

नुसत्या बिनशर्त क्षमायाचनेला काय अर्थ आहे ?

महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाच्या

रविवार, दिनांक १८ जून, २०१५ रोजीच्या

बैठकीत संमत झालेला ठराव

(१) नेट-सेट मुक्त शिक्षकांच्या संदर्भात मा. मुंबई उच्च न्यायालयाच्या औरंगाबाद खंडपीठासमोर सन २०१४ च्या अवमान याचिका क्रमांक २६६ च्या संदर्भात जळगाव विभागाच्या सहसंचालकांनी दिनांक १० जून, २०१५ रोजी एक शपथपत्र (P95 NB2015) दाखल केले आहे. मुळात ही अवमान याचिका सन २०१४ च्या याचिका क्रमांक ६४२ मध्ये मा. औरंगाबाद खंडपीठाने दिलेल्या निर्णयाची (P94 NB2015) (यापुढे 'मूळ निर्णय' असे म्हणू) शासनाने अंमलबजावणी केली नाही म्हणून दाखल करण्यात आलेली होती. या शपथपत्रामध्ये मा. न्यायालयाच्या आदेशाची अंमलबजावणी न केल्याबद्दल सहसंचालकांनी बिनशर्त माफी मागितली आहे. शपथपत्राच्या परिच्छेद ३ मधील हा मजकूर पुढीलप्रमाणे :- "At the outset I tender my unconditional apology for not having complied with the orders passed by this Hon'ble High Court and pray that the said apology may kindly be accepted."

(२) बिनशर्त माफी मागितल्यानंतर कोणत्या परिस्थितीमुळे आपल्याला मा. उच्च न्यायालयाच्या निर्णयाची अंमलबजावणी करता आली नाही याचे वर्णन सहसंचालकांनी आपल्या शपथपत्रात केलेले आहे. तसे करतांना प्रथम शपथपत्राच्या परिच्छेद ४ मध्ये सहसंचालकांनी याचिकाकर्त्याचे म्हणणे पुढील शब्दात मांडले आहे :- "The orders of which the Petitioners are alleging contempt against the Respondents are based upon the decision of this Hon'ble High Court in the case of Asha Ramdas Bidkar Versus The State of Maharashtra and Others and the Interim Order passed by the Hon'ble Supreme Court in the Special Leave Petition filed by the State against the decision of the Hon'ble High Court" श्रीमती आशा बिडकर विरुद्ध राज्यशासन प्रकरणातील मा. उच्च न्यायालयाच्या निर्णयाला सर्वोच्च न्यायालयाने स्थगनादेश दिलेला आहे ही वस्तुस्थिती आहे, मात्र मा. उच्च न्यायालयाचा मूळ निर्णय (६४२/२०१४) हा आशा बिडकर प्रकरणातील निर्णयावर आधारित आहे हे सहसंचालकांचे विधान वस्तुस्थितीवर आधारित नाही. मूळ निर्णय (६४२/२०१४) काळजीपूर्वक वाचला तर त्या निर्णयात एकूण लहान-लहान ७ परिच्छेद असून त्यात कोठेही बिडकर विरुद्ध राज्यशासन या प्रकरणाचा उल्लेख नाही. मूळ निर्णयाच्या परिच्छेद २ मध्ये "Perused the order passed by the Supreme Court in Special Leave to Appeal (Civil) No.34118 of 2013, dated 18.11.2013." (P94 NB2015) असा उल्लेख आहे व परिच्छेद ५ व ६ पुढीलप्रमाणे आहेत :-

"5 In view of the notifications dated 21.02.2008 and 23.02.2010, respectively, issued by the University Grants Commission, petitioners, who have not passed NET/SET examination but who have completed six years of service as on the date, should be entitled to the benefits of Career Advancement Scheme only for the purpose of pay scales.

6 The Respondents shall release monetary benefits accruable to the petitioners in terms of above, as expeditiously as possible, preferably within a period of twelve weeks from today."

(३) मा. सहसंचालकांच्या शपथपत्रातील "The orders of which the Petitioners are alleging contempt against the Respondents are based upon the decision of this Hon'ble High Court in the case of Asha Ramdas Bidkar Versus The State of Maharashtra and Others" हा उल्लेख त्यांनी 'जनरल नॉलेज'च्या आधारावर केलेला आहे, हे स्पष्ट दिसून येते, मात्र "and the Interim Order passed by the Hon'ble Supreme Court in the Special Leave Petition filed by the State against the decision of the Hon'ble High Court" हा उल्लेख वस्तुस्थितीवर आधारित असून मा. सर्वोच्च न्यायालयाच्या दिनांक २५ मार्च, २०१५ च्या आदेशानुसार (P41 NB2015) उपरोक्त अंतरिम आदेश कायम आहे. इतकेच नव्हे तर तत्सम लाभधारकांना तत्सम अंतरिम आदेश मिळविण्याची मा. सर्वोच्च न्यायालयाने आपल्या २५ मार्च, २०१५ च्या

नेट-सेट मुक्त शिक्षकांच्या बाबतीत, मा. सर्वोच्च न्यायालयाच्या १८ नोव्हेंबर २०१३ च्या अंतरिम आदेशानुसार, मा. मुंबई उच्च न्यायालयाच्या विविध खंडपीठांनी २५ मार्च २०१५ नंतर, दिलेल्या न्यायनिर्णयांची सूची चौथी सूची : सुधारणा

सन २०१५ च्या नुटा बुलेटीनच्या पृष्ठ ७१ वर प्रसिद्ध करण्यात आलेल्या नेट-सेट मुक्त शिक्षकांच्या बाबतीत, मा. सर्वोच्च न्यायालयाच्या १८ नोव्हेंबर २०१३ च्या अंतरिम आदेशानुसार, मा. मुंबई उच्च न्यायालयाच्या विविध खंडपीठांनी २५ मार्च २०१५ नंतर, दिलेल्या न्यायनिर्णयांच्या चौथ्या सूची मध्ये क्रमांक ९ नंतर पुढील क्रमांक १० ते १३ दाखल करावे :-

(10) W. P. (L) NO. 643/2015 :- IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION. WRIT PETITION (L) No. 643 OF 2015. Rajashri P. Kadam and Ors....Petitioners Vs. University Grants Commission and ors....Respondents. CORAM : V. M. KANADE & B.P COLABAWALLA, J.J. DATE : JUNE 10, 2015. Judgment circulated on page 90 of 2015 NUTA Bulletin.

(11) W. P. (L) NO. 1311/2015 :- IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION. WRIT PETITION (L) No. 1311 OF 2015. Mrs. Michelle Philip and Ors....Petitioners Vs. University Grants Commission and Ors....Respondents. CORAM : V. M. KANADE & B.P COLABAWALLA, J.J. DATE : JUNE 10, 2015. Judgment circulated on page 90 of 2015 NUTA Bulletin.

(12) W. P. NO. 1158/2015 :- IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH : NAGPUR. Writ Petition No. 1158/2015. Nagpur University Teachers' Association, Nagpur and ors. vs. State of Maharashtra and others. CORAM : B.R. Gavai & Indira K. Jain, JJ. DATED : June 26, 2015. Judgment circulated on page 91 of 2015 NUTA Bulletin.

(13) W. P. No. 3497/2015 :- IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH : NAGPUR. Writ Petition No. 3497/2015. Nagpur University Teachers' Association, Nagpur and ors. vs. State of Maharashtra and others. CORAM : B.R. Gavai & Indira K. Jain, JJ. DATED : June 26, 2015. Judgment circulated on page 91 of 2015 NUTA Bulletin.

PR :- (1) P71 NB15 (2) P89 NB15

आदेशाने मोकळीक दिलेली आहे. त्या निर्णयातील परिच्छेद ७ पुढीलप्रमाणे :-
“Liberty is also granted to affected persons to seek in the High Court of Judicature at Bombay ad interim orders which may place them on parity with other Lecturers/Assistant Professors similarly placed.” मा. सर्वोच्च न्यायालयाच्या आदेशानंतर व त्या आदेशानुसारच २५ मार्च, २०१५ नंतर मा. मुंबई उच्च न्यायालयाच्या विविध खंडपीठांनी निरनिराळे १३ अंतरिम आदेश पारित केलेले आहेत.

(४) शपथपत्राच्या परिच्छेद ५ मध्ये सुरुवातीलाच मा. सहसंचालकांनी “I say that, since the Hon’ble Supreme Court has stayed the implementation of the decision of this Hon’ble High Court rendered in the case of Asha Ramdas Bidkar, the Respondents have not granted Monetary Benefits of the CAS to the present Petitioners.” असे नमूद केले आहे. श्रीमती आशा बिडकर विरुद्ध राज्यशासन या प्रकरणातील मा. उच्च न्यायालयाच्या निर्णयाला मा. सर्वोच्च न्यायालयाने स्थगिती दिली. हे त्यांचे विधान वस्तुस्थितीवर आधारित आहे. मात्र अवमान याचिकेचा विषय असलेल्या ६४२/२०१४ या प्रकरणातील मा. उच्च न्यायालयाच्या निर्णयाला मा. सर्वोच्च न्यायालयाने स्थगिती दिलेली नाही ही गोष्ट या सहसंचालकांनी आपल्या शपथपत्रात लपवून ठेवली आहे.

(५) सहसंचालकांच्या या शपथपत्रावरून सर्वच अवमान याचिकांच्या संदर्भात राज्यशासनाची भूमिका काय असू शकेल याची कल्पना येऊ शकते. या शपथपत्राच्या परिच्छेद ५ मध्ये सहसंचालकांनी आर्थिक भाराचा मुद्दा उपस्थित केलेला आहे. तो पुढील शब्दात :- “The implementation of the CAS scheme involves a huge financial burden on the State Exchequer and therefore the Government is awaiting a decision from this Hon’ble High Court on the issue.”

