecturers for itself and its affiliated and subordinate colleges, strictly in accordance with the notification. Put shortly, the Delhi University is mandated to comply with the said Regulations. As analyzed above, therefore, the Delhi University may appoint as a lecturer in itself and its affiliated colleges one who has cleared the test prescribed by the said Regulations or it may seek prior approval for the relaxation of this requirement in a specific case, or it may appoint as lecturer one who does not meet the requirement without having first obtained the UGC's approval, in which event it would if it failed to show cause for its failure to abide by the said Regulations to the satisfaction of the UGC forfeit its grant from the UGC. If however, it did show cause to the satisfaction of the UGC it not only would not forfeit its grant but the appointment made without obtaining the UGC's prior approval would stand regularized."

2. My client states that before the Hon'ble Delhi High Court and the Hon'ble Supreme Court of India, **the University Grants Commission was a party-Respondent** and the case of the UGC was vehemently argued and put across by the Ld. Attorney General of India.

3. My client states that in the context of two Ld. Division Bench Judgments and Orders of the Hon'ble Bombay High Court directing the Non-Agricultural Universities in Maharashtra to send the few cases of non-NET/SET teachers appointed at the fag end of 1999 and thereafter, to the Respondent UGC for claiming exemptions under the provisions of 1991 and/or 2000 Regulations, **MFUCTO submitted letter dated 30<sup>th</sup> March 2003 to the Chairman of the UGC being Memorandum filed by the MFUCTO on the question of NET/SET qualification in Maharashtra.** In para. 4.1 the position of the Hon'ble Supreme Court was emphasized viz., the Regulations are valid; they are recommendatory in character and the application of the provisions was prospective. In para.5.6 of the said Memorandum, the following request was made:

"The MFUCTO desires that the UGC provide an opportunity to the MFUCTO to explain in person the various aspects of this human problem in the form of improper treatment of NET/SET qualification conditions in the State of Maharashtra. The MFUCTO deputation would wait on the Chairman of the UGC on any appointed day and time at new Delhi so that the complicated issues involved in this vexed problem will stand settled once and for all and injustice would stand removed. It is toward this end that the MFUCTO is submitting this Memorandum and is seeking immediate appointment for discussion."

**It was unfortunate that the UGC chose to ignore the humble request of the State level organization of teachers for grant of appointment to discuss the question of NET/SET in Maharashtra to resolve the long pending issue.**

4. My client states that the Registrar of Nagpur University by his letter dated 17<sup>th</sup> December 2002 to the Chairman of the UGC in connection with the NET/SET issue in Maharashtra pointed out in para.7 as under:



“The University Grants Commission (Qualifications required of a person to be appointed to the teaching staff of a University and institutions affiliated to it) Regulations 1991 as notified on 19<sup>th</sup> September 1991 by the UGC, were analyzed by Supreme Court in Civil Appeal No.1819 of 1994, decided on 8-9-1994, in University of Delhi, Appellant V/s. Raj Singh & Others, Respondents. It was ruled by the apex Court as follows:

(i) the Regulations are valid: Regulations (1991) notified on 19<sup>th</sup> September 1991 are valid;

(ii) **recommendatory: The provisions of clause 2 of the said Regulations are therefore recommendatory in character; and**

(iii) the application of the provisions was prospective: The second proviso to clause 2 makes the application of the said Regulations prospective.”

**5. My client states that the Vice Chancellor of Amravati University also sent letter dated 10<sup>th</sup> December 2002 to the Chairman of the UGC** in connection with the question of NET/SET qualification condition in Maharashtra. By the letter, pointed attention of the UGC was drawn to the Hon'ble Supreme Court Judgment which had ruled that the UGC Regulation, 1991 was recommendatory. Amravati University was required to point this out to the UGC repeatedly again and again through letters dated 10-3-2003, 25-1-2004, 25-2-2005, 29-6-2005 and 3-7-2009. In the very first letter dated 10-12-2002 at para.12 it was pointed out as under:

“(12) Request in respect of (A) Cases covered by Second Proviso of para.2 of UGC Regulation 2000 :

“Every teacher (approved by this University) mentioned (at Sr. No.1 to 30) in column No.2 of the Appendix-A working as a lecturer in the college

mentioned in column No.3 was duly selected by a duly constituted selection committee on a date mentioned in column No.6 of Appendix-A, and was having the then requisite minimum qualification (mentioned in column No.4 of Appendix-A) as were existing at that time. (NET/SET was prescribed as a compulsory qualification at the recruitment level in this university for the first time by Direction No.7 of 1999 dated 27-12-1999 (Please refer enclosure no.7) published in the Amravati University Gazette on 30-12-1999 in page No.97). As per the judgment delivered by the Supreme Court of India referred at 2 above, UGC Regulations, 1991 regarding NET/SET can be implemented prospectively. In supersession of all previous notification UGC issued “UGC Regulation, 2000” notification.

“Every teacher mentioned in Appendix A is covered by second proviso of para.2 of 2000 Regulation. It is considered view of this University that NET/SET qualification is not applicable to the teachers mentioned in the Appendix-A as they are covered by second proviso of para.2 of the UGC regulation, 2000 and protected by the Supreme Court judgment referred at 2 above. UGC may kind confirm this view of the University.”

It was further stated in the said letter as under:

**“It is submitted that for the first time NET/SET was introduced (on 30-12-1999) as a necessary requirement at the recruitment level as per UGC Regulation in Amravati University. This direction later on was converted into Statute No.2 of 2001 (Please refer to enclosure 9) which was assented by Hon'ble Chancellor vide his office letter No. CS/AU/STT/43/00/A/(3727/09 dated 11<sup>th</sup> January 2001.”**

**7. My client states that the UGC through its**

## IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR BENCH, NAGPUR WRIT PETITION NO.6256 OF 2012

Ramesh Haribhau Mankar, Aged about 61 years, Occ. Retired. r/o.18, New ITI Colony, Kanta Nagar, Amravati 444602. ...**PETITIONER // VERSUS // (1)** The State of Maharashtra, through its Principal Secretary, Department of Higher Education, Mantralaya, Mumbai – 32. **(2)** Director of Higher Education, Administrative Building, Shivaji Nagar, Pune. **(3)** Joint Director of Higher Education, Amravati. **(4)** Senior Auditor (Higher Education Grants), Amravati Region, Amravati. **(5)** The Principal, Brijlal Biyani Science College, Dasera Maidan Road, Amravati. ...**RESPONDENTS**

Mr.Firdos Mirza, Adv. for the Petitioner. : Mr.N.W.Sambre, G.P. for Respondent Nos. 1 to 4. : Mr.D.M.Kakani, Adv. for Respondent No.5.

**CORAM : B. R. GAVAI & Z. A. HAQ, JJ.**

**DATE : 19/10/2013.**

**ORAL JUDGMENT (Per B. R. Gavai, J) :**

1. Rule made returnable forthwith. Heard by consent.

2. The petitioner has approached this Court challenging the communication dt.24.09.2012 made by respondent no.4 to the College namely Brijlal Biyani College, Amravati where the petitioner was serving directing the College to submit the papers as per letter no.564, dt.30.9.2011. The petitioner was appointed as a Librarian in the said College on 26.7.1982. **According to the petitioner, the Lecturers who have completed five years in the Selection Grade are entitled to get the salary of Rs.14,940/as per the Government Resolution dt.11.12.1999;** however, respondent nos. 3 and 4 have not treated the petitioner as entitled to get the said pay scale and directed recovery of excess amount vide order dt.30.9.2011. It is further submitted that the said communication was challenged before this Court and **this Court vide order passed in Writ Petition No.1205 of 2011, quashed the said communication.** The petitioner then made a representation to respondent no.3, but till today he has not

passed any orders.The petitioner got retired on 30.6.2012. The petitioner then received the impugned communication dt.24.9.2012. **Hence, this petition.**

3. The two Division Benches of this Court, to which one of us was a party, in the Judgment and Order passed in Writ Petition No.9054 of 2010, dt.22.8.2011 decided at the Aurangabad Bench and the Judgment and Order passed in Writ Petition No.853 of 2012, dt.29.11.2012 decided at this Bench have considered the similar facts and directed the respondents to fix the petitioners therein in the higher pay scale upon their completion of five year's service as Readers/ Selection Grade Lecturers. The aforementioned judgment delivered at this Bench was sought to be reviewed by the State by filing Misc. Civil Application St. No.11599 of 2013. The Division Bench of this Court (aforestated), relying on the judgment of the Apex Court in the case of **Syed Abdul Qadir vs. State of Bihar and Others reported in 2009 (3) SCC 475 found that there was no merit in the review petition and as such, dismissed the same.**

4. In that view of the matter, when it is not disputed that the facts in the present case are identical to the facts in the aforesaid two cases, we are inclined to allow this petition. Hence, the petition is allowed.

The respondents are directed to fix the petitioner herein in the higher pay scale if he is entitled for the same having completed five year's service in the Selection Grade.

Needless to state that the petitioner would be entitled to consequential benefits upon fixation of higher pay scale. It is further directed that **since the petitioner has retired, terminal benefits shall be released to the petitioner within a period of three months from today.**

In the facts and circumstances of the case, no order as to costs.

JUDGE

JUDGE

PR:2013P222 \*\*AF:P119\*\*

बेकायदेशीर 'रिकव्हन्या' काढण्याच्या 'उद्योगा'ला मा. उच्च न्यायालयाचा तडाखा : २

**letter dated 27<sup>th</sup> December 2005 informed Amravati University as under:**

“Since 19<sup>th</sup> September 1991, NET/SET is one of the compulsory requirement for appointment to the post of Lecturer, **the regulations on minimum qualifications issued by the UGC are mandatory in nature** and all the universities are advised to strictly comply with them.”