(६) आर्थिक भाराच्या मुद्यासंदर्भात या महासंघाच्या अध्यक्ष व सचिवांनी दिनांक ७ मे, २०१५ रोजी “अवमान याचिका निकाली निघतांना दक्षतापूर्वक लक्ष ठेवण्याची गरज” या मथळ्याचे जे पत्रक (P62 NB2015) प्रकाशित केलेले आहे त्यातील परिच्छेद ८ पुढील प्रमाणे आहे :- “खरे म्हणजे अवमान याचिकेच्या

सुनावणीत असा मुद्दा उपस्थित करता येत नाही. मा. न्यायालयाच्या निर्णयाची अंमलबजावणी झाली किंवा नाही एवढाच मुद्दा असतो. तरीही थकवाकी (Monetary Benefits Accrueable) अदा करण्याच्या प्रश्नाबाबत शासनातर्फे आर्थिक भाराचा मुद्दा एखाद्यावेळी उपस्थित केला जाईल, तेव्हा हे सर्व शिक्षक सन १९९१ ते २००० या काळात नेमल्या गेलेले शिक्षक आहेत. (१) १ जानेवारी १९९६ ते ३१ मार्च २००० या काळातील वाढीव वेतन खर्चापैकी ८० टक्के रक्कम केंद्र शासनाने देण्याचे मान्य केले असून तसा स्पष्ट उल्लेख ११ डिसेंबर १९९९ च्या शासन निर्णयाच्या (GOVERNMENT OF MAHARASHTRA Higher & Technical Education Department, Resolution No.NGC-1298/(4619)/UNI.4, Mantralaya Annexe,Mumbai-400 032 Dated : 11th December,1999.) परिच्छेद ३१ मध्ये आहे. त्याचप्रमाणे (२) १ जानेवारी २००६ ते ३१ मार्च २०१० या काळातील वाढीव वेतन खर्चापैकी ८० टक्के रक्कम केंद्र शासनाने देण्याचे मान्य केले असून तसा स्पष्ट उल्लेख १२ ऑगस्ट २००९ च्या शासन निर्णयाच्या (GOVERNMENT OF MAHARASHTRA Higher & Technical Education Department, Resolution No.NGC-2009/(243/09)/UNI.1,Mantralaya Annexe,Mumbai-400 032 Dated : 12th August, 2009.) परिच्छेद १२ मध्ये आहे. ही बाब मा.खंडपीठाच्या लक्षात आणून द्यावी.”

(७) (A) केंद्रशासनाच्या मानव संसाधन विभागाने (HRD) दिनांक ३१ डिसेंबर, २००८ रोजी “Scheme of revision of pay of teachers and equivalent cadres in universities and colleges following the revision of pay scales of Central Government Employees on the recommendations of the Sixth Central Pay Commission” या मथळ्याचा जो शासननिर्णय (No.1-32/2006-U.II/U.I(i)) निर्गमित केला त्या शासननिर्णयाच्या परिच्छेद ८ मध्ये उपपरिच्छेद p (v) (e) मध्ये पुढीलप्रमाणे तरतुद आहे :- “(e) Financial assistance from the Central Government shall be restricted to revision of pay scales in respect of only those posts which were in existence and had been filled up as on 1.01.2006.”

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) No. 643 OF 2015**

Rajashri P. Kadam and Ors. ...Petitioners Vs. University Grants Commission and ors. ...Respondents Mr.Sarnath Sariputta for Petitioners Mr.Abhishe Tripathi i/b. Rui Rodrigues for Respondent Nos.1 and 5 Mr.D.A. Nalawade, Government Pleader for Respondent Nos.2, 3 and 4

CORAM

V. M. KANADE & B.P COLABAWALLA, J.J.

DATE : JUNE 10, 2015

P.C. :

1. Issue notice to the Respondents, returnable after six weeks.

2. We are informed that the Apex Court in Civil Appeal No. 10759 of 2013 had directed the Hon’ble Chief Justice to constitute or nominate the Bench to decide all the pending writ petitions. In paragraph 3 of the said order, the Apex Court had directed the Hon’ble Chief Justice to constitute a Bench for deciding all the pending matters. This Court also in similar matters has directed the Respondents to grant benefit of the Career Advancement Scheme only for the purpose of pay scale to those Petitioners, who have completed six years of service as on 4th November, 2008, but who have not passed NET/SET examination.

3. We, therefore, grant similar relief to the Petitioners, directing the Respondents to grant the benefit of the Career Advancement Scheme only for the purpose of pay scale to those Petitioners who have completed six years of service as on 4th November, 2008, but who have not passed their NET/SET Examination, during the pendency of the writ petition. Stand over to 22.7.2015.

(B.P.COLABAWALLA, J.) (V. M. KANADE, J.)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) No. 1311 OF 2015**

Mrs. Michelle Philip and Ors.....Petitioners Vs. University Grants Commission and Ors.Respondents Mr.Sarnath Sariputta for Petitioners Mr.D.A. Nalawade, Government Pleader for Respondent-State Ms.Pratithi Naphade a/w. Ms. Sarika Mehra i/b L.J. Law for Respondent No.8

CORAM

V. M. KANADE & B.P COLABAWALLA, J.J.

DATE : JUNE 10, 2015

P.C. : 1. Issue notice to the Respondents, returnable after six weeks.

2. We are informed that the Apex Court in Civil Appeal No. 10759 of 2013 had directed the Hon’ble Chief Justice to constitute or nominate the Bench to decide all the pending writ petitions. In paragraph 3 of the said order, the Apex Court had directed the Hon’ble Chief Justice to constitute a Bench for deciding all the pending matters. This Court also in similar matters has directed the Respondents to grant benefit of the Career Advancement Scheme only for the purpose of pay scale to those Petitioners, who have completed six years of service as on 4th November, 2008, but who have not passed NET/SET examination.

3. We, therefore, grant similar relief to the Petitioners, directing the Respondents to grant the benefit of the Career Advancement Scheme only for the purpose of pay scale to those Petitioners who have completed six years of service as on 4th November, 2008, but who have not passed their NET/SET Examination, during the pendency of the writ petition. Stand over to 22.7.2015.

(B.P.COLABAWALLA, J.) (V. M. KANADE, J.)

(B) केंद्रशासनाच्या मानव संसाधन विभागाने दिनांक १४ ऑगस्ट, २०१२ रोजी राज्यशासनाकडे पाठविलेल्या एका परिपत्रकातील (No. F1-7/2010-U.II) परिच्छेद ३ पुढीलप्रमाणे आहे :- “3. Central Government has decided to provide financial assistance, for the period 1-1-2006 to 31-3-2010, to the extent of 80% as reimbursement to those state governments which may opt for the revised pay scales. The State Governments were to provide 20% of arrears from their own resources.”

(C) ८० टक्क्याची थकबाकी अदा करण्याबाबत दिनांक १७ जानेवारी २०१३ रोजी W.P. 64068 of 2011 या प्रकरणात अर्जदाराचे, केंद्र शासनाचे व राज्यशासनाचे म्हणणे ऐकून घेतल्यावर मा. अलाहाबाद उच्च न्यायालयाने दिलेल्या निर्णयात पुढील प्रमाणे उल्लेख आहे :-

“In view of the aforesaid facts, we are of the view that the stand taken by the State Government in the impugned order is wholly erroneous and cannot be sustained.”

“The Central Government has made it clear that reimbursement of 80% of Central share of the additionality of payment of arrears for the period from 1.1.2006 to 31.3.2010 would be made by the Central Government in 2-3 installments by way of reimbursement only after the State Government had made the payment but the State Government has not paid the entire amount of revised pay-scale to the eligible teachers on the pretext that after receiving 80% share from the Central Government, the revised pay-scale would be paid to the eligible teachers, which vitiates the dictum of the scheme so formulated for paying revised pay-scale in pursuant to the VI Pay Commission's Report.”

(D) मा. अलाहाबाद उच्च न्यायालयाच्या या निर्णयाच्या विरोधात उत्तरप्रदेश शासनाने सर्वोच्च न्यायालयात विशेष अनुमती याचिका दाखल केली होती. “Petition(s) for Special Leave to Appeal (Civil) No(s).15927/2013 (From the judgement and order dated 17/01/2013 in

CMWP No.64068/2011 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)” ही याचिका दिनांक २९ जुलै, २०१३ रोजी मा. सर्वोच्च न्यायालयापुढे सुनावणीसाठी आली व ती मा.सर्वोच्च न्यायालयाने पुढील शब्दात फेटाळून लावली :- “We find no reason to interfere with the impugned order. The special leave petition is DISMISSED.”