This statement was a complete reversal of the decision rendered by the Hon’ble Supreme Court of India in University of Delhi V/s. Raj Singh & Others. **This amounted also to gross contempt of the Hon’ble Supreme Court.**

8. My client states that on **3<sup>rd</sup> August 2001** when the issue of NET/SET affected teachers in Maharashtra came for discussion in the **Maharashtra Legislative Council**, the Hon’ble Minister for Higher & Technical Education, Shri Diliprao Valse Patil, stated that **on the one side UGC was maintaining that the 1991 Regulations on NET qualification was mandatory** and on the other side, the Hon’ble Supreme Court of India has ruled that UGC Regulation of 1991 was recommendatory in nature. My client states that the Hon’ble Minister stated again in the House on **11<sup>th</sup> December 2001** that UGC having clarified that the Regulation dated 19-9-1991 was in force and that all the Universities were bound to follow the same, Government of Maharashtra stood by it. My client states that in spite of the Hon’ble Supreme Court Judgment making it clear that 1991 UGC Regulation was recommendatory, Government of Maharashtra going by the statement of the UGC that 1991 regulation was mandatory, was a clear indication that the **UGC was misleading Government of Maharashtra and through the State Government the Maharashtra State Legislature.**

9. My client states that Writ Petition No.10149 of 2010 was pending before the Bombay High Court (Aurangabad Bench) in respect of teachers in Maharashtra who were affected by the attempt of the State Government to retrospectively implement NET/SET qualification condition on them where the UGC was a party-Respondent. My client states that on 11<sup>th</sup> April 2011 an **Affidavit was filed on behalf of the UGC marked in the Hon’ble High Court as pages 83 to 108. In para.12 of the said Affidavit it was assertively stated as under:**

**“UGC’s Regulations 1991 on minimum qualification are mandatory in nature.** However, the same were not implemented by Government of Maharashtra.”

My client states that this assertive statement by the UGC in the Affidavit filed on an important Writ Petition which involved the question of grant of placement benefits in the senior scale and selection grade to the teachers already appointed many years ago, was completely incorrect inasmuch as the Hon’ble Supreme Court of India in AIR-1995 SC, 336 where the UGC was the main contesting Respondent, had clearly ruled that the 1991 UGC Regulations were (i) valid; (ii) recommendatory in character and (iii) the application of the provisions was prospective.

10. My client states that the UGC had issued Notification dated 4-4-2000 bringing into existence the UGC Regulation, 2000. This Regulation indicated that NET/SET was compulsory qualification condition along with PG with B+ (55% of more) subject to the following proviso:

“Provided further that these Regulations shall not be applicable to such cases where selections of the candidates having had the then requisite minimum qualifications as were existing at that time through duly constituted selection committees for making appointments to the teaching posts, have been made prior to the enforcement of these

regulations.”

11. My client states that thus it is clear that the averment in the Affidavit before the Bombay High Court (Aurangabad Bench) dated 11-4-2011 in W.P. No.10149 of 2010 is totally against the Judgment of the Hon’ble Supreme Court. My client feels that the said incorrect statement in the UGC Affidavit was to provide incorrect information to the Hon’ble High Court as has been done by the UGC from time to time and intended to cause confusion as to the ‘mandatory’ or ‘recommendatory’ nature of 1991 UGC Regulations and whether its operation was ‘prospective’ or ‘retrospective’.

12. My client states that the said act amounts to committing contempt of the Hon’ble Supreme Court of India in respect of the Judgment and Order dated 8-9-1994, in University of Delhi, Appellant V/s. Raj Singh & Others, Respondents. The said act also amounts to committing perjury by having made false statement on solemn oath. **My client states that it is not expected from a public body such as the UGC** with a prestigious national stature that such careless statement would be made through an Affidavit without examining all the legal aspects involved. **My client states that it must be considered as the good luck of the Petitioners in the Writ Petition that the said statement in the UGC’s Affidavit did not result in an unfavourable decision from the Hon’ble Court.** A true copy of the Judgment and Order dated 17<sup>th</sup> October 2013 of the Hon’ble High Court in the Writ Petition No.10149 of 2010 is enclosed for ready reference.

13. My client states that in view of the afore-stated, the UGC should even at this late stage place on record its **unconditional apology** for the said act of erroneously or negligently putting on record the said false statement before the Hon’ble High Court through its Affidavit. This is more particularly important because State of Maharashtra has thought it fit to challenge the Judgment and Order dated 1<sup>st</sup> August 2013 of the Hon’ble Bombay High Court (Aurangabad Bench) in W.P. No.11477 of 2010 on the issue of NET/SET and placement benefits to teachers, before the Hon’ble Supreme Court of India in Special Leave Petition CIVIL APPEAL NO. 34118 of 2013.

14. In the circumstances set out hereinabove, my client is compelled to call upon the UGC to purge the contempt by stating afresh that the UGC 1991 Regulation was recommendatory in nature and not mandatory as borne out by the Judgment and Orders of the Hon’ble Supreme Court of India in University of Delhi V/s. Raj Singh & Others and

**(A) to put on record of the Hon’ble Supreme Court of India its unconditional apology for the averment in the said Affidavit** that UGC 1991 Regulations are mandatory, within a period of 14 days when the Hon’ble Supreme Court of India had ruled that the UGC 1991 Regulation was ‘recommendatory’;

**(B) to put on record of the Hon’ble Aurangabad Bench of the Bombay High Court its unconditional apology for the averment in the said Affidavit** that UGC 1991 Regulations are mandatory, within a period of 14 days;

**(C) to place on record its unconditional apology** to Government of Maharashtra and all the institutions to whom statements were made in writing similar to the averment contained in the said Affidavit that UGC 1991 Regulations are mandatory.

15. My client brings to the notice of the UGC that an opportunity is made available to the UGC by the Judgment in respect of 205 Teacher Petitioners covered in the Writ Petition No.10149 of 2010, wherein the matter is referred to the UGC by the Hon’ble Aurangabad Bench of the Bombay High Court for taking appropriate decision within time



limit of 4 months from 17<sup>th</sup> October 2013. This time is granted by the Hon'ble Court to UGC to review its own action and take appropriate decision with a view to give them consequential and incidental benefits.

**(A)** My client further calls upon the UGC while taking appropriate decision as stated above to keep in view the following important legal realities which are within the knowledge of the UGC. They are

(i) as per the Hon'ble Supreme Court decision dated 8-9-1994 (AIR 1995 SC 336), the UGC Regulations 1991 were recommendatory in nature; and

(ii) UGC Regulations 1991 were not implemented by Government of Maharashtra in the State.

**(B)** My client calls upon the UGC while taking appropriate decision to take into consideration the legal realities mentioned in sub para (A) above and

(i) hold and declare that 205 Teacher-Petitioner are covered and protected by proviso 2 of clause 2 of UGC Regulations dated 4-4-2000 and the proviso (i) of the said clause is not applicable to them, as such, condition of NET/SET is/was not applicable to them

(ii) further hold and declare that, in view of the similarity of the situation, every teacher,

included in the 8<sup>th</sup> July 2011 decision of the UGC vide Item No.2.09 communicated by their letter dated 16<sup>th</sup> August 2011 to the Government of Maharashtra and by their letter dated 26<sup>th</sup> August 2011 to the General Secretary of the MFUCTO is covered and protected by proviso 2 of clause 2 of UGC Regulations dated 4-4-2000 and the proviso (i) of the said clause is not applicable to them, as such, condition of NET/SET is/was not applicable to them.

**16. My client calls upon the UGC to act positively in respect of what is stated in paras. 14 (A) to (C) and 15 (A) & (B) within a period of 14 days failing which MFUCTO may be compelled to take out legal proceedings against the UGC** for contempt of the Hon'ble Supreme Court of India as also for having committed perjury by making false statement on oath in the Affidavit filed in the said Writ Petition before the Hon'ble High Court at Bombay, (Aurangabad Bench).

17. MFUCTO requests the UGC to give a hearing to a delegation of the MFUCTO on an urgent basis which would help in understanding the present position and enable just settlement of the long-pending issue.

Yours faithfully  
Sd/- (C.R. Sadasivan)  
Advocate High Court

Encl: As above

\*\*\*\*\*

## MAHARASHTRA FEDERATION OF UNIVERSITY & COLLEGE TEACHERS' ORGANISATIONS (MFUCTO)

Registered under the Trade Union Act 1926. No By II-8162 of 1985

Affiliated to the All India Federation of University and College Teacher's Organizations (AIFUCTO)

Vidyapeeth Vidyarthi Bhavan, 'B' Road, Churchgate, Mumbai - 400 020

### PRESIDENT

Prof. A.T. Sanap  
'Anjali' Vidyacolony, Pipeline road, Sawedi,  
Ahmednagar - 414003 : Mobile - 9422308886  
E.mail- [atsanap@gmail.com](mailto:atsanap@gmail.com) [atsanap@yahoo.co.in](mailto:atsanap@yahoo.co.in)

23RD DECEMBER 2013

### GENERAL SECRETARY

Dr. Tapati Mukhopadhyay  
Park Side 3, Wing, Flat No. 1308 Kulupwadi  
Road, Borivali (East) Mumbai 400 066  
(022-28871430, 9820319455)

प्रति,  
मा. संचालक,  
शिक्षण संचालनालय (उच्च शिक्षण),  
महाराष्ट्र राज्य, मध्यवर्ती इमारत, पुणे-१

**विषय :-** (१) उच्च शिक्षण विभागातील काही सहसंचालक सहाय्या वेतन आयोगाप्रमाणे वेतन फरकाची थकवाकी अदा करताना त्या रकमेतून बेकायदेशीररित्या कपात करण्याची पद्धत अवलंबवित आहेत, याबाबत आपण योग्य ते आदेश संबंधितांना त्वरित निर्गमित करावेत.

(२) विविध मुद्यांच्या अनुषंगाने एमफूक्टो कार्यकारी मंडळाबरोबर बैठकीचे आयोजन करणेबाबत....

महोदय,

महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाने रविवार, दिनांक २४ नोव्हेंबर २०१३ रोजी मा. संचालकांनी शासनमान्य "अस्तित्विय वितलब्धी" मध्ये बेकायदेशीर कपात रोखण्यासाठी करावयाची कारवाई या संबंधाने सविस्तर ठराव संमत केला आहे. सदरचा ठराव सोबत जोडला आहे. याबाबत आपण विधिवत व योग्य कारवाई त्वरित करावी.

उच्च शिक्षण विभागातील विभागातील कार्यालयांमध्ये "सहाय्या वेतन आयोगाप्रमाणे झालेली वेतन निश्चिती अंतिम झाली असताना वेतन फरकाची थकवाकी अदा करताना" काही सहसंचालकांकडून त्या रकमेतून बेकायदेशीररित्या कपात करण्याची पद्धत अवलंबविली जात आहे. थकवाकी अदा करण्याच्या वेळी "शासनमान्य अस्तित्विय वितलब्धी" मध्ये बेकायदेशीर कपात करण्याच्या सहसंचालकांच्या भूमिकेबाबत मा. संचालक या नात्याने आपल्या स्तरावरून त्वरित कारवाई करण्यात यावी, ही विनंती.