(८) अवमान याचिकेची सुनावणी करतांना न्यायालयाच्या निर्णयाची अंमलबजावणी झाली किंवा नाही एवढाच मुद्दा असतो की त्यावेळी आपणखी आपल्या अडचणी मा. न्यायालयासमोर मांडण्याची शासनाला संधी असते हा पूर्णपणे कायदेशीर मुद्दा असून संघटनेचे विधिज्ञ याबाबतीत योग्य ती भूमिका घेतील. पण आता एका जबाबदार अधिकाऱ्यानेच मा. उच्च न्यायालयासमोर शपथपत्र दाखल करून आर्थिक भाराचा मुद्दा उपस्थित केलेला आहे तर याबाबत अधिकृत कागदपत्रावर आधारित पुढील वस्तुस्थिती विचारात घेणे आवश्यक आहे :-

महाराष्ट्र विधानपरिषद कार्यवाही, (दिनांक ३ ऑगस्ट २००९) अधिकृत प्रतिवेदन, खंड १२५, क्रमांक १५ मधील पृष्ठ १४१ चे काळजीपूर्वक अवलोकन केले तर असे दिसून येते की सन १९९१ ते २००० या काळातील नेट-सेट मुक्त शिक्षकांची संख्या दहा हजार असल्याची अधिकृत माहिती तत्कालीन मा. उच्च शिक्षणमंत्र्यांनी सभागृहात दिलेली आहे. २७ जून २०१३ रोजी काढलेल्या शासन निर्णयाच्या परिच्छेद ६ मध्ये अशा शिक्षकांची संख्या ही ५१६० असल्याचे नमूद करण्यात आलेले आहे. याचा सरळ अर्थ असा आहे की ३ ऑगस्ट २००९ ते २७ जून २०१३ या १२ वर्षांच्या कालखंडामध्ये जवळ जवळ (१००००-५१६०) = ४८४० शिक्षकांना नेमणूकीच्या दिनांकापासून त्यांची सेवा धरून CAS चे लाभ अदा करण्यात आलेले आहेत. २७ जून २०१३ नंतर, १९ सप्टेंबर १९९१ ते २३ ऑक्टोबर १९९२ या कालखंडातील अंदाजे १५०० शिक्षकांना २७ जून २०१३ च्या शासननिर्णयाने हे लाभ अदा केलेले आहेत. “१९ सप्टेंबर, १९९१ ते २३ ऑक्टोबर, १९९२ या कालखंडात सेवेत आलेले नेट-सेट मुक्त शिक्षक” हा एक वर्ग व “२३ ऑक्टोबर, १९९२ ते ३ एप्रिल, २००० या कालखंडात सेवेत आलेले नेट-सेट मुक्त शिक्षक” हा दुसरा वर्ग हे दोनही वर्ग सर्वांथाने एका प्रवर्गात येतात. तो प्रवर्ग म्हणजे “१९९१ ते २००० या काळामध्ये सेवेत आलेल्या नेट-सेट मुक्त शिक्षकांचा प्रवर्ग” होय. असे

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

W. P. NO. 1158/2015

Nagpur University Teachers' Association, Nagpur and ors.
vs. State of Maharashtra and others. Mr. A.M. Sudame, Advocate
for Petitioners.

CORAM

**B.R. GAVAI & INDIRA K. JAIN, JJ.
DATED : June 26, 2015.**

Heard Mr. A.M. Sudame, learned counsel for the petitioners and Mr. N.S. Rao, learned AGP for respondent Nos.1 to 3.

Perused the order dated 18.11.2013 passed by the Hon'ble Apex Court in Special Leave to Appeal (Civil) No. 34118 of 2013.

Rule.

The learned AGP waives notice for respondent nos. 1 to 3. As the Hon'ble Apex Court has granted interim relief, in same terms we grant the interim relief as under:-

“We are of the view that following the UGC Notification/ Letter dated 26.08.2011, those teachers who have not passed NET/SET examination but who have completed six years of service as on that date should be entitled to the benefits of career advancement scheme only for the purpose of pay-scales. According to us such an interim order for that limited purpose will meet ends of justice.”

The State Government shall attempt to disburse the amount due and payable to eligible petitioners within a period of six months from today.

JUDGE

JUDGE

** FL : 12 **

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

W. P. NO. 3497/2015

Nagpur University Teachers' Association, Nagpur and ors.
vs. State of Maharashtra and others. Mr. A.M. Sudame, Advocate
for Petitioners.

CORAM

**B.R. GAVAI & INDIRA K. JAIN, JJ.
DATED : June 26, 2015.**

Heard Mr. A.M. Sudame, learned counsel for the petitioners and Mr. N.S. Rao, learned AGP for respondent Nos.1 to 3.

Perused the order dated 18.11.2013 passed by the Hon'ble Apex Court in Special Leave to Appeal (Civil) No. 34118 of 2013.

Rule.

The learned AGP waives notice for respondent nos. 1 to 3. As the Hon'ble Apex Court has granted interim relief, in same terms we grant the interim relief as under:-

“We are of the view that following the UGC Notification/ Letter dated 26.08.2011, those teachers who have not passed NET/SET examination but who have completed six years of service as on that date should be entitled to the benefits of career advancement scheme only for the purpose of pay-scales. According to us such an interim order for that limited purpose will meet ends of justice.”

The State Government shall attempt to disburse the amount due and payable to eligible petitioners within a period of six months from today.

JUDGE

JUDGE

** FL : 13 **

असतांना एकाच प्रवर्गातील शिक्षकांचे दोन भाग पाडून त्यांना समान वागणूक व समान लाभ नाकारण्याचे कोणतेही वाजवी कारण अस्तित्वात नाही.

(९) खरे म्हणजे दिनांक १० मे, २०१३ रोजी सन २०१२ च्या याचिका क्रमांक (L) १३२३ च्या सुनावणीच्या वेळी मा. मुंबई उच्च न्यायालयापुढे राज्यशासनाच्या वतीने १९९१ ते २००० या काळातील नेट-सेट मुक्त शिक्षकांना नेट-सेट मुक्तता प्रदान करणारा शासन निर्णय दोन आठवड्यात निर्गमित करण्यात येईल असे मान्य करण्यात आले होते. त्या दिवशीच्या मा. न्यायालयाच्या निर्णयाच्या परिच्छेद ४ मध्ये स्पष्टपणे पुढील प्रमाणे उल्लेख आहे :- “As regards the above submission, Mr. Saluja states that the State Government will issue G.R. within two weeks from today for granting exemption from NET/SET to those teachers who were appointed between 19 September 1991 and 3 April 2000 after following the regular procedure.” पण प्रत्यक्षात मात्र १९९१ ते २००० या कालखंडांपैकी १९ सप्टेंबर, १९९१ ते २३ ऑक्टोबर, १९९२ या काळातील नेट-सेट मुक्त शिक्षकांच्याच सेवा नियमित करण्यात आल्या. मान्य करून इतरांना वगळण्याची कृतीच मुळात न्यायालयाचा धडधडीत अवमान करणारी आहे. आता तर या इतर शिक्षकांच्याबाबत मा. सर्वोच्च न्यायालयाच्या अंतरिम आदेशावर आधारित मा. उच्च न्यायालयाचे अंतरिम आदेश अंमलात आणण्यास शासन नकार देत आहे. नुसत्या बिनशर्त क्षमायाचनेला काय अर्थ आहे ?

(१०) महाराष्ट्र प्राध्यापक महासंघाच्या अध्यक्ष व सचिवांनी दिनांक ५ एप्रिल, २०१५ रोजी “नेट-सेट मुक्त शिक्षकांच्या बाबतीत मा. सर्वोच्च न्यायालयाचा महत्त्वपूर्ण निर्णय” या मथळ्याचे जे पत्रक (P43 NB2015) प्रसिद्ध केले आहे त्यातील परिच्छेद ८ पुढीलप्रमाणे आहे :- “सन १९९१ ते सन २००० या काळातील नेट-सेट मुक्त शिक्षकांपैकी नेमणूकीच्या दिनांकापासून सेवा धरून लाभांचित झालेले शिक्षक हे निरनिराळ्या सहा प्रकारात मोडतात. ते प्रकार पुढील प्रमाणे :-

(i) विद्यापीठ अनुदान आयोगाने नेट-सेट मुक्तता दिल्यानंतर अनेक शिक्षकांना ११ डिसेंबर १९९९ च्या शासननिर्णयातील परिच्छेद १२ ते १५ तील तरतुदीप्रमाणे

असे लाभ नियमानुसार मिळालेले आहेत.

(ii) उपरोक्त (i) मधील लाभधारकांपैकी शेकडो शिक्षकांच्या प्रकरणी पुढील काळात रिकव्हरी काढण्याचा राज्यशासनातील काही अधिकाऱ्यांनी प्रयत्न केला होता. मा. उच्च न्यायालयाच्या विविध खंडपीठांनी दिलेल्या अनेक निर्णयांनी असे प्रयत्न संपूर्णपणे बेकायदेशीर असल्याचे नमूद करून रद्दबादल (quashed and set aside) ठरविण्यात आले. संघटनेच्या दफ्तरी उपलब्ध असलेले त्यातील काही निर्णय पुढील प्रमाणे :- (1) W.P. No. 1893 OF 2010 :- (IN THE HIGH COURT OF JUDICATURE AT BOMBAY) DATED: 3RD SEPTEMBER, 2010 (P 8 B 2012) (2) W.P. No. 1991 OF 2011 :- (BENCH AT AURANGABAD) DATED : 28th MARCH, 2011 (P 9 B 2012) (3) W.P. No. 5271 OF 2013 :- (BENCH AT AURANGABAD) DATE : 28 th AUGUST 2013 (P 145 B 2013) (4) W.P. No. 4994 OF 2013 :- (BENCH AT AURANGABAD) DATE : 13 th SEPTEMBER 2013 (P 205 B 2013) (5) W.P. No. 6659 OF 2013 :- (BENCH AT AURANGABAD) DATE : 10th October, 2013. (P 216 B 2013) (6) W.P. NO. 5224 OF 2013 :- (BENCH AT AURANGABAD) SEPTEMBER 26, 2013 (P151 B2014)

(iii) १९ सप्टेंबर १९९१ ते २३ ऑक्टोबर १९९२ या कालखंडातील अंदाजे १५०० शिक्षकांना २७ जून २०१३ च्या शासननिर्णयाने हे लाभ अदा केलेले आहेत. २३ ऑक्टोबर १९९२ ते २००० या काळात नेमलेले नेट-सेट मुक्त शिक्षक हे तत्सम शिक्षक आहेत व या शिक्षकांना हे लाभ नाकारण्याचे कोणतेही वाजवी कारण अस्तित्वात नाही.

(iv) मा. सर्वोच्च न्यायालयाच्या २५ मार्च २०१५ च्या आदेशातील परिच्छेद २ मधील आदेशामुळे लाभांचित झालेले नेट-सेट मुक्त शिक्षक

(v) मा. सर्वोच्च न्यायालयाच्या २५ मार्च २०१५ च्या आदेशातील परिच्छेद ६ मधील आदेशामुळे लाभांचित झालेले नेट-सेट मुक्त शिक्षक

(vi) याशिवाय इतर पूर्णत्वे लाभांचित शिक्षक (जसे सन १९९१ ते २००० या काळातील नेमणूकीच्या दिवसापासून केलेली सेवा धरून प्राचार्य, सहसंचालक किंवा संचालक उच्च शिक्षण किंवा विद्यापीठात कुलसचिव, परीक्षानियंत्रक, वित्त अधिकारी, संचालक BCUD इत्यादी पदावर प्रतिष्ठापीत झालेले नेट-सेट मुक्त शिक्षक)

(११) मा. सर्वोच्च न्यायालयाच्या निदेशाप्रमाणे मुंबई उच्च न्यायालयाच्या मा. मुख्य न्यायमूर्तींनी याबाबत आदेश पारित केले असून ८ जून, २०१५ च्या पत्राच्ये (No. W/Cell/Corres/2015/200) ते सर्व संबंधितांना कळविण्यात आलेले आहेत. मा. उच्च न्यायालयाच्या डिक्री डिपार्टमेंटने १७ जून, २०१५ च्या नोटीस अन्वये “Writ Petitions, Contempt Petitions and Writ Petitions which are on stamps, in all 126 matters, (list enclosed herewith), are being transferred to Principal Seat at Bombay” असे जाहीर केले आहे.

(१२) मा. सर्वोच्च न्यायालयाने दिलेल्या निदेशाप्रमाणे नेट-सेट मुक्त शिक्षकांच्या संदर्भातील सर्व याचिकांची सुनावणी एकत्रितरीत्या मुख्य खंडपीठापुढे लवकरच सुरू होईल. सर्व अवमान याचिकासुद्धा तेथेच सुनावणीसाठी जातील असे दिसून येते. मा. मुख्यखंडपीठापुढे होणाऱ्या या एकत्रित सुनावणीच्या संदर्भात उभे करावयाचे अर्थबळ व विधिज्ञ बळ याबाबत कार्यकारी मंडळाने आज झालेल्या बैठकीत तपशीलवार विचार केला असून सर्वोच्च न्यायालयातील संघर्षाच्या प्रसंगी प्रस्तावित केलेल्या व्यवस्थेची पुनर्रचना करून पुढील प्रमाणे व्यवस्था उभी करण्याचे ठरविले आहे :-

(१) अवमान याचिकांच्या संदर्भात मा. औरंगाबाद खंडपीठाने दिनांक ५ मे, २०१५ रोजी “(4) Admittedly, there is no compliance of the order passed by this Court on 21st February, 2014 in Writ petition No. 1129/2014 with connected petitions. The respondents were supposed to comply with the order within six months from the date of order. However, even after 15 months, the said order is not complied with by the respondents. Learned AGP, by way of last opportunity, prays for time till 15th June, 2015 to comply with the order.” असा जो आदेश निर्गमित केलेला होता तो (1) CONT. PETITION NO. 252 OF 2014 IN WP/10346/2013, WITH (2) CP/262/2014 IN WP/641/2014, WITH (3) CP/263/2014 IN WP/6687/2013, WITH (4) CP/264/2014 IN WP/7605/2013, WITH (5)

नेट-सेट मुक्त शिक्षकांच्या बाबतीत मा. उच्च न्यायालयाच्या विविध खंडपीठांनी दिलेल्या न्यायनिर्णयांच्या तिसऱ्या सूचीमध्ये सुधारणा : २

नेट-सेट मुक्त शिक्षकांच्या बाबतीत मा. उच्च न्यायालयाच्या विविध खंडपीठांनी दिलेल्या न्यायनिर्णयांच्या सन २०१५ च्या नुटा बुलेटीनच्या पृष्ठ क्रमांक ४६ वरील तिसऱ्या सूचीमध्ये क्रमांक ३५ नंतर पुढील क्रमांक ३६ ते ३८ दाखल करण्यात यावेत :-

(36) W. P. NO. 5014/2015 :- IN THE HIGH COURT OF JUDICATURE AT BOMBAY, BENCH AT AURANGABAD WRIT PETITION NO. 5014/2015 Dr. Madhukar Pandharinath Aghav & others... PETITIONERS VERSUS The State of Maharashtra & others... RESPONDENTS CORAM : S. S. SHINDE & P. R. BORA, JJ. DATED : 30th April, 2015. Judgment circulated on page 69 of 2015 NUTA Bulletin.

(37) W. P. NO. 3352/2014 :- IN THE HIGH COURT OF JUDICATURE AT BOMBAY APPELLATE SIDE, BENCH AT AURANGABAD WRIT PETITION NO. 3352/2014 PRAFUL SAHEBRAO DEORE AND OTHERS VERSUS THE STATE OF MAHARASHTRA AND OTHERS CORAM : S. S. SHINDE & V. K. JADHAV, JJ. Dated: May 06, 2014 Judgment circulated on page 83 of 2015 NUTA Bulletin.

(38) W. P. NO. 3115/2015 :- IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD WRIT PETITION NO. 3115/2015 DR. ANKUSH BABURAO KADAM AND OTHERS VERSUS THE UNION OF INDIA AND OTHERS CORAM : S.S. SHINDE & P.R. BORA, JJ. Dated: April 06, 2015 Judgment circulated on page 93 of 2015 NUTA Bulletin.

PR :- (1) P107 NB14 (2) P123 NB14 (3) P26 NB15 (4) P46 NB15 (5) P92 NB15

CP/265/2014 IN WP/1129/2014, WITH (6) CP/266/2014 IN WP/642/2014, WITH (7) CP/267/2014 IN WP/7421/2013 या निरनिराळ्या सात अवमान याचिकांच्या संदर्भात एकत्रितरित्या होता. या सर्व अवमान याचिका सन २०१४ मध्ये दाखल झालेल्या आहेत. त्यापैकी क्रमांक २६६/२०१४ या अवमान याचिकेच्या संदर्भात दिनांक १० जून, २०१५ रोजी उपरोक्त शपथपत्र जळगावच्या सहसंचालकांनी औरंगाबाद खंडपीठापुढे दाखल केले आहे. त्याच सहसंचालकांनी शब्दशः तसेच शपथपत्र त्याच तारखेला अवमान याचिका क्रमांक २६५/२०१४ च्या बाबतीत स्वतंत्रपणे तेथेच दाखल केलेले आहे. या अवमान याचिका मुख्यत्वे उत्तर महाराष्ट्र विद्यापीठाच्या क्षेत्रातील आहेत. न्यायालयाच्या निर्णयाची अंमलबजावणी करण्याची मुदत संपून गेल्यामुळे अशा अनेक अवमान याचिका नंतरसुद्धा दाखल होतील. अशा अवमान याचिका दाखल करतांना या ठरावाच्या परिच्छेद १ ते १० मध्ये समाविष्ट असलेली माहिती सर्व कागदपत्रासह अवमान याचिकेची सुनावणी करणाऱ्या मा. खंडपीठापुढे मांडली जावी असे ठरविण्यात येत आहे. ही माहिती याचिका दाखल करतांना मांडावी? की उपरोक्त प्रकरणामध्ये नवीन शपथपत्र दाखल करून मांडावी? की उपरोक्त शपथपत्राला प्रत्युत्तर (Rejoinder) म्हणून मांडावी? हा कायदेशीर मुद्दा असून त्याबाबत आपल्या विधिज्ञांच्या सल्ल्यानुसार कारवाई करावी. जळगावच्या सहसंचालकांनी दाखल केलेली उपरोक्त दोन शपथपत्रे लक्षात घेता अवमान याचिकांच्या संदर्भात सर्व याचिकाकर्त्यांना संघटित करून याकामी विधिज्ञ बळ व अर्थबळ उभे करण्याची जबाबदारी 'एनमुक्तो'ने पार पाडावी असे ठरविण्यात येत आहे.

(२) महाराष्ट्रातील नेट-सेट मुक्त शिक्षकांच्या वतीने महाराष्ट्र प्राध्यापक महासंघातर्फे मांडण्यात येत असलेल्या सर्व मुद्यांचा समावेश असलेली एक याचिका 2082 of 2013 मा. मुंबई उच्च न्यायालयाच्या मुंबई खंडपीठापुढे दाखल करण्यात आलेली आहे. विद्यापीठ अनुदान आयोगाने १९९१ ते २००० या काळातील सर्व नेट-सेट ग्रस्त शिक्षकांना मुक्तता प्रदान करणारा जो २६ ऑगस्ट २०११ रोजी आदेश काढला त्यावरच ही याचिका आधारित आहे. दिनांक १७ जून, २०१५ रोजी मा. उच्च न्यायालयाच्या डिक्री डिपार्टमेंटने काढलेल्या नोटीसमध्ये पुढीलप्रमाणे उल्लेख आहे :- "The Writ Petitions, Contempt Petitions and Writ Petitions which are on stamps, in all 126 maters, (list enclosed herewith), are being transferred to Principal Seat at Bombay, vide Civil Outward DD/No. 20216/2015, dated 17.6.2015, wherein identical issues are challenged in respect of grant of counting of service

from the first date of their regular appointments for Non-NET-SET University and College Teachers in Maharashtra, for clubbing and tagging together with Writ Petition No. 2082 of 2013, which is pending at the Principal Seat at Bombay." या याचिकेमागे विधिज्ञ बळ व अर्थबळ उभे करावयाची संपूर्ण जबाबदारी 'बामुक्ता' व 'स्वामुक्ता' या मराठवाड्यातील उभय संघटनांनी सांभाळावी असे ठरविण्यात येत आहे.