महाराष्ट्र प्राध्यापक महासंघ महाराष्ट्रातील विद्यापीठ व महाविद्यालयीन शिक्षकांच्या दिर्घकाळ प्रलंबीत मागण्यांसाठी सातत्याने संघर्ष करीत आहे. महाराष्ट्र प्राध्यापक महासंघ (एमफूक्टो) प्राध्यापकांच्या संबंधाने निर्माण झालेल्या विविध मुद्यांवर आपणांबरोबर चर्चा करू इच्छित आहे.

**चर्चेसाठी प्रमुख विषय /मुद्दे :-** (१) दिनांक १ जानेवारी २००६ नंतर नियुक्त अध्यापकांची सहाय्या वेतन आयोगाप्रमाणे वेतन निश्चिती झालेली असतांना वेतन फरकाबाबतची कार्यवाही न करणे. (२) प्राध्यापकांची पदे निर्धारण करीत असतांना विचारात घ्यावयाच्या कार्यभारासंदर्भात प्रश्न (३) मा. उच्च न्यायालयाने दिलेल्या निर्णयाची अंमलबजावणी प्रलंबित ठेवणे. (रू. १४९४० वेतननिश्चिती, दिनांक १.१.२००६ पूर्वी पी.एचडी शैक्षणिक पात्रता धारण केलेल्या प्राध्यापकांची वेतन निश्चिती इ.) (४) भविष्यनिर्वाहनिधी खाते, सन २००५ नंतर नियुक्त प्राध्यापकांच्या संबंधाने डी.सी.पी.एस. खाते, यासंबंधातील क्रमांक याबाबत प्रत्येक महिन्याच्या पगारातून केली जाणारी कपात इत्यादी प्रश्नाबाबत. (५) वेतननिश्चिती व वेतन फरक अदा करण्याच्या प्रक्रियेतील त्रुटीबाबत.

वरील प्रमुख मुद्यांवर चर्चा करण्यासाठी एमफूक्टोच्या कार्यकारी मंडळास बैठकीची तारीख व वेळ द्यावी ही विनंती.

प्रा. ए.टी. सानप

अध्यक्ष, महाराष्ट्र प्राध्यापक महासंघ

**सहपत्र :-** महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाने रविवार, दिनांक २४ नोव्हेंबर २०१३ रोजी मा. संचालकांनी शासनमान्य "अस्तित्विय वितलब्धी" मध्ये बेकायदेशीर कपात रोखण्यासाठी करावयाची कारवाई या संबंधी संमत केलेला सविस्तर ठराव.

(सदरहू ठराव यापूर्वी सन २०१३ च्या नुटा बुलेटीन च्या पृष्ठ ७ व ८ वर प्रसृत करण्यात आलेला आहे.)

# ज्येष्ठ स्वातंत्र्य सेनानी बाळासाहेब मराठे यांचे जन्मशताब्दी वर्ष

प्रा.बी.टी.देशमुख,

महाराष्ट्र प्राध्यापक महासंघाचे माजी अध्यक्ष

( दै. 'हिंदुस्थान' मध्ये रविवार, दिनांक ०५ जानेवारी २०१४ रोजी प्रसिद्ध झालेला हा लेख 'हिंदुस्थान'च्या सौजन्याने )

विद्यापीठ अनुदान आयोगाच्या वेतनश्रेणी लागू करतांना पात्रतेच्या अटी पूर्वलक्षी प्रभावाने लागू करणे हे पूर्णपणे बेकायदेशीर असतांना तसा प्रयोग करून पहाण्याची उच्च शिक्षण विभागाची खोड फार जुनी आहे. कायद्याने नेट-सेटची पात्रता लागू केलेली नसतांना ती लागू आहे असे समजून राज्यकारभार चालविण्याचा उच्च शिक्षण विभागाने राबविलेला प्रयोग आज सर्वांच्याच परिचयाचा झालेला आहे. अशाच प्रकारचा प्रयोग तिसऱ्या वेतन आयोगाच्या वेतनश्रेण्या लागू करतांना 'एम.फ़ील' या पदवीबाबत त्यावेळेला सुद्धा करण्यात आला होता. महाराष्ट्रातील प्राध्यापकांवर आणीबाणीच्या काळामध्ये एकाएकी हे जे संकट त्यावेळी कोसळले त्यात ज्येष्ठ स्वातंत्र्य सेनानी श्री. बाळासाहेब मराठे यांनी संघटनेला त्या कामात जी मदत केली व ती करतांना जो आधार दिला त्याची उपलब्ध असलेली माहिती त्यांच्या जन्मशताब्दी वर्षात नमूद करणे हे मला माझे कर्तव्य वाटते.

२. तिसऱ्या वेतन आयोगाच्या वेतनश्रेण्या विद्यापीठीय व महाविद्यालयीन शिक्षकांना लागू करण्याच्या संदर्भात त्यावेळेला महाराष्ट्र राज्याच्या मंत्रिमंडळाने निर्णय घेतला व त्यावेळच्या शिक्षण मंत्र्यांनी तो निर्णय विधानसभेमध्ये दिनांक ४ एप्रिल १९७५ रोजी घोषित केला. त्यांच्या याबाबतच्या निवेदनामध्ये असे स्पष्टपणे नमूद करण्यात आले होते की "विद्यापीठ अनुदान आयोगाने शिफारस केलेल्या वेतनश्रेणी जशाच्या तशा शासनाने स्वीकारल्या आहेत. या वेतनश्रेणी विद्यापीठ अनुदान आयोगाने किंवा विद्यापीठांनी विहित केलेली अर्हता धारण करणाऱ्या शिक्षकांना देण्यात येतील." १९७४-७६ च्या दरम्यान विद्यापीठ अनुदान आयोगाची वेतनश्रेणी लागू करतांना २ नोव्हेंबर १९७४ च्या एका पत्राच्ये भारत सरकारने राज्याच्या शिक्षण सचिवांना "For future recruitment to the posts of lecturers in universities as well as in colleges the minimum qualifications shall be as may be prescribed by the University Grants Commission from time to time." असे कळविले होते. त्या आधारावरच महाराष्ट्राच्या त्यावेळच्या शिक्षण मंत्र्यांनी, दिनांक ४ एप्रिल १९७५ रोजी महाराष्ट्र विधानसभेत उपरोक्त घोषणा केली होती.

३. महाराष्ट्र राज्याच्या शिक्षण सचिवांनी सर्व विद्यापीठांच्या कुलगुरुंना तसे पत्रांनी कळविले. नागपूर विद्यापीठाच्या तत्कालीन कुलगुरुंनी नुटाच्या कार्यकारी मंडळाच्या सदस्यांशी झालेल्या चर्चेमध्ये ही बाब नमूद केली. १६ मे १९७५ रोजी राज्याच्या शिक्षण सचिवांनी पाठविलेले एक पत्रच त्यांनी आमच्या सुपूर्द केले. त्या पत्रात असे नमूद करण्यात आले होते की, "I would like to clarify that according to the Government decision the revised UGC pay scales will be applicable to all the University and College teachers who, at present, possess qualifications prescribed by the respective universities".

४. पण पुढे देशामध्ये आणीबाणी घोषित करण्यात आली याचा फायदा घेवून शासनाने "राईट अबाऊट टर्न" ची भूमिका घेतली. प्रत्यक्षात ४ ऑक्टोबर १९७५ रोजी महाराष्ट्र शासनाने जो शासन निर्णय निर्गमित केला (शासन निर्णय क्रमांक युएसजी-११७४/१०४२८७) त्या शासननिर्णयामध्ये सरळ सरळ उलटी अट टाकण्यात आली होती. विद्यापीठ अनुदान आयोगाने नवीन भरतीसाठी टाकलेल्या पात्रतेच्या अटी नमूद करून पुढे या शासननिर्णयात असे म्हटले होते की, "These qualifications are applicable to both existing teachers and the teachers who may be recruited hereafter." शब्द फिरविण्याच्या शासनाच्या या भूमिकेमुळे उच्च शिक्षण क्षेत्राला कमालीचा धक्का बसला, कुलगुरु हादरून गेले. महाराष्ट्र प्राध्यापक महासंघाने याचा धक्का केला.

५. विद्यापीठ अनुदान आयोगाने या पात्रता भावी भरतीसाठी सांगितल्या असून भारत सरकारने सुद्धा त्या भावी भरतीसाठीच सांगितलेल्या आहेत. केंद्रीय विद्यापीठांमध्ये नवीन वेतनश्रेण्या लागू करण्यात आल्या होत्या व त्यांचा तेथे प्रत्यक्ष अंमलही सुरू झालेला होता. पण सेवेत असलेल्या प्राध्यापकांवर या अटी लादण्यात आलेल्या नव्हत्या. उत्तर प्रदेश, बंगाल, बिहार, पंजाब, राजस्थान, गुजरात आणि त्रिपुरा या इतरही सात राज्यामध्ये नवीन वेतनश्रेणी लागू

करण्यात आलेली होती. पहिल्या दोन राज्यात तिचा प्रत्यक्ष अंमलही सुरू झालेला होता. पण पात्रतेच्या या अटी कोठेही विद्यमान शिक्षकांवर लादण्यात आलेल्या नव्हत्या. महाराष्ट्र शासनाच्या वतीने माननीय शिक्षणमंत्र्यांनी विधानसभेत दिलेल्या आश्वासनांच्या विरोधात जाणारी ही तरतूद या शासननिर्णयात टाकण्यात आली होती.

६. महाराष्ट्र प्राध्यापक महासंघाची नुकतीच स्थापना झालेली होती. विद्यापीठ निहाय संघटनांचे प्रतिनिधी मिळून महाराष्ट्र प्राध्यापक महासंघाची स्थापना करण्यात आली होती व अशी स्थापना होऊन वर्ष दोन वर्षांचा काळ सुद्धा झालेला नव्हता. ४ ऑक्टोबर १९७५ च्या शासन निर्णयाचा धक्का करणारी महाराष्ट्र प्राध्यापक संघाच्या कार्यकारी मंडळाची जी सभा ऑक्टोबर १९७५ च्या शेवटच्या आठवड्यात झाली होती ती "किंमताराय बिल्डिंग" या महर्षी कर्वे मार्गावरील मुंबई विद्यापीठाच्या इमारतीमधील मुंबई विद्यापीठ व महाविद्यालयीन शिक्षक संघटनेच्या (BUCTU) कार्यालयामध्ये झाली होती. मी स्वतः महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाचा सदस्य या नात्याने या बैठकीला हजर होतो. मला आजही स्पष्टपणे आठवते, इमारतीच्या तळाशी पोलिसांचा गराडा पडला होता. पोलीस वाहनांचा मोठा ताफा हजर होता. शासनाचा धक्का करणारा ठराव महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाच्या बैठकीत मंजूर झाला. धक्काकाराच्या एका जाहीर सभेनंतर महाराष्ट्र प्राध्यापक महासंघाचे अध्यक्ष डॉ. लिलाधर केणी व सरचिटणीस प्रा.किशोर ठेकेदत्त यांना 'मिसा'खाली अटक करून १५ महिने स्थानबद्धतेत ठेवण्यात आले. महाराष्ट्रातील कोणत्याही प्राध्यापकाने ही नवीन वेतनश्रेणी स्वीकारली नाही. पुढच्या काळासाठी श्री.व्ही.बी.कामथ यांची कार्यवाहक अध्यक्ष म्हणून व श्री.ई.एन.मांजरेकर यांची कार्यवाहक सचिव म्हणून महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाने निवड केली. दोघेही देशाच्या स्वातंत्र्य आंदोलनात भाग घेतलेले स्वातंत्र्य सेनानी होते.

७. संघटनेचा हा विरोध सर्व शक्तीनिशी मोडून काढावा असा शासनाने निर्धार केला होता. महाराष्ट्र प्राध्यापक महासंघाच्या अध्यक्ष व सचिवांना अटक करून हा विरोध कमी होत नसेल तर संलग्न विद्यापीठ निहाय संघटनांच्या सर्व पदाधिकाऱ्यांनासुद्धा स्थानबद्ध करण्याचे धोरण शासनाच्या पातळीवर ठरले होते. त्याप्रमाणे विद्यापीठ निहाय संघटनांच्या पदाधिकाऱ्यांच्या याद्याही तयार करण्यात आल्या होत्या. शासनाच्या धोरणाप्रमाणे त्या त्या जिल्ह्यातील अशा पदाधिकाऱ्यांच्या याद्या बहुधा त्या त्या जिल्ह्यातील सत्ताधारी पक्षाच्या आमदारांना दाखविण्यात आल्या होत्या किंवा देण्यात आल्या होत्या. मुंबई येथील बैठक आटोपून आम्ही सर्व पदाधिकारी आपआपल्या गावी परत आलो तेव्हा असा निर्णय झाल्याची चुणूक आम्हाला दिसून आली. व्यक्तिशः मी त्यावेळेला नुटाचा अध्यक्ष होतो. माझ्याविषयी सद्भावना बाळगणाऱ्या अमरावती येथील सत्ताधारी पक्षाच्या दोन विधानमंडळ सदस्यांनी मला बोलावून याविषयीची कल्पना दिली. "या भानगडीत मी पडू नये व या कटकटीपासून दूर रहावे" अशा प्रकारचा सल्ला मला त्यांनी दिला. संघटना कशासाठी संघर्ष करीत आहे याची त्यांना कल्पना नव्हती व ते जाणून घेण्यात त्यांना रसही नव्हता. केवळ माझ्यावरील स्नेहापोटी ते मला तो सल्ला देत होते, हे उघड होते. सत्ताधारी पक्षाचे तिसरे एक ज्येष्ठ विधानमंडळ सदस्य व ज्येष्ठ स्वातंत्र्य सेनानी श्री.पी.के. उर्फ अण्णासाहेब देशमुख यांनी मात्र याबाबतीत माझ्याशी जे बोलणे केले ते नमूद करणे मला आवश्यक वाटते. तुमच्याशी काही महत्त्वाचे बोलायचे आहे असा फोनवरून त्यांचा निरोप आल्यामुळे मी जेव्हा त्यांना भेटायला गेलो तेव्हा बोलण्याची सुरुवातच त्यांनी अस्खलीत इंग्रजीत पुढील प्रमाणे केली. ते म्हणाले "B.T. ! You are under clouds. If it is a trifle matter forget it, but if it is a matter of principle, don't feel shy of fighting, Fight it out. Don't be crouch down." अण्णासाहेबांनी सर्व विषय समजावून घेतला व त्याबाबत यथोचित मार्गदर्शन केले. अण्णासाहेबांच्या या बोलण्यातून शासनाच्या स्तरावर होत असलेल्या हालचालीची पूर्ण कल्पना आम्हाला आलेली होती.

८. मुंबई, कोल्हापूर, औरंगाबाद, पुणे, नागपूर सर्वच विद्यापीठ संघटनांचे आम्ही पदाधिकारी एकमेकांशी फोनवरून संपर्कात होतो. मला आजही आठवते,

त्यावेळी फोनवरून संपर्क झाल्याबरोबर गंमतीने पहिली विचारणा “काहो! आहात की ‘गोला’ आहात?” या शब्दात होत असे. सर्व पदाधिकाऱ्यांनी आपआपल्या क्षेत्रामध्ये या शासन निर्णयाला विरोध करण्याचा निर्णय ठामपणे राबविण्याचे ठरविले होते. त्यावेळी “नुटा बुलेटीन” सुरु झालेले नव्हते. तेव्हा सारा मजकूर लिहून काढून संघटनेचा अध्यक्ष या नात्याने याबाबत एक लहानशी पुस्तिका प्रसिद्ध करावी असे मी ठरविले. या पुस्तिकेचा सर्व मजकूर तयार झाला. अमरावती येथे प्राध्यापकांची सभा घेऊन तो मजकूर वाचून दाखविण्यात आला व पुस्तिका प्रकाशनाच्या तयारीला माझे सर्व सहकारी लागले. दरम्यानच्या काळामध्ये नुटाच्या कार्यकारी मंडळाची तातडीची बैठक घेण्यात आली व सर्व मजकूर वाचून संमत करण्यात आला. “नवीन वेतन श्रेणी बाबतचा शासकीय ठराव - एक निवेदन” असा या पुस्तिकेचा मधळा असावा असे ठरले. आणीबाणीमुळे वातावरणात एक प्रकारचा तणाव व भीती होती. मी स्वतः व माझ्या काही सहकाऱ्यांनी ज्यावेळेला हे निवेदन छापून घेण्यासाठी काही परिचित मुद्रणालयामध्ये प्रयत्न केला. तेव्हा “या कटकटीत तुम्हीही पडू नका व आम्हालाही पाडू नका” अशा प्रकारचा सल्ला मिळाला. कायद्याप्रमाणे अशा पुस्तिकेवर लेखकाचे, प्रकाशकाचे व मुद्रकाचे नाव छापणे बंधनकारक असते हे येथे लक्षात ठेवणे आवश्यक आहे.

९. माझ्या विद्यार्थी जीवनामध्ये मी दैनिक ‘हिंदुस्थान’ मध्ये काम करित माझे शिक्षण पूर्ण केले होते. १९६४ मध्ये अधिव्याख्याता झाल्यानंतर सुद्धा ‘हिंदुस्थान’ मध्ये माझी नियमित बैठक रहात असे. दै. हिंदुस्थान हे ‘हिंदुस्थान’ प्रेसमधून छापल्या जात असे व त्याचवेळेला इतर छपाईच्या कामांसाठी ‘महाराष्ट्र प्रेस’ या नावाची एक समांतर व्यवस्था हिंदुस्थानमध्ये उपलब्ध होती व बाळासाहेबांचे धाकटे चिरंजीव श्री उल्हास मराठे यांचेकडे ती व्यवस्था होती. सदरहू पुस्तिकेच्या मुद्रणामध्ये येत असलेल्या अडचणी पाहून मी याबाबत बाळासाहेबांशी चर्चा केली. त्यांना समस्येचे स्वरूप सांगितले. सर्व माहिती काळजीपूर्वक ऐकून घेतल्यावर बाळासाहेबांनी जे उद्गार काढले ते असे की “ते तुझे एम.फील वगैरे काय आहे ते मला काही माहिती नाही. पण तू त्या संघटनेचा अध्यक्ष आहेस. शासनाने तुमच्यावर काही अन्याय केलेला आहे. तुमच्या नेत्यांना स्थानबद्ध करण्यात आलेले आहे. अशावेळी मागे न हटण्याचा जो निर्णय तुम्ही लोकांनी घेतला आहे. तो योग्यच आहे. राहता राहिला पुस्तिकेच्या मुद्रणाचा प्रश्न. ती पुस्तिका छपायची की नाही हे तुलाच ठरवावयाचे आहे. पण ती छपायची ठरले तर त्याबाबत पुढची जबाबदारी माझ्यावर सोपव. त्याची तू काळजी करू नकोस. उद्या तुरुंगात जायची वेळ आली तर लेखक या नात्याने भाऊराव व मुद्रक या नात्याने माझा उल्हाससुद्धा तुझ्याबरोबर येईल.” त्यांच्या या उद्गारांनी मला मोठाच आधार मिळाला. मी म्हणालो “बाळासाहेब ही पुस्तिका छपायचीच असे आमचे ठरले आहे.” सर्व मजकुराची प्रत बाळासाहेबांनी हाती घेतली व २४ तासांच्या आत ती पुस्तिका छापून तयार झाली. १८ पानांच्या “नवीन वेतन श्रेणी बाबतचा शासकीय ठराव - एक निवेदन” या मधळ्याच्या प्रा.बी.टी.देशमुख लेखक असलेल्या पुस्तिकेच्या शेवटच्या पानावर मुद्रक म्हणून “उल्हास बाळकृष्ण मराठे (उ.बा.मराठे) महाराष्ट्र प्रेस अमरावती” असे मुद्रकाचे नाव छापलेले आहे. त्यावेळेला प्राध्यापकांच्या सभा घेऊन या पुस्तिकेचे वाटप करण्यात आले. या लहानशा पुस्तिकेचा पुढे कसा उपयोग झाला याबाबतची माहिती पुढील परिच्छेदात नमूद केलेली आहे.

१०. पुढे आणीबाणी संपुष्टात आल्यानंतर जानेवारी १९७७ मध्ये आमच्या उपरोक्त दोनही नेत्यांची सुटका झाली व त्यांनी पुन्हा आपल्या संघटनेतील कामाचा पदभार स्विकारला. त्याबाबतची तपशीलवार हकिकत महाराष्ट्र प्राध्यापक महासंघाचे तत्कालीन कार्यवाहक सचिव श्री. ई.एन. मांजरेकर यांनी प्रसिद्धीला दिलेल्या दिनांक २७ जानेवारी १९७७ रोजी काढलेल्या एका “वृत्तपत्रीय प्रसारणा”मध्ये आलेली आहे. ते पत्रक मी मुद्दाम शब्दशः पुढे जसेच्या तसे देत आहे. :-

“MAHARASHTRA FEDERATION OF UNIVERSITY AND COLLEGE TEACHERS' ORGANISATION : Kimatrai Building, 79 Maharashi Karve Marg, : Bombay 400 002. : 27th January, 1977 : Dr. L.B. Kenny and Prof. K.K.Theckedath, President and General Secretary of the Maharashtra Federation of University and College Teachers' Organisations and also of the Bombay University Teachers' Union, who were arrested under MISA on 1st November 1975 and detained since then for 15 months in Yeravada Central prison, Pune, were released yesterday.