(३) मुंबई विद्यापीठ क्षेत्रातील नेट-सेट मुक्त शिक्षकांच्या वतीने एक याचिका (L) 60/2015 मा. मुंबई उच्च न्यायालयाच्या मुंबई खंडपीठापुढे दाखल करण्यात आलेली आहे. एकत्रित सुनावणी मध्ये या याचिकेमागे विधिज्ञ बळ व अर्थबळ उभे करावयाची संपूर्ण जबाबदारी 'बुक्कुटु' ने सांभाळावी असे ठरविण्यात येत आहे.

(४) विदर्भातील नेट-सेट मुक्त शिक्षकांच्या वतीने एक याचिका 5073 of 2013 मा. मुंबई उच्च न्यायालयाच्या नागपूर खंडपीठापुढे दाखल करण्यात आलेली आहे. एकत्रित सुनावणी मध्ये या याचिकेमागे विधिज्ञ बळ व अर्थबळ उभे करावयाची संपूर्ण जबाबदारी 'नुता' ने सांभाळावी असे ठरविण्यात येत आहे.

(५) औरंगाबाद खंडपीठाच्या क्षेत्रातील नेट-सेट मुक्त शिक्षकांच्या वतीने एक याचिका 10370 of 2014 मा. मुंबई उच्च न्यायालयाच्या औरंगाबाद खंडपीठापुढे दाखल करण्यात आलेली आहे. एकत्रित सुनावणी मध्ये या याचिकेमागे विधिज्ञ बळ व अर्थबळ उभे करावयाची संपूर्ण जबाबदारी 'पुक्कुटो' ने सांभाळावी असे ठरविण्यात येत आहे.

(६) 'सुटा'च्या क्षेत्रातील नेट-सेट मुक्त शिक्षकांच्या वतीने एक याचिका मा. मुंबई उच्च न्यायालयाच्या मुंबई खंडपीठापुढे 'सुटा'तर्फे दाखल करण्यात आलेली असून एकत्रित सुनावणीत या याचिकेमागे विधिज्ञ बळ व अर्थबळ उभे करावयाची संपूर्ण जबाबदारी 'सुटा'ने सांभाळावी असे ठरविण्यात येत आहे.

(१३) या न्यायालयीन संघर्षाचे एकंदर महत्त्व व परिणाम लक्षात घेता परिच्छेद १२ च्या उपपरिच्छेद १ ते ६ मध्ये नमूद केलेल्या प्रकरणी विधिज्ञ बळ उभे करतांना प्रत्येक प्रकरणी ते ज्येष्ठ अधिवक्त्याच्या (Senior Advocate) नेतृत्वाखाली असावे असाही निर्णय घेण्यात आला. त्या त्या प्रकरणी कोणत्या ज्येष्ठ अधिवक्त्यांची सेवा घ्यावी याबाबतचा निर्णय त्या त्या घटक संघटनांनीच घ्यावयाचा आहे, मात्र याबाबतीत कार्यकारी मंडळाने नेमलेल्या विधी समितीशी सल्लामसलत करूनच तो निर्णय अंतिम करावा असेही ठरविण्यात येत आहे.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY : BENCH AT AURANGABAD WRIT PETITION NO. 3115 OF 2015

DR. ANKUSH BABURAO KADAM AND OTHERS **VERSUS** THE UNION OF INDIA AND OTHERS Advocate for Petitioners : Mr. A. N. Nagargoje ASG for Respondent No.1 : Mr. S.B.Deshpande Advocate for Respondent 2 : Mr. Alok Sharma AGP for Respondents 3-5 : Mr. D.V. Tele Advocate for Respondent No.6 : Mr. A.B. Girase

CORAM : S.S. SHINDE & P.R. BORA, JJ. : DATED: APRIL 06, 2015

PER COURT :- 1. Mr. Nagargoje, the learned counsel for petitioners, submits that, the petitioners are appointed in between 1991 to 03.04.1999. They all possess P.G. Degree with 55% marks. The petitioners are selected by following due selection process. They possess qualification required except NET/SET. The learned counsel submits that, the petitioners are entitled for the exemption as are made applicable to the appointment of the lecturers in the period September 1991 to April 2000. The directions and resolutions issued by the Ministry of HRD subsequent to 30.03.2010 and 08.07.2011 would not come in their way. According to the learned counsel, this Court, in writ petition No. 10149 of 2010, has considered this aspect and had directed the U.G.C to consider the proposal of exemption vide order dated 17.10.2013.

2. Mr. Sharma, the learned counsel for respondent No. 2, submits that, in view of the directions given by the Ministry of Human Research Development, the respondent UGC is not in a position to now consider and decide any proposal seeking exemption from NET/SET. The directions dated 30.03.2010 of the Ministry of Human Research Development, Union of India would not permit UGC to take any further decision.

3. We have heard the learned counsel for the University also.

4. The petitioners claimed to be appointed in between 1991-1999. They are possessing P.G. Degree qualification and are appointed by following due selection process. The U.G.C. had issued directions/resolutions granting exemption from NET/SET to such employees who were appointed during the period September 1991 to 03.04.2000 and the U.G.C. has taken decision granting exemption to such Teachers appointed during the period 1991 to April 3, 2000. The petitioners would be similarly situated. Only because their proposal was not decided by the UGC the subsequent directions of the HRD would not come in their way as it is held by this court in Writ Petition No.10149 of 2010.

5. In light of the above, we direct the concerned Authorities to consider the petitioners case for grant of exemption from passing NET/SET and to give them consequential and incidental benefits. The Commission shall take decision on the same expeditiously and preferably within SIX MONTHS from today.

6. Writ Petition accordingly disposed of. No costs.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

व्यक्तींनी व्यक्तींशी केलेला व करावयाचा आर्थिक व्यवहार ही वेगळी व वैयक्तिक बाब असते. मात्र संघटना म्हणून कोणत्याही न्यायालयीन प्रकरणासाठी उभारावयाचे अर्थवळ रेखांकित धनादेशाद्वारेच उभे करावे व त्याचा विनियोगसुद्धा रेखांकित धनादेशाद्वारेच करावा. ह्या यापूर्वी दिलेल्या सूचनांचे घटक संघटनांनी व संघटनेच्या पदाधिकाऱ्यांनी काटेकोरपणे पालन करावे असाही निर्णय घेण्यात आला.

(१४) नेट-सेट मुक्त शिक्षकांच्या दृष्टीने हा विषय अतिशय महत्त्वाचा असून त्या प्रत्येकाचा व्यक्तिशः सहभाग या संघर्षामध्ये असलाच पाहिजे असाही निर्णय घेण्यात येत आहे. या शिक्षकांवर झालेल्या अन्यायाचे स्वरूप अत्यंत गंभीर असून दुर्दैवाने शासनाच्या नाकर्तेपणामुळे या प्रश्नाची सोडवणूक होण्यास खूपच विलंब झालेला आहे व शेवटी हा प्रश्न न्यायालयीन संघर्षाचा भाग बनला. त्या संघर्षाच्या प्राथमिक अवस्थेमध्ये अतिशय उत्तम प्रकारचे यश मिळाले असून हे यश एकत्रित सुनावणीच्या पातळीवर टिकवून ठेवण्यात संघटनेसोबतच अशा प्रत्येक शिक्षकाने सहभागी झाले पाहिजे असे ठरविण्यात येत आहे. संघटना सर्व काही करित आहे व आता आपल्याला काहीच करण्याची गरज नाही अशी भावना मनात ठेवून या सर्व नेट-सेट मुक्त शिक्षकांनी आपल्या घरी स्वस्थ बसण्याचे ठरविले तर ती अत्यंत अयोग्य बाब होय आणि म्हणूनच त्यांनी व्यक्तिशः सहभागी होण्याची योजना निश्चित करणे आवश्यक आहे. त्या त्या खंडपीठाच्या अधिकार क्षेत्रात येणाऱ्या जेवढ्या याचिकांवर निर्णय झालेले आहेत किंवा जेवढ्या याचिका त्या त्या खंडपीठासमोर प्रलंबित आहेत त्या प्रत्येक याचिकेच्या बाबतीत एकत्रित सुनावणीच्या वेळी मुख्य खंडपीठापुढे आपला सहभाग पक्ष उभा करावा व त्यासाठी सर्वोत्तम विधिज्ञवळ त्या त्या स्तरावर उभे करावे, असे अपेक्षित आहे.

(१५) सन २०१४ च्या याचिका क्रमांक ६३२५ या प्रकरणात मा.नागपूर खंडपीठाच्या निर्णयाची अंमलबजावणी न केल्यामुळे दाखल झालेल्या सन २०१५ च्या अवमान याचिका क्रमांक ९ मध्ये नागपूरच्या सहसंचालकांनी १८ जून, २०१५ रोजी मा. नागपूर खंडपीठासमोर एक शपथपत्र दाखल केले असून त्याच्या परिच्छेद २ मध्ये "Unconditional and Unqualified apology" अशा शब्दात क्षमायाचना केलेली आहे. मुळात हा निर्णय (६३२५/२०१४) ५ मार्च, २०१४ रोजी मा. नागपूर खंडपीठाने दिलेला होता. "सहा महिन्यात CAS चे लाभ अदा करा" असा हा निर्णय होता. आज बारा महिन्यांपेक्षा जास्त काळ झालेला असूनही या निर्णयाची अंमलबजावणी झालेली नाही. मा. सर्वोच्च न्यायालयाच्या अंतरिम आदेशावर आधारित मा. उच्च न्यायालयाचे अंतरिम आदेश अंमलात आणण्यास सरळ-सरळ नकार दिला जात आहे. नुसत्या बिनशर्त क्षमायाचनेला काय अर्थ आहे ?