Dr. Kenny and Prof. Theckedath were given a very warm and enthusiastic welcome at V.T. Railway Station this morning by their Co-workers in the Teachers' Movement, relatives and other well-wishers. Among those present to receive them were Prof. V.B. Kamath, the Officiating Presi-

dent of the M.F.U.C.T.O. and B.U.T.U., Prof. A.N. Oza, representing the Bombay University Academic Staff Association, and Dr. S.S.Hoskot, a senior College teacher.

Immediately after their return to Bombay Dr. Kenny and Prof. Theckedath have taken over the reins of the M.F.U.C.T.O. and the B.U.T.U. from the present Officiating President and the Officiating Secretary. Sd/- E.N.Manjrekar, Officiating Secretary.”

११. सुटकेनंतरच्या काळात महाराष्ट्र प्राध्यापक महासंघाचे अध्यक्ष व सचिव म्हणून दोघांनीही अतिशय जोमाने कामाला सुरुवात केली. २३ एप्रिल १९७७, १५ जुलै १९७७ व त्यानंतर २३ ऑगस्ट १९७७ या तीन तारखांना महाराष्ट्र शासन व महाराष्ट्र प्राध्यापक महासंघ यांच्यामध्ये सहमती झाल्याची नोंद करणारी जी तीन मतैक्यपत्रे, उपरोक्त ३ वेगवेगळ्या तारखांना नोंदविण्यात आली. ती शासनाच्या वतीने तत्कालीन शिक्षण सचिव श्री. द.म.सुकथनकर व संघटनेच्या वतीने डॉ.एल.बी.केणी व प्रा.किशोर ठेकेदत्त यांनी स्वाक्षरीत केलेली आहेत. राजकीय वातावरणासुद्धा बदललेले होते. मा. वसंतदादा पाटील राज्याचे मुख्यमंत्री, श्री. यशवंतराव मोहिते हे अर्थमंत्री व श्रीमती प्रतिभाताई पाटील या शिक्षणमंत्री झालेल्या होत्या. ही तीन मतैक्यपत्रे स्वाक्षरीत होण्यापूर्वी महाराष्ट्र राज्याचे तत्कालीन मा. मुख्यमंत्री श्री. वसंतदादा पाटील यांच्या नेतृत्वाखाली अनेक तास तपशीलवार चर्चा झाल्या. या चर्चेमधील एक प्रसंग सांगण्यासारखा आहे. ही चर्चा केंव्हा झाली, या चर्चेला कोणकोण उपस्थित होते, याची माहिती देणारा एक परिच्छेद महाराष्ट्र प्राध्यापक महासंघाने दिनांक २४ एप्रिल १९७७ रोजी प्रसूत केलेल्या एका प्रसिद्धीपत्रकातून मी पुढे जसाच्या तसा नमूद करित आहे. :-

“The Executive Committee of the MFUCTO met the Chief Minister Shri. Vasant Rao B. Patil in his Chamber on 22nd April, 1977 and this meeting was continued on 23rd April, 1977 when a delegation consisting of Prof. L.B.Kenny, President, Prof. K.K.Theckedath, General Secretary, Prof. V.B.Kamath, Treasurer, Prof. Mrs. N.G.Tarlekar, Vice President, Prof. N.D. Mehta, Prof. Vasant Pujari, Prof. B.T.Deshmukh, Prof. Sambhaji Jadhav met him. The following were present on 23rd April from the side of the Government : Chief Minister, Finance Minister, Education Minister, Education Secretary and Finance Secretary. At the end of prolonged negotiations a consensus was arrived at between the MFUCTO and the Government of Maharashtra and a statement was issued signed by Shri D.M. Sukhtankar, Secretary Education Department on behalf of the Government and Prof. L.B.Kenny, Prof. V.B.Kamath and Prof. K.K.Theckedath, on behalf of the MFUCTO.”

१२. दिनांक २३ एप्रिल १९७७ रोजी ही चर्चा सुरु होती. मुख्यमंत्री मा. श्री. वसंतदादा पाटील हे अध्यक्षस्थानी होते. आणीबाणीच्या काळात झालेला जाच पक्षांतर्गत राजकारणामध्ये मा. वसंतदादांना सुद्धा बराच सहन करावा लागला होता. जवळ जवळ राजकारणातून संन्यास घेऊन दादा सांगलीला परत गेले होते. आणीबाणी संपल्यानंतर झालेल्या लोकसभेच्या निवडणुकीनंतर महाराष्ट्राच्या राजकारणात पक्षांतर्गत सत्ताबदल होऊन मा. वसंतदादा मुख्यमंत्री झाले होते, ही गोष्ट येथे लक्षात ठेवण्यासारखी आहे. चर्चा सुरु असतांना शैक्षणिक पात्रतेच्या मुद्यावरील विचार संघटनेच्या वतीने मी मांडत होतो. मी सुरुवात केली. “विद्यापीठ अनुदान आयोगाच्या व केंद्र शासनाच्या योजनेप्रमाणे सेवेत असलेल्या लोकांना एम्.फील ची अट लागू नाही. नवीन पात्रतेच्या अटी सेवेत असलेल्या लोकांना लागू नाहीत. तसे कबूल करण्यात आले होते. शिक्षण मंत्र्यांनी ४ एप्रिल १९७५ ला विधानसभेत केलेल्या निवेदनमध्ये विद्यापीठ अनुदान आयोगाच्या योजनेप्रमाणेच महाराष्ट्रात अंमलबजावणी होईल असे स्पष्टपणे नमूद आहे. मात्र नंतर शासनाने आपला विचार बदलला. शब्द पाळला नाही. आणीबाणी लागू झाली याचा गैरफायदा घेतला व ४ ऑक्टोबर १९७५ च्या शासननिर्णयामध्ये आगावूच्या अटी टाकल्या”

१३. आणीबाणीतील स्थितीबाबतचा उल्लेख माझ्या प्रतिपादनामध्ये येताच दादा अस्वस्थ झाले. वाक्य संपत नाही तर “तुम्हाला त्यावेळी आमच्या शासनाने शब्द दिला होता. आणीबाणीत तो मोडला गेला. पाळला नाही असे तुम्ही आता म्हणता; त्यावेळी तुम्ही कां विरोध केला नाही?” असे सात्त्विक संतापाचे उद्गार मा. वसंतदादांच्या तोंडून बाहेर पडले. आम्ही सारेच अवाकू झालो. यावर उत्तर देण्यासाठी जे शब्द वापरण्याची आवश्यकता होती, ते शब्द डॉ. केणी किंवा डॉ. ठेकेदत्त यांच्या तोंडून बाहेर पडणे शक्य नव्हते, त्यांचा तो स्वभाव



नव्हता. माझ्या कडून मी तावडतोवच या विचारांचा प्रतिवाद केला तो पुढील शब्दात :-

“मा. मुख्यमंत्री महोदय! आम्ही जेवढा विरोध करायला पाहिजे होता, तेवढा केला नाही असे आपण म्हणू शकता पण आम्ही त्यावेळी विरोध केला नाही हे आपले म्हणणे बरोबर नाही” “नवीन वेतनश्रेणीबाबतचा शासकीय ठराव : एक निवेदन” या उपरोक्त पुस्तिकेची एक प्रत त्यांच्यासमोर टाकत, मी म्हणालो. “दादर- माटुंग्यातील एका महाविद्यालयातील प्राध्यापकांच्या सभेमध्ये ४ ऑक्टोबर १९७५ च्या शासन निर्णयाला विरोध करणारी भाषणे केल्यानंतर तुम्ही आमच्या अध्यक्ष व सचिवांना अटक करून १५ महिनेपर्यंत स्थानबद्धतेत ठेवले असे असतांना, आम्ही त्यावेळी विरोध केला नाही हे आपण कसे काय म्हणू शकता?”

१४. मा. वसंतदादांना या घटनांची खरोखरच माहिती नव्हती. “१५ महिनेपर्यंत तुमच्या अध्यक्ष व सचिवांना स्थानबद्धतेत ठेवले? त्यावेळी कोण होते तुमचे अध्यक्ष व सचिव?” अशी मोठ्या उत्सुकतेने दादांनी विचारणा केली. आमच्या सर्वांच्या नजरा त्या चर्चेत सहभागी असलेल्या व आमचे नेतृत्व करीत असलेल्या डॉ. केणी व श्री. ठेकेदत्त यांच्याकडे वळल्या. अत्यंत निर्विकार चेहऱ्याने उभयतांनी दादांना नमस्कार केला. मुख्यमंत्री असलेल्या वसंतदादा सारख्या ज्येष्ठ स्वातंत्र्य सैनिकाच्या मनावर या घटनांचा व कथनाचा परिणाम झाल्याशिवाय राहिला नाही. आणीबाणीत सुद्धा या मंडळींनी सारे बरेवाईट परिणाम भोगण्याची तयारी ठेऊन या तरतुदींना विरोध केला होता. हे ऐकल्यावर दादांच्या चेहऱ्यावरील भाव भराभर बदलले ही गोष्ट मला आजही डोळ्यासमोर स्पष्टपणे दिसते.

१५. पुढच्या चर्चेचा एकंदर नुरच बदलला. “तुम्ही एम्.फील बद्दल, पात्रतेच्या अटीबद्दल काय म्हणालात? पुन्हा सांगा” असे मुख्यमंत्री म्हणाले. मी पुन्हा एकदा वर परिच्छेद १२ मध्ये नमुद केलेले विचार मांडले. त्यावर दादांनी त्यांच्या स्वभावाला शोभेल अशा ठामपणे पुढील उद्गार काढले. “तुमचे म्हणणे मान्य करायला आम्हाला काही अडचण नाही.” ही सारी चर्चा मराठीतून झाली असली तरी यावर झालेले हे मतैक्यपत्र मा. शिक्षण सचिव श्री. द.म. सुखटणकर यांनी इंग्रजीत नोंदविलेले आहे. उभय पक्षी स्वाक्षरीत झालेल्या या मतैक्यपत्राच्या परिच्छेद १ (१) मध्ये ही बाब पुढील शब्दात नोंदविण्यात आली आहे :-

“i) As regards educational qualifications, the main argument of the federation was that in the statement made by the Minister for Education on the floor of the Assembly on 4th April, 1975, the Government had categorically given a commitment to the effect that the U.G.C. scales will be implemented as they are, in respect of those already in service who had the qualifications laid down by the respective Universities. The government should stick to this commitment given on the floor of the House.