(प्रा. ए. टी. सानप)

(डॉ. प्रवीण रघुवंशी)

अध्यक्ष

सहसचिव

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

NOTICE

It is hereby informed to the Advocates, litigants and parties appearing in person that as per the **order dated 4.6.2015** passed by the Honourable the Chief Justice, which is communicated vide letter bearing No. W/Cell/Corres/2015/200 dated 8.6.2015, **the Writ Petitions, Contempt Petitions and Writ Petitions which are on stamps, in all 126 matters, (list enclosed herewith), are being transferred to Principal Seat at Bombay, vide Civil Outward DD/No. 20216/2015, dated 17.6.2015, wherein identical issues are challenged in respect of grant of counting of service from the first date of their regular appointments for Non-NET-SET University and College Teachers in Maharashtra, for clubbing and tagging together with Writ Petition No. 2082 of 2013, which is pending at the Principal Seat at Bombay.**

All the concerned to take note.

Date: 17.6.2015

Assistan Registrar
(Decree Department)

Encl List of the matters transferred to the Principal Seat at Bombay. List of matters wherein the issue of Lecturers and Assistant Professors is **involved and raised by 'MFUCTO' pending at Aurangabad Bench.**

IN THE HIGH COURT OF JUDICATURE OF BOMBAY BENCH AT AURANGABAD

WRIT PETITION NO.7421 OF 2013

Dr.Kishor s/o Govind Kolhe & others *Petitioners*
VERSUS The State of Maharashtra & others *Respondents*
* Mr.Pradeep Deshmukh, advocate holding for Mr.Y.P.Deshmukh, advocate for petitioners., Mrs.A.V.Gondhalekar, A.G.P. for Respondents No.1 to 3., Mr.A.B.Girase, advocate for Respondent No.5.* **WITH WRIT PETITION NO.6687 OF 2013** Sunil Madhukar Nave & others *Petitioners* **VERSUS** The State of Maharashtra & others *Respondents**, Mr.Pradeep Deshmukh, advocate holding for Mr.Y.P.Deshmukh, advocate for petitioners., Mr.K.J.Ghute Patil, A.G.P. for Respondents No.1 to 3. Mr.A.B.Girase, advocate for Respondent No.5.* **WITH WRIT PETITION NO.641 OF 2014** Dr.Sunil Vikram Kuwar & others *Petitioners* **VERSUS** The State of Maharashtra & others *Respondents** Mr.Pradeep Deshmukh, advocate holding for Mr.Y.P.Deshmukh, advocate for petitioners., Mrs.A.V.Gondhalekar, A.G.P. for Respondents No.1 to 3., Mr.A.B.Girase, advocate for Respondent No.5.* **WITH WRIT PETITION NO.642 OF 2014** Subhash Girdhar Salunke & others *Petitioners* **VERSUS** The State of Maharashtra & others *Respondents** Mr.Pradeep Deshmukh, advocate holding for Mr.Y.P.Deshmukh, advocate for petitioners., Mrs.A.V.Gondhalekar, A.G.P. for Respondents No.1 to 3., Mr.A.B.Girase, advocate for Respondent No.5.* **WITH WRIT PETITION NO.642 OF 2014** Subhash Girdhar Salunke & others *Petitioners* **VERSUS** The State of Maharashtra & others *Respondents** Mr.Pradeep Deshmukh, advocate holding for Mr.Y.P.Deshmukh, advocate for petitioners., Mrs.A.V.Gondhalekar, A.G.P. for Respondents No.1 to 3., Mr.A.B.Girase, advocate for Respondent No.5.

**CORAM : R.M.BORDE &
N.W. SAMBRE, JJ.**

DATE :21ST JANUARY, 2014

PER COURT:

1 Liberty to add the Management as party Respondent.

2 Perused the order passed by the Supreme Court in Special Leave to Appeal (Civil) No.34118 of 2013, dated 18.11.2013.

3 Rule.

4 Learned Counsel for respective Respondents waive service of Rule.

5 In view of the notifications dated 21.02.2008 and 23.02.2010, respectively, issued by the University Grants Commission, petitioners, **who have not passed NET/SET examination but who have completed six years of service as on the date, should be entitled to the benefits of Career Advancement Scheme only for the purpose of pay scales.**

6 The Respondents shall release monetary benefits accruable to the petitioners in terms of above, as expeditiously as possible, preferably **within a period of twelve weeks from today.**

7 The above interim order shall be subject to final outcome of the writ petitions as well as decision of the Supreme Court in above referred Special Leave Petition.

N.W. SAMBRE, JUDGE R.M.BORDE, JUDGE

नोट :- याच निर्णयात सन २०१४ च्या याचिका क्रमांक ६४२ चा निर्णय समाविष्ट आहे. त्याची अंमलबजावणी झाली नाही म्हणून सन २०१४ ची अवमान याचिका क्रमांक २६६ मा. औरंगाबाद खंडपीठापुढे दाखल करण्यात आली. त्याच अवमान याचिकेच्या संदर्भात जळगावच्या सहसंचालकांनी औरंगाबाद खंडपीठापुढे शपथपत्र (Affidavit in Reply (on behalf of Respondent No. 1 & 2) दाखल केले. ते शपथपत्र याच अंकात पृष्ठ ९५ वर प्रसृत करण्यात आलेले आहे.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD
CONTEMPT PETITION NO. 266 OF 2014 IN
WRIT PETITION NO. 642 OF 2014

DIST : JALGAON

Subhash Girdhar Salunke and others...Petitioners **VERSUS** Sanjay Chahande and Others...Respondents

AFFIDAVIT IN REPLY
(ON BEHALF OF RESPONDENT NO. 1 & 2)

I, Dr. Ajay S/o Bhagwan Sali, Age 48 years, Occupation Government Service presently working as **Joint Director Higher Education, Jalgaon Region, Jalgaon** do hereby state on oath as under.

1. I have read and understood the contents of aforesaid Contempt Petition and on the basis of records available in my office I hereby proceed to reply to the contentions therein. I crave leave of this Hon'ble High Court to file a detailed affidavit in reply at a later stage, if necessary.

2. By way of this Contempt Petition the Petitioner alleges willful disobedience of the interim order dated 21.01.2014 passed by this Hon'ble High Court in Writ Petition No. 642 of 2014 on the part of the Respondents. The Petitioners contend that, this Hon'ble High Court had issued directions against Respondents for release of Monetary Benefits under the Career Advancement Scheme (CAS). The Respondents have failed to abide by the said directions and therefore the Petitioners are constrained to file the present Contempt Petition.

3. At the outset **I tender my unconditional apology for not having complied with the orders passed by this Hon'ble High Court and pray that the said apology may kindly be accepted.** I say that, I have highest regards for the courts of law and there is no intention on my part to breach and or disobey any of the orders passed. However, I have to state that, the circumstances under which the Respondents were unable to fully comply with the directions issued by this Hon'ble High Court.

4. I say that, the Petitioners have raised their claims in the Writ Petition seeking benefits under Career Advancement Scheme (CAS) claiming that the issue regarding grant of such benefits had been concluded by a decision of this Hon'ble High Court rendered in Writ Petition No. 11477 of 2010 in the case of Asha Ramdas Bidkar and Others Versus State of Maharashtra on 01.08.2013. The State of Maharashtra however, had challenged the decision of this Hon'ble High Court before the Hon'ble Supreme Court and the proceeding before the Hon'ble Supreme Court were numbered as Civil Appeal No. 10759 of 2013. **The orders of which the Petitioners are alleging contempt against the Respondents are based upon the decision of this Hon'ble High Court in the case of Asha Ramdas Bidkar Versus The State of Maharashtra and Others and the Interim Order passed by the Hon'ble Supreme Court** in the Special Leave Petition filed by the State against the decision of the Hon'ble High Court. The Petitioners contention is that, in spite of the said orders the Respondents have not granted them the Monetary Benefits of CAS. In this regard I say that, Civil Appeal No. 10759 of 2013 along with other connected matters was heard by the Hon'ble Supreme Court on 25.03.2015 and the Hon'ble Supreme Court has partly allowed the appeal and remanded the matter back to the Hon'ble High Court with directions to the Hon'ble the Chief Justice to constitute a bench at the Principal Seat to which all the matters on that issue pending before

it's bench should be transferred. The order of the Hon'ble High Court passed in the case of Asha Ramdas Bidkar Versus The State of Maharashtra has been stayed pending the decision on the remanded matters. The issue therefore is now pending before the Principal Seat of this Hon'ble High Court in view of the orders passed by the Hon'ble Supreme Court. The present Writ Petition is also transferred to the Principal Seat in view of the orders passed by the Apex Court. Hereto annexed and marked as **EXHIBIT-R-1** is the copy of order passed by the Hon'ble Apex Court in Civil Appeal No. 10759 of 2013.

5. **I say that, since the Hon'ble Supreme Court has stayed the implementation of the decision of this Hon'ble High Court rendered in the case of Asha Ramdas Bidkar, the Respondents have not granted Monetary Benefits of the CAS to the present Petitioners.** The Respondents are waiting the decision of this Hon'ble High Court in the group of matters which are to be decided at the Principal Seat. The Respondents submit that, they had no intention to disobey any of the orders passed by this Hon'ble High Court. The implementation of the CAS scheme involves a huge financial burden on the State Exchequer and therefore the Government is awaiting a decision from this Hon'ble High Court on the issue. **I say that, Respondents would abide by the decision rendered by this Hon'ble High Court as and when the matter is finally decided.**

6. In view of what is submitted above I say that, there was no contempt committed by the Respondents as alleged by the Petitioners. The Contempt Petition is devoid of merit and deserves to be dismissed.

Hence this affidavit.

Deponent
(Dr. Ajay Bhagwan Sali)

DATE : 10.06.2015

Place : Aurangabad

VERIFICATION

I, Dr. Ajay Bhagwan Sali, Age 48 years, Occupation Government Service presently working as Joint Director Higher Education, Jalgaon Region, Jalgaon do hereby solemnly affirm and state on oath that the contents of this Affidavit from Para Nos. 01 to 06 are true to my personal knowledge and are based on official record, which I believe to be true and correct.

Hence verified at Aurangabad on this day 10th day of March, 2015

Deponent
(Dr. Ajay Bhagwan Sali)

Identified by : Sr. Clerk, G. P. Office
Drafted and settled by : Shri K. G. Patil,
Addl. Government Pleader, High Court Bench at Aurangabad

ALL INDIA FEDERATION OF UNIVERSITY & COLLEGE TEACHERS' ORGANISATIONS (AIFUCTO)

23/2/1A, K.B. Sarani, (Near East Mail Road Post Office), Kolkata - 700 080 (West Bengal). Ph.: 033-25594170 Mobile: 98312 76815
Email: asok.barman@gmail.com/aifucto.gs@gmail.com; Website: www.aifucto.org
(Regd. Under Act XXI of 1860)

CIRCULAR – 07/2014-15 : 04.06.2015

Dear Friends,

With profound grief we inform you that Prof. Nikhil Desai, a former Treasurer & National Secretary of AIFUCTO is no more. He was ill for last few days caused by an accidental fall in his residence leading to injury to head & has passed away today at Baroda. He was a Professor, Department of Geology at the Baroda University. A renowned scientist of national repute, Prof. Desai was involved in many projects of Geological Survey of India, UGC & Govt. of India. He was a great teacher, researcher of outstanding quality & guided many students in their research work.

A leader truly representing the high spirit & tradition of AIFUCTO movement, Prof. Desai played a great role in AIFUCTO movement. He was treasurer of AIFUCTO for many years & retired at the Mangalore Conference. He made great sacrifices for the AIFUCTO movement & suffered a massive heart attack at the AIFUCTO camp office in Delhi during the Fifth pay Revision movement. Notwithstanding his frail health he was present during the last Delhi Demonstration of AIFUCTO on 13th March, 2015. He was in constant touch with our leadership & enriched the movement with his valuable guidance. We have lost a great fighter, a visionary leader & a close friend

We convey our deep condolence to his family, his colleagues at the Baroda University & friends.

NEPAL EARTHQUAKE : HELP TO THE VICTIMS : We appealed to our members to donate generously for the rehabilitation of earth quake affected people in Nepal. We thank the affiliates & members who have extended financial support to the ongoing massive work in Nepal. We again appeal to all of you to mobilise funds & donate either to Prime Ministers' relief fund or directly to Nepal Govt. through their offices. We appreciate the role of teachers' associations in the relief work. We again sympathise with the teachers who have suffered due to the calamity.

NO APPOINTMENT GIVEN BY MINISTER, HRD SECRETARY, HIGHER EDUCATION : It is very surprising that our request to Secretary, HE, HRD has also been not answered. We made queries with his office only to know that he cannot meet us now. We have pointed out in our letter to him there is total inaction on the part of MHRD regarding teachers' issues. We are shocked at the treatment we are getting from Minister & Secretary. If an organisation representing entire teaching community in the states are completely ignored by Govt. of India. Only a strong united movement can make them desist from such undemocratic behaviour.

CONSTITUTION OF 7TH PAY REVIEW COMMITTEE-NO PROGRESS YET : There is no action by the Govt. about the constitution of 7th pay review committee. We have written a number of times to the Minister, Secretary-HE & UGC Chairman about the delay in this matter. There is complete silence though the Govt. has been regularly giving statements about the Central pay Commission in Lok Sabha. Even when the matter was raised in Parliament by some members, the Govt. have not given any answer. The total approach of the Govt. to the teachers' issues is negative & causing great resentment among the teachers in higher education. The MHRD is showing extreme indifference to all our issues

LETTER CAMPAIGN : The leadership congratulate teachers for the massive response to the AIFUCTO letter campaign to Minister, Human Resource Development, Govt. of India. We request the leaderships in all states to ensure full participation in the campaign as early as possible. This is extremely important as in this campaign each & every teacher in universities & colleges is participating. Not only they are sensitised to the actual conditions regarding the anti teacher stand of the Govt.

the future movement base would also be created by the campaign. Please report to the central leadership the latest positions of the progress of the campaign. Please remember that we must show our real strength in the campaign. The MHRD should understand the extent of dissatisfaction & frustration they created among teachers in higher education throughout the country. Friends, we reiterate that all mails sent to Minister, HRD must be sent to aifucto.gs@gmail.com as cc so that the system generated reply from Minister's office is kept with us as record. Some universities & colleges' teachers have not followed this direction & sent copy to us separately. Further, since the email- hrd@gov.in is not in operation now we informed by last circular, website, facebook posting & mail that mails should be sent to: hrdministry@gov.in & copies as advised. Some units have reported that the mail sent to-pstohrd@nic.in could not be delivered.

LUACTA MEETING WITH SRI RAJNATH SINGH : LUACTA delegation has met Sri Rajnath Singh, Home Minister, GOI & at Lucknow & submitted a memorandum requesting MHRD approval to UGC Regulation 3rd amendment decision & formation of 7th Pay Review Committee. Sri Rajnath Singh was informed about the grievances of teachers & assured the delegation to look into the matter. We thank the LUACTA leadership for their initiatives & hope affiliates of other states will also contact the ministers from their states as well as the MPs.

ONGOING LETTER CAMPAIGN TO HON'BLE MINISTER HRD, GOVT. OF INDIA : We have again wrote letter to Minister, HRD drawing attention to continuing impasse regarding the HRD approval to UGC decisions in respect of UGC Regulations for CAS & Ph.D Regulations. It is shocking that there is no answer to any of our letters regarding the pending matters & an audience. The experience in the first one year of the govt. has proved to be disastrous for the teachers in higher education of India.

MEETING WITH API COMMITTEE : We requested Prof. Dr Sandhu, UGC Secretary to invite AIFUCTO leadership to have interaction with the UGC Committee to relook at API on 22nd May, 2015. The AIFUCTO delegation included Prof. Tarun Patra, President, Prof. Asok Barman, General Secretary, Prof. D. Kumar, Treasurer & Prof. Iqbal Singh Sandhu, Zonal Secretary of North Zone. We conveyed the AIFUCTO views that this PBAS-API is unacceptable & must be scrapped. There should be a practicable, rational & equitable criterion for CAS. The delegation suggested that the PBAS as suggested by UGC Regulations 2000 may be considered for the criteria with necessary changes. The Committee gave a patient hearing to the AIFUCTO arguments, views & suggestions. The Committee requested AIFUCTO to suggest some alternative for CAS. We requested the affiliates to send suggestions in this regard.

OUR SUPPORT TO FEDCUTA MOVEMENT : You are aware that we are now having regular interaction with the leadership of Central University Teachers' Associations & holding joint programs. The Dharna at UGC on 19th February & Dharna & Court arrest on 13th March, 2015 were organised jointly. In the mean time the FEDCUTA has been opposing the UGC decision of Choice Based Credit System thrust upon by the UGC without consulting the teachers; such mindless reform without consulting the teachers will damage higher education in India irreversibly. The FYP was such an attempt that proved to be impractical & damaging to the education & students. We supported DUTA demand for the rollback of FYP. DUTA achieved its goal & the present notification for CNCS must also be withdrawn immediately. This is one of the main demands of next phase of united teachers' movement.

DUTA PROGRAM GS PARTICIPATION : The General Secretary, AIFUCTO participated in a DUTA protest program protesting CBCS at Jantar Mantar on 21st May, 15. He emphasised the need to forge an all out unity of teachers' associations in higher education to promote the interest of students & teachers. Prof. Nandita Narain, President DUTA also highlighted the urgent necessity of a nationwide agitation involving each & every teacher.

DELHI PROGRAMS :

The next phase of our movement will have the following programs

AIFUCTO-FEDCUTA joint Demonstration at UGC on 19TH JUNE, 2015 at 11 a.m.

There will be another historic demonstration at UGC on 19th June, 2015 at 11 a.m. The main demands will include – Immediate Formation of Pay Review Committee

Minister, HRD meeting with Joint forum of AIFUCTO & FEDCUTA

MHRD approval to UGC decisions of amending UGC Regulations 2010 & UGC PhD Regulations-2009

Roll back of UGC notification of CBCS in Central Universities

Scrapping of API

Extension of date for RC & OC

Pension for all teachers in Central & states' institutions

Strengthening of public funded education

CEASE WORK & HUNGER STRIKE ON 21ST AUGUST, 2015 : We informed you that the last NEC meeting at New Delhi decided to hold nationwide cease work for one day & Hunger Strike by AIFUCTO Office Bearers & leaders & members of Delhi adjoining states at Jantar Mantar, Delhi, The Hunger strike program will be joined by teachers of Uttar Pradesh,

Madhya Pradesh, Punjab, Haryana, Himachal Pradesh & Rajasthan. All other states must send at least 15 participants each in the program

INVITATION for the next CONFERENCE : We are inviting proposals from our affiliates for the next Statutory Conference to be held in the last quarter of this year. It is a privilege to host the Conference.