The Chief Minister said that he did not see any difficulty in accepting this”

१६. महाराष्ट्र प्राध्यापक महासंघाच्या आमच्या नेत्यांच्या या धिरोदात्त वर्तनाने महासंघाची केवळ प्रतिष्ठाच वाढली असे नव्हे तर महासंघाच्या स्थापनेनंतरच्या २-४ वर्षात संघटनात्मक कामकाजाचा मोठाच मजबूत पाया घातला गेला. या चर्चेमध्ये एकामागून एक मुद्दे सुटत गेले. २३ एप्रिल १९७७ ते २३ ऑगस्ट १९७७ या चार महिन्यांच्या काळात खुद्द मुख्यमंत्र्यांच्या अध्यक्षतेखाली बैठका होऊन ३ मतैक्यपत्रे नोंदविली गेलीत. असे उदाहरण संघटनात्मक पातळीवर भारतात क्वचितच सापडेल.

१७. अमरावती पाणी पुरवठ्यासाठी जो संघर्ष विधानमंडळात व बाहेर झाला त्याचे तपशील नमूद असलेला ३९१ परिच्छेदांचा एक प्रदीर्घ लेख मी यापूर्वी याच स्तंभातून प्रकाशित केलेला आहे. त्यात १० - १५ परिच्छेद बाळासाहेब मराठे यांच्या योगदानाबद्दलचे आहेत. परिच्छेदांची संख्या महत्त्वाची नाही. ज्या वळणावर स्व. बाळासाहेबांनी मुख्यमंत्र्यांना त्यावेळी पत्र लिहिले त्यामुळे त्या चळवळीला निश्चित दिशा मिळाली. महाराष्ट्र प्राध्यापक महासंघाच्या चळवळीचा व बाळासाहेबांचा तसा काही संबंध असण्याचे कारण नाही पण माझ्यामुळे तो आला. त्या लहानशा पुस्तिकेच्या पाच प्रती मी आजही जपून ठेवल्या आहेत. “कठीण समय येता कोण कामास येतो?” या ओळी लिहिणाऱ्या कवीचा काय अनुभव असेल तो असो पण त्या ओळी आजही समोर आल्या की त्या पुस्तिकेच्या ५ प्रति मला सांगतात “काम चांगले असेल तर कोणी ना कोणी कामास येतोच! नाही कसे?” बाळासाहेबांनी त्यावेळी त्या कठीण प्रसंगी जे धैर्य आम्हाला पुरवले ते लक्षात आले की आजही मन भरून येते.

## सन २००६ पूर्वी पी.एचडी. प्राप्त सेवाज्येष्ठ शिक्षकांना सेवाकनिष्ठ शिक्षकांपेक्षा कमी वेतन मिळणे संबंधित सेवाज्येष्ठ शिक्षकांच्या सभेचे आयोजन

सन २००६ पूर्वी ज्या शिक्षकांनी पी.एचडी. प्राप्त केली त्यांना त्यावेळच्या शासननिर्णयानुसार उत्तेजनार्थ वेतनवाढी दिल्या गेल्या. सन २००६ नंतर ज्या शिक्षकांनी पी.एचडी. पदवी प्राप्त केली त्यांना देण्यात आलेल्या उत्तेजनार्थ वेतनवाढीमुळे एकाच महाविद्यालयातील सेवाज्येष्ठ शिक्षकांना त्याच महाविद्यालयातील सेवेत कनिष्ठ असलेल्या शिक्षकांपेक्षा कमी वेतन मिळण्याचे प्रकार अनेक ठिकाणी घडून आले. दिनांक २१ नोव्हेंबर २०१३ रोजी मुंबई उच्च न्यायालयाच्या औरंगाबाद खंडपीठाने सन २०१२ च्या याचिका क्रमांक १०२८३ मध्ये एक निर्णय दिला (याच अंकात पृष्ठ १७ ते २० वर प्रसृत) असून त्यामध्ये पुढील प्रमाणे आदेश दिलेले आहेत.

“ For the above reasons both the Petitions need to be allowed with directions that Respondents shall take necessary action to step up the pay of the Petitioners in both the Petitions so as to be at par with juniors where all the things given are same and shall not discriminate only because the junior teacher has acquired Ph.D. Degree in the course of 6th Pay Commission. The salaries of the Petitioners in both the Petitions may be refixed and arrears be paid within a period of THREE MONTHS. For Petitioners who have already retired, the pension shall be refixed accordingly.”

मा. उच्च न्यायालयाने दिलेल्या उपरोक्त निर्णयाच्या संदर्भात पुढे करावयाच्या कारवायीबाबत विचार करण्यासाठी सन २००६ पूर्वी पी.एचडी. मिळालेल्या

सेवाज्येष्ठ शिक्षकांना त्याच महाविद्यालयातील २००६ नंतर पी.एचडी. मिळालेल्या सेवेत कनिष्ठ शिक्षकांपेक्षा वेतन कमी मिळत असेल अशा नागपूर व अमरावती विभागातील सेवाज्येष्ठ प्राध्यापकांच्या सभेचे आयोजन करण्यात आलेले आहे. बैठकीचा दिवस, दिनांक वेळ व स्थळ खालील तक्त्यात दिल्याप्रमाणे आहे. उभय विद्यापीठ क्षेत्रातील सर्व संबंधित प्राध्यापकांनी उपस्थित रहावे अशी विनंती आहे.- डॉ. अनिल ढगे, सचिव, नुटा

तक्ता

सभेचे ठिकाण : शिक्षक भवन, अमरावती विद्यापीठ परिसर, अमरावती

सभेचा दिवस व दिनांक : रविवार, दिनांक २३ फेब्रुवारी २०१४

सभेची वेळ : दुपारी ४.०० वाजता

टिप :- (अ) सभेला येतांना सेवा ज्येष्ठ शिक्षकांबाबत पुढील माहिती सोबत आणावी. :- (1) Name of the College (2) Name of the Teacher (3) Date of Appointment (4) Length of service (Yrs) (5) Ph.D. awarded (6) IVth Pay Basic 01.01.1986 (7) Vth Pay Basic 01.01.1996 (8) VIth Pay Basic 01.01.2006 (9) Basic Salary as on 1.6.2012 (ब) त्याच बरोबर त्याच महाविद्यालयातील सेवेत कनिष्ठ असलेल्या शिक्षकाला मिळत असलेल्या जादा वेतनाबाबतची पुढील माहिती सोबत आणावी. :- (1) Name of the College (2) Name of the Teacher (3) Date of Appointment (4) Length of service (Yrs) (5) Ph.D. awarded (6) IVth Pay Basic 01.01.1986 (7) Vth Pay Basic 01.01.1996 (8) VIth Pay Basic 01.01.2006 (9) Basic Salary as on 1.6.2012



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO.10283 OF 2012**

(1) Sudamrao Keshawrao Aher, Age63 years, Occu:Retired, R/o Sai Colony, Savedi Road, Ahmednagar, DistAhmednagar, (2) Sahebrao Sukhdeora Rindhe, Age63 years, Occu:Retired, R/o Sai Colony, Savedi Road, Ahmednagar, DistAhmednagar, (3) Ashok Sahebrao Jadhav, Age63 years, Occu:Retired, R/o 'Tanmay' 55, Samata Nagar, Near T.V. Centre, Ahmednagar, DistAhmednagar. ...**PETITIONERS VERSUS** (1) The State of Maharashtra, Through it's Principal Secretary, Higher & Technical Education Department, Mantralaya Annex, Mumbai 431 032, (2) The Director of Higher Education, Maharashtra State, Central Building, Pune, DistPune, (3) The Joint Director of Higher Education, Department of Higher Education, 17, Dr. Ambedkar Road, Pune, DistPune. (4) The University of Pune, Ganesh Khind, Pune, Through its Registrar, (5) New Arts, Commerce & Science College, Ahmednagar, DistAhmednagar. ...**RESPONDENTS**

**WITH**

**WRIT PETITION NO.888 OF 2013**

(1) Tukaram s/o Manikrao Varat, Age59 years, Occu:Service, R/o Aikya Nagar, Pipe Line Road, Savedi, Ahmednagar, DistAhmednagar, (2) Sandhya w/o Ashok Jadhav, Age56 years, Occu:Service, R/o 'Tanmay' 55, Samata Nagar, Near T.V. Centre, Savedi, Ahmednagar, DistAhmednagar. (3) Shridhar s/o Shankar Jadhav, Age55 years, Occu:Service, R/o284, 'Gangai', Vidhya Colony, Nagar Kalyan Road, Ahmednagar, DistAhmednagar, (4 to 13 on Next Page) (14) Dilip s/o Keru Mote, Age51 years, Occu:Service, R/o 'Atharv' Madhuban Colony, Kapileswar Nagar, Behind Market Yard, Ahmednagar, DistAhmednagar, (15) Suresh s/o Tukaram Kharat, Age58 years, Occu:Service, R/o54/A, Modern Colony, Near Gulmohar Road Police Station, Ahmednagar, DistAhmednagar, (16) Mohan s/o Vishvasrao Deshmukh, Age60 years, Occu:Service, R/o 'Antariksha' Kedgaon Devi Road, Amitnagar, Ahmednagar, DistAhmednagar. ...**PETITIONERS VERSUS** (1) The State of Maharashtra, Through it's Principal Secretary, Higher & Technical Education Department, Mantralaya Annex, Mumbai 431 032, (2) The Director of Higher Education, Maharashtra State, Central Building, Pune, DistPune, (3) The Joint Director of Higher Education, Department of Higher Education, 17, Dr. Ambedkar Road, Pune, DistPune. (4) The University of Pune, Ganesh Khind, Pune, Through its Registrar, (5) New Arts, Commerce & Science College, Ahmednagar, DistAhmednagar. ...**RESPONDENTS**

...

Shri. P.R. Patil Advocate for Petitioners in both Writ Petitions., Shri. S.S. Tope, A.G.P. for Respondent Nos. 1 to 3. None present for Respondent No.4 though served., Shri. V.D. Hon Advocate for Respondent No.5.

**CORAM: R.M.BORDE AND  
A.I.S. CHEEMA, JJ.**

**DATE : 21ST NOVEMBER, 2013**

**JUDGMENT [PER A.I.S. CHEEMA, J.] :**

1. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. These Writ Petitions relate to step up of pay of the Petitioners to the level of employees junior in service as employees junior are drawing higher pay.