SUBSCRIPTION FOR THE LAST & CURRENT YEAR : The AIFUCTO fund is in a very poor condition. This year we are having continuous activities & programs in Delhi. The leaders will be required to travel to the states. Last year only few affiliates made payments. We are in urged need of funds. Please pay your subscription as early as possible. You are requested to transfer funds electronically. See the necessary instruction in the Circular.

NEC Decisions - reminder : (1) NEC MEETING HELD ON 14TH MARCH DECIDED THAT A LETTER TO BE SENT TO MINISTER, HRD WITH COPIES TO PRIME MINISTER, SECRETARY (HE), PS TO MINISTER, HRD & AIFUCTO. (2) ALL TEACHERS, LIBRARIANS, DPES WILL SIGN THE LETTER (3) SEND HARD COPIES TO MHRD & PRIME MINISTER BY SPEED POST. (a) OFFICE OF MHRD : ROOM NO 301, C WING SHASRTI BHAWAN NEW DELHI-110 115 FAX: 011-2338 2365, 011-2378-2028 (b) OFFICE OF PRIME MINISTER SOUTH BLOCK RAISINA HILL NEW DELHI-110011 FAX: 011-2301 9545, 0112301-6857 (4) Send emails with scanned copies of the letter containing the signatures as attachment to (a) hrdministry@gov.in CC TO (b) pstohrd@gov.in (c) secy.dhe@nic.in (d) aifucto.gs@gmail.com

CONTENTS OF THE LETTER TO BE SIGNED BY ALL TEACHERS, LIBRARIANS, DPES OF EVERY UNIVERSITY & COLLEGE & TO BE SENT BY EVERY UNIVERSITY/ COLLEGE TEACHERS' BODY TO HON'BLE MINISTER, HRD WITH CC AS SUGGESTED

ITEM NO.11

COURT NO.7

SECTION IX

SUPREME COURT OF INDIA

(Record of proceedings)

Petition(s) for Special Leave to Appeal (C)...../2014 CC No(s). 21531-21534/2014

(Arising out of impugned final judgment and order dated 21/11/2013 in WPC No. 10283/2012 & WPC No. 888/2013, 28/02/2014 in WPC No. 455/2013, 28/02/2014 in WPC No. 489/2013 passed by the High Court of Bombay at Aurangabad)

STATE OF MAHARASHTRA AND ORS Petitioner(s) **VERSUS** SUDAMRAO KESHAWRAO
AHER AND ORS ETC ETC Respondent(s)

(with appln. (s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

Date : 05/05/2015

These petitions were called on for hearing today.

CORAM:

**HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM
KALIFULLA
HON'BLE MR. JUSTICE SHIVA KIRTISINGH**

For Petitioner(s) :- Ms. Madhavi Divan, Adv.* Mr. Aniruddha P. Mayee, Adv.* **For Respondent(s) :-** Ms. Indu Malhotra, Sr. Adv.* Mr. Amol B. Karande, Adv.* Ms. Esha Malhotra, Adv.* Mr. Varuk Kumar, Adv.* Mr. Prashant D., Adv.*

UPON hearing the counsel the Court made the following

ORDER

Delay condoned.

Issue notice.

Mr. Amol B. Karande, Advocate, appears and accepts notice for all the respondents.

We find that in the light of the decisions reported in (1996) 5 SCC 325, (2002) 10 SCC 658, (1997) 3 SCC 176, (2009) 3 SCC 94 & (1997) 11 SCC 463 the issue raised in these special leave petitions calls for examination.

However, we direct the petitioners to implement the order of the High Court without prejudice to its rights and contentions in these special leave petitions.

(NARENDRA PRASAD)

Court Master

(SHARDA KAPOOR)

Court Master

**सन २००६ पूर्वी पी.एचडी. प्राप्त सेवाज्येष्ठ शिक्षकांना
सेवा-कनिष्ठ शिक्षकांपेक्षा कमी वेतन मिळणे : ५**

या बाबतीत पहिला निकाल सन २०१२ च्या याचिका क्रमांक १०२३८ मध्ये दिनांक २१ नोव्हेंबर, २०१३ रोजी मा. औरंगाबाद खंडपीठाने दिलेला होता. त्या निर्णयावर राज्यशासनाने मा. सर्वोच्च न्यायालयात SLP दाखल केले होते. ते प्रकरण (Petition(s) for Special Leave to Appeal (C)...../2014 CC No(s). 21531-21534/2014 (Arising out of impugned final judgment and order dated 21/11/2013 in WPC No. 10283/2012 & WPC No. 888/2013, 28/02/2014 in WPC No. 455/2013, 28/02/2014 in WPC No. 489/2013 passed by the High Court of Bombay at Aurangabad) STATE OF MAHARASHTRA AND ORS Petitioner(s) **VERSUS** SUDAMRAO KESHAWRAO AHER AND ORS ETC ETC Respondent(s) दिनांक ५ मे, २०१५ रोजी मा. सर्वोच्च न्यायालयात सुनावणीला आले व मा. खंडपीठाने "the issue raised in these special leave petitions calls for examination" असा निर्णय दिला, मात्र त्या सोबतच "However, we direct the petitioners to implement the order of the High Court without prejudice to its rights and contentions in these special leave petitions" असेही आदेश पारित केलेत. हा मा. सर्वोच्च न्यायालयाचा निर्णय वर प्रसूत केलेला आहे - **संपादक**

PR :- (1) P16 NB14 (2) P151 NB14 (3) P4 NB15 (4) P65 NB15 (5) P97 NB15

“We, the lakhs of members of All India Federation of University & College Teachers’ Organisations (AIFUCTO), the only national Federation of teachers of universities & colleges in India are extremely worried at the HRD not yet giving approval to the UGC decisions regarding the 3rd amendments of UGC Regulations 2010 as per the recommendations of Regulations Anomaly Committee. The UGC wrote seeking your approval on 23rd May, 2014. We are worried for the inordinate delay & request you to approve the decision immediately. Thousands of teachers across the country are waiting for the necessary UGC notification of 3rd amendment involving Roll out dates for their promotions. Another very important decision of UGC regarding the amendments of UGC Ph.D Regulations is also pending at the Ministry of Human Resource Development. We are disappointed & shocked at your not giving our leadership an appointment for last nine months though repeated requests were sent. Thousands of members of AIFUCTO, DUTA, and JNUTA demonstrated at Jantar Mantar on March 13 & courted arrest. AIFUCTO wrote to you on February, 24 about the program & requested you to meet the Joint Forum of teachers in higher education. Again you did not meet our leadership or even replied to our repeated request which is in sharp contrast with our past experience. We are shocked as this is unprecedented. We urge you to approve UGC decisions immediately & meet the leaders of AIFUCTO, DUTA, JNUTA & others to discuss other very important issues.

In this context we wish to inform you that AIFUCTO has been playing a positive role in shaping the policies of the successive governments on higher education for the past five decades. All the previous governments recognized our contribution & roles & invited us for discussion on vital issues apart from our professional demands.”

SAVE EDUCATION PROGRAM ADOPTED BY NEC : ALL AFFILIATES ARE REQUESTED TO PRINT THE FOLLOWING MATTER ENSURE THAT EACH EVERY TEACHER IS SENSITIZED TO THE PROGRAM

1. Urgent meeting in each university & college & immediate Letter Campaign to Prime Minister and Minister of Human Resource Development by every member of teaching staff signed individually & to be sent by university/college association. Copies to be sent to AIFUCTO.

2. Our state leaders will meet Parliament members from their respective states, give them letters & request them to support our demands in Parliament during Monsoon Session.

3. University/Zonal/ District level meetings in May 2015

4. A State Level Massive Procession in all State Capitals in June 2015.

5. One day Strike in July during Monsoon Session of Parliament. & the same day Hunger Strike at Jantar Mantar by office bearers & members from Central Zones 1 & 2 & North Zone & others

6. March to Parliament in August/September.

Note (1) a. AIFUCTO Office Bearers are to be involved in meeting in the states.

B. Letter contents (for MHRD & MPs) are available in AIFUCTO website

(2) A consolidated Status report on implementation of pay revision & Regulation is compiled with following particulars.

- a. Name of the State
- b. Status of Regulation-adopted/not adopted with modification/without modification.
- c. Whether CAS given as per 2010 regulation. If so, from which date?
- d. Ph.D. Regulation 2009 adopted/not adopted. If so, from which date?
- e. Ph.D. incentive given/not given/modified. If so, from which date?
- f. Professorship given/not given. If so, from which date?
- g. Age of Retirement in Universities / Colleges
- h. Pension percentage (50% of the last drawn basic or any other percentage.

i. HRA & CCA – Percentage/ Slab/consolidated.

j. Medical Facilities and other Allowances by the State government to College/ University Teachers.

k. Whether DPEs and Librarians treated on a par. If not, in what respects?

l. Any other vital information

FOR INTERVENTION IN PARLIAMENT MONSOON SESSION & ADDRESSING OUR PROGRAMS

Contact MPs of your states : Please contact Members of Parliament from your states & request them to address the demonstration on 19th June at UGC & Hunger Strike on 21st August at Jantar Mantar Please use twitter & facebook social networking platforms for the success of the movement programs.

Building fund coupon : Some affiliates received coupons for the Building Fund but not yet deposited the collection. However, some other units have not taken coupons in accordance with their memberships. We request those units to take the coupons as early as possible.

Teachers’ Movement-our journal : Teachers