3. Learned counsel for both sides agree that both the Petitions raise similar dispute. As such for details, we are referring to the facts and material as brought before us in Writ Petition No.10283 of 2012, although both Petitions are heard and are being disposed together.

4. The Petitioners were working as Associate Professors in the Respondent No.5 College. Now Petitioners (as in Writ Petition No.10283 of 2012) have retired. Petitioners had obtained their Ph.D. Degrees in respective faculties. There are other Associate Professors who are juniors to the Petitioners and obtained their Ph.D. Degrees subsequent to the Petitioners. In the implementation of the 6th Pay Commission, they are getting higher salaries. Their names are:1) Mr.V.B. Gadkar, 2) Mr.S.S. Nighut, 3) Mr.M.S. Nimse, 4) Mr.S.C. Karle, 5) Mr.B.D. Todkar, 6) Mr.H.D. Jagtap.

The appointment orders of these persons are subsequent to the Petitioners. The Petitioners have filed copies of various appointment orders and pay fixation. Chart Exhibit F has been filed to show how **Petitioners although senior and were earlier getting higher payscale, now juniors are getting higher payscale than them. The chart is as under:**

<b>PAY FIXATION OF THE TEACHERS</b>								
Sr. No.	Name	Date of Appoin-ment	Length of service (Yrs)	Ph.D. awarded	IVth Pay Basic 01.01. 1986	Vth Pay Basic 01.01. 1996	VIth Pay Basic 01.01. 2006	Basic Salary as on 1.6. 2012
1.	S.K. Aher	01.07. 1995	35	Jan. 2005		12420	43390	51750 Retd. on Sept. 2010
2.	S.S. Rindhe	01.07. 1977	33	Oct. 1983	3000	14940	43390	Retd. on July 2010
3.	A.S. Jadhav	07.08. 1978	32	May 2003	2900	12420	43390	51730 Retd. on July 2010
<b>TO BE COMPARED WITH</b>								
Sr. No.	Name	Date of Appoin-ment	Length of service (Yrs)	Ph.D. awarded	IVth Pay Basic 01.01. 1986	Vth Pay Basic 01.01. 1996	VIth Pay Basic 01.01. 2006	Basic Salary as on 1.6. 2012
1.	V.B. Gadkar	20.07 1977	35	June 2008	3000	12420	43390	59220
2.	S.S. Nighut	02.07 1979	33	Sept. 2008	2900	12000	42120	59220
3.	M.S. Nimse	09.07 1981	31	March 2011	2650	10975	39690	54400
4.	S.C. Karle	11.09 1986	26	June 2009	2200	10000	38530	52890

5. Petitioners have referred to Note 6 of Government Resolution dated 12th August 2009 filed with the Petition, to claim that where a senior teacher promoted before 1st day of January 2006 is drawing less pay in the revised pay structure than his junior who is promoted to higher post on or after 1st day of January 2006, the pay in the pay band of such senior teacher is required to be stepped up to an amount equal to the amount in the pay band as fixed of the junior teacher in that higher post. Relying on the Note 6, the Petitioners claim that anomaly is required to be corrected as the same violates Article 14, 19(1) (g) and 21 of the Constitution of India. Petitioners want their pay to be stepped up to be equivalent to the junior Associate Professors with effect from the date of promotion of junior Associate Professors till respective date of retirement of the Petitioners and the difference to be paid with interest. They also want pensionary benefit to be refixed accordingly.

6. Respondent Nos. 1 to 3 have filed affidavit in reply. It is the defence that Government of Maharashtra has implemented the revision of payscales of teachers and equivalent cadres in higher education as per the U.G.C. Scheme under 6th Pay Commission of Universities, Affiliated Colleges, Government Colleges/ Institutes of Science etc. The Joint Director, Higher Education, Pune has determined and fixed the pay of the Petitioners as per Government Resolutions passed from time to time. Monetary benefits as laid down in 4th, 5th and 6th Pay Commission have been given to the lecturers who acquired Ph.D. Degree before 1st January 1986 and thereafter. Referring to the Note No.6 of Government Resolution ("G.R." for short) dated 12th August 2009, it is claimed that the same relates to promotion and not about incentives of the Ph.D. qualification and so the said Note does not apply to the Petitioners. Ph.D. benefit is an incentive. In the 5th Pay Commission at entry level, four increments were provided if person already had Ph.D. Degree and two increments were provided if the Ph.D. Degree was acquired while in service. Under the 6th Pay Commission, increments for Ph.D. at entry level were five and three increments if Ph.D. is acquired while in service. It is claimed that the difference in salary is because of this. There is no provision of stepping up of pay in respect of incentives granted for acquiring of Ph.D. It is claimed that the anomaly of juniors drawing more pay than that of seniors is because they have acquired Ph.D. Degrees on different dates and its incentives in terms of increments, as per different Pay Commissions.

7. The Petitioners have responded to the above defence of Respondents by way of affidavit by way of rejoinder. Petitioners are relying on Note No.5 of the G.R. dated 12th August 2009 also and have given details as to how the implementation of the 6th Pay Commission has caused inequality.

8. On behalf of the Respondents additional affidavit has been filed and referring to Note No.5 of the G.R. dated 12th August 2009, a comparative chart has been brought on record to show as to how and why the disparity arises. The comparison has been made between Petitioner No.1 S.K. Aher with one Shri. S.S. Nighut. The chart is as under:

Sr No	Name	Aher S.K.	Nighut S.S.
01	Date of Appointment	01.07.1975	02.07.1979
02	Qualification at the time of joining	M.Sc.	M.A.
03	Ph.D. Awarded date	January 2005	Sept. 2008
04	5th pay basic 01.01.1996	12,420	12000
05	5th Pay Basic as on 31.12.2005	18300	17460
07	6th pay basic 01.01.2006	43,390 + 9000	42,120 + 9000
08	01.07.2006	44970 + 9000	43,660+9000
09	01.07.2007	46590+9000	45240+ 9000
10	01.07.2008	48260+9000	46870+5030+ 9000
Remarks :- 55870X3%= 1680.10X3 =5028.30 i.e. 5030 (3 Ph.D Advance increment)			
11	01.07.2009	49980+9000	53730+9000
12	01.07.2010	51750+9000 (Retired on Sept. 2010)	55620+9000
13	01.07.2011		57560+9000
14	01.07.2012		59560+9000

According to the Respondents, Petitioner Aher was drawing more pay in the 5th Pay Commission and even on 1st January 2006 when the 6th Pay Commission was implemented. The disparity arose when S.S. Nighut acquired Ph.D. subsequent to 1st January 2006 and got increments as provided in the 6th Pay Commission Report. Thus, these Respondents claim that there is no question of stepping up even as per Note No.5 of the G.R. referred to above.

9. We have heard learned counsel for both sides on the above lines. Learned counsel for Respondent Nos. 1 to 3 referred to Government of Maharashtra Resolution No.NGC2009/(243/09)UNI1 dated 12th August 2009, with reference to the Revision of payscales of teachers and equivalent cadres in Higher Education as per UGC Scheme ( 6th Pay Commission). Reference was made to Para 7 which has title "Incentives for Ph.D./M.Phil. And Other Higher Qualifications." Sub Para (i) and (v) are referred at the time of arguments and the same need to be reproduced:

" (i) Five noncompounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degree of Ph.D. awarded in the relevant discipline by the University following the process of admission, registration, course

**WRIT PETITION NO.888 OF 2013**  
**PETITIONERS ... 4 to 13**

(4) Shankarrao s/o Balaji Thube, Age 60 years, Occu:Service, R/o Jagruti Colony, Gulmohar Road, Savedi, Ahmednagar, DistAhmednagar, (5) Bapusaheb s/o Appasaheb Patil, Age53 years, Occu:Service, R/o Yashashri Apartments, Rasane Nagar, Near Dizainers Colony, Savedi, Ahmednagar, DistAhmednagar, (6) Suresh s/o Janardhan Babar, Age56 years, Occu:Service, R/o 'Yashodeep', Madhuban Colony, Kapileswar Nagar, Behind Market Yard, Ahmednagar, DistAhmednagar, (7) Machhindra s/o Vishwanath Gite, Age53 years, Occu:Service, R/o42, Sambhaji Nagar, Pipe Line Road, Savedi, Ahmednagar, DistAhmednagar, (8) Bhaskar s/o Hari Zaware, Age54 years, Occu:Service, R/o 'Niranjan', Jagruti Colony, Gulmohar Road, Savedi, Ahmednagar, DistAhmednagar, (9) Madhukar s/o Rakhmaji Karale, Age52 years, Occu:Service, R/o Vidhya Colony, Pipe Line Road, Savedi, Ahmednagar, DistAhmednagar, (10) Vijay s/o Savleram Kale, Age51 years, Occu:Service, R/o 'Sidhakala', 5B, Navnath Nagar, Near Kohinoor Mangal Karyalaya, Gulmohar Road, Savedi, Ahmednagar, DistAhmednagar, (11) Sudhakar s/o Murlidhar Kurhade, Age52 years, Occu:Service, R/o 'RiddhiSiddhi', Vidhya Colony, Pipe Line Road, Savedi, Ahmednagar, DistAhmednagar, (12) Lalita w/o Uttam Kunjir, Age50 years, Occu:Service, R/o Plot No.45, 'Rudhraksh', Near Z.P. Colony, Agarkar Mala, Station Road, Ahmednagar, DistAhmednagar, (13) Arun s/o Kashinath Pandharkar, Age52 years, Occu:Service, R/o01, 'Pranav Residency', Rasane Nagar, Savedi, Ahmednagar, DistAhmednagar,

work and external evaluation as prescribed by the UGC in its Regulation.

.....

(v) However, teachers in service who have been awarded Ph.D. at the time of coming into force of this Scheme or having been enrolled for Ph.D. have already undergone coursework, if any, as well as evaluation, and only notification in regard to the award of Ph.D. is awaited, shall also be entitled to the award of three noncompounded increments even if the university awarding such Ph.D. has not yet been notified by the UGC as having complied with the process prescribed by the Commission.”

. Based on this, it is claimed that under the 6th Pay Commission, at entry level five increments have been provided for teachers having Ph.D. and three increments are provided for teachers who acquire Ph.D. while in service.

10. In this regard Note Nos.5 and 6 of Appendix I to the Government Resolution which have been referred in the pleadings, need to be reproduced for convenience, which read as under:

“Note 5 Where in the fixation of pay under sub rule 2(A) the pay of a teacher, who, in the existing scale was drawing immediately before the 1st January, 2006 more pay than the other teacher junior to him in the same cadre, gets fixed in the revised pay band at a stage lower than that of such junior, his pay shall be stepped up to the same stage in the revised pay band as that of the junior.

Note 6 In case where a senior teacher promoted to a higher post before the 1st day of January, 2006 draws less pay in the revised pay structure than his junior who is promoted to the higher post on or after the 1st day of January, 2006, the pay in the pay band of such senior teacher should be stepped up to an amount equal to the pay in pay band as fixed for his junior in that highest post. The stepping up should be done with effect from the date of promotion of the junior teacher subject to the fulfillment of the following conditions:

(i) both the junior and the senior teacher should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.

(ii) the pre-revised scale of pay and revised Pay Band and Academic Grade Pay of the lower and higher posts in which they are entitled to draw pay should be identical,

(iii) the senior teacher at the time of promotion should have been drawing equal or more pay than the junior,

(iv) the anomaly should be directly as a result of the application of the provision of these rules or any other rules or order regulating pay fixation on such promotion in the revised pay structure.”

11. Relying on above Para 7 of the Government Resolution, it has been argued by learned counsel for Respondent Nos. 1 to 3 by referring to the comparative chart of Petitioner S.K. Aher and S.S. Nighut (reproduced above), that on 1st January 2006 when 6th Pay Commission was implemented, Petitioner had higher salary but the salary of S.S. Nighut increased as he acquired Ph.D. Degree in September 2008 which was subsequent to coming into force of 6th Pay Commission. **Thus, according to the counsel the difference is not because of pay fixation but because the increments have been given to the junior.**

12. **No dispute has been raised regarding the claim of the Petitioners that they were seniors to the persons mentioned in the Petition**, who, according to the Petitioners are getting more salaries than them. If the comparative chart of Petitioner Aher and S.S. Nighut is perused and details compared, it can be very well appreciated that date of appointment of Petitioner is earlier to S.S. Nighut. Both of them were Post Graduates. Petitioner Aher acquired Ph.D. Degree in January 2005 while S.S. Nighut acquired the same only subsequently in September 2008. At the beginning and end period of 5th Pay Commission, Petitioner Aher was getting more salary. Even on 1st January 2006 when 6th Pay Commission basic was applied, basic of Petitioner Aher was more. The position changed after 1st July 2008 as it appears that in September 2008 S.S. Nighut acquired Ph.D. and was granted three advance increments.

**. Question before us is, whether this is appropriate or the position is required to be corrected by stepping up the pay of the Petitioners so as to be equivalent to the junior.** The Petitioners have pointed out in Para 7 of the Petition that the anomaly exists because teachers junior to Petitioners who have been awarded Ph.D. Degrees after 1st January 2006 are entitled to three non compoundable increments. **When Petitioners completed their Ph.D. Degrees before 1st January 2006, they were entitled to get only two increments of Rs.420/each, totalling to Rs.840/, while teachers who got their Ph.D. Degrees subsequently, got their salary increased by almost Rs.9000/per month, inclusive of three additional increments and other allowances.**

13. Comparative chart of Petitioner S.K. Aher and S.S. Nighut makes it clear that while everything was equal between the senior and junior to the extent that both of them had acquired Ph.D. Degrees, due to the only difference that the junior had acquired Ph.D. Degree recently, he has been given incentive under implementation of 6th Pay Commission in such a manner that he marches over the senior to get much more in salary by what has been stated to be an incentive for acquiring Ph.D. Degree. No doubt incentives are required to be given but all things given to be the same, if while implementing the incentive to the junior disparity arises in the pay, it would be necessary to step up the pay of the senior so as to be at par with junior. If this is not accepted, it would create serious disparities as is appearing from the present record. **After all giving of the incentive under the Pay Commission is also part of the implementation of Pay Commission and there is no reason why disparity arising due to implementation should not be corrected and pay of the senior should not be stepped up.**

14. Learned counsel for the Petitioners relied on the case of **Gurcharan Singh Grewal and another vs. Punjab State Electricity Board and others**, reported in **(2009) 3 Supreme Court Cases 94**. That was also the matter where anomaly arose due to difference of incremental benefits. The learned counsel for Respondents, Mr. Chhabra, in that matter, tried to justify the disparity before the Hon’ble Supreme Court by claiming that the disparity between the pay of Shri. Shori (in that matter) and Appellant 1 before the Hon’ble Supreme Court was because the Appellant 1 had been granted promotional scale with effect from 1st January 1996, where the benefits of increments in the scale were lower and on the other hand Shri. Shori who joined the services of the Board in 1974 was granted promotional scale on 17th May 2006 with effect from 1st September 2011 when the increments in the payscale were higher. The Hon’ble Supreme Court observed in Para 17 and 18 of the Judgment as under:”

17. Something may be said with regard to Mr Chhabra’s submissions about the difference in increment in the scales in which Appellant 1 and Shri Shori are placed, but the same is still contrary to the settled principle of law that a senior cannot be paid a lesser salary than his junior. In such circumstances, even if there was a difference in the incremental benefits in the scale given to Appellant 1 and the scale given to Shri Shori, such anomaly should not have been allowed to continue and ought to have been rectified so that the pay of Appellant 1 was also stepped up to that of Shri Shori, as appears to have been done in the case of Appellant 2.

18. We are unable to accept the reasoning of the High Court in this regard or the submissions made in support thereof by Mr. Chhabra, since the very object to be achieved is to bring the pay scale of Appellant 1 on a par with that of his junior. We are clearly of the opinion that the reasoning of the High Court was erroneous and Appellant 1 was also entitled to the same benefits of pay parity with Shri Shori as has been granted to Appellant 2.”

**Thus, the Hon’ble Supreme Court rectified the situation when incremental benefits given at different times were different so that the settled principle of law that “senior cannot be paid a lesser salary than**



his junior” is maintained.

15. In present matter, according to us, the incentives while implementing 6th Pay Commission for Ph.D. cannot be so given so as to give a junior teacher more pay than the senior who is otherwise equally qualified. Rather he has more experience and is senior even in the acquisition of the Ph.D. Degree. All things given to be the same at a given point of time, junior teacher could not be getting more salary than the senior only because the junior has just acquired the Ph.D. Degree. The Constitution has goal under Article 39(d) that there should be equal pay for equal work. If the arguments as raised on behalf of the Respondents are accepted, the same would amount to discriminating to teachers only on the basis of junior teacher having acquired Ph.D. Degree recently under new Pay Commission. This would be violative of the principles as enunciated Article 16 of the Constitution and such position cannot be allowed to be maintained. It is different when one person is having higher qualifications. However, it would be discriminatory when both are having similar qualifications and a person not only senior in service but also equally qualified is so discriminated so as to be put in disadvantageous position as if it was a fault to have acquired Ph.D. Degree earlier. It is not a case of keeping the incentive separate and not part of pay.

If pay fixation of Petitioner No.1 (as at Page 6061 in Paper Book) is seen, on 1st July 2008, his basic pay is shown as Rs.57260/while that of Shri.S.S. Nighut (See Page 107) was Rs.55870/. Then in the proforma of Pay Fixation, entry on 22nd September 2008 for Shri. S.S. Nighut shows his basic pay as “55870+5030=60900”. Thus the increments were merged in the basic. This would be discriminative between Senior Teacher and Junior Teacher. Note 5 below Appendix I of the G.R. needs to be so applied that such discrimination is removed.

16. For the above reasons both the Petitions need to be allowed with directions that Respondents shall take necessary action to step up the pay of the Petitioners in both the Petitions so as to be at par with juniors where all the things given are same and shall not discriminate only because the junior teacher has acquired Ph.D. Degree in the course of 6th Pay Commission. The salaries of the Petitioners in both the Petitions may be refixed and arrears be paid within a period of THREE MONTHS. For Petitioners who have already retired, the pension shall be refixed accordingly.

17. Both the Writ Petitions are allowed as above.

18. Rule made absolute accordingly. No order as to costs.

[A.I.S.CHEEMA,J.] R.M. BORDE,J.]

\*\*FS:P57\*\*

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD : WRIT PETITION NO. 9706 OF 2010**

Prakash s/o Vasudeo Patil & others .. *PETITIONERS VERSUS*  
The State of Maharashtra & others .. *RESPONDENTS*

Mr. S. R. Barlinge, advocate for petitioners., Mr. S. G. Sangle, AGP for the State., Mr. A. B. Girase, advocate for respondent no. 1., Mr. V. T. Choudhari, advocate for respondent nos. 5 and 6., Mr. Alok Sharma, advocate for respondent no. 7.

**CORAM : R.M. BORDE & A.I.S. CHEEMA, JJ.  
DATE : 11th DECEMBER, 2013.**

**PER COURT :** 1. Learned counsel for petitioner, on instructions, seeks leave to withdraw petition by petitioner no. 7 alone with a view of avail of alternate remedy available in law. Leave granted with liberty as prayed for. Petition by petitioner no. 7 alone stands disposed of as withdrawn.

2. The North Maharashtra University has taken decision on the proposal for approval of appointment of petitioners. The petitioners as such need not comply with the requirement of passing Net/Set examination since they have been inducted in employment prior to 23.10.1992. Copy of the decision is placed on record and marked 'X' for identification.

3. In view of the decision taken by the University, nothing survives for consideration in the petition. Consequent upon the decision taken by the University, relying upon the directives of the State Government, monetary benefits accruable to the petitioner flowing from the decision shall be released as expeditiously as possible, preferably within a period of six months from today. In view of the above, writ petition stands disposed of.

4. Pending civil application, if any, does not survive and stands disposed of.

( A.I.S. CHEEMA )

JUDGE

( R. M. BORDE )

JUDGE

\*\*FS:P107\*\*

NUTA BULLETIN (Official Journal of NAGPUR UNIVERSITY TEACHERS' ASSOCIATION)  
**CHIEF EDITOR :** Prof. Vivek S. Deshmukh, Balaji Society, Yavatmal 445 001. **PUBLISHER :** Prof. Vivek S. Deshmukh, Balaji Society, Yavatmal 445 001. Type Setting at NUTA Bulletin Office, Phundkar Bhavan, Behind Jain Hostel, Maltekadi Road, Amravati-444 601. **PRINTED AT** Bokey Printers, Gandhi Nagar, Amravati. (M.S) **REGD NO. MAHBIL/2001/4448** Postal Registration No. ATI/RNP/078/2012-14 Price : Rs. Five / Name of the Posting office : **R.M.S. Amravati.** Date of Posting **15.01.2014**

**If Undelivered , please return to :** NUTA Bulletin Office, Phundkar Bhavan, Behind Jain Hostel, Maltekadi Road, **Amravati-444 602.**

To,.....

.....

.....

.....

.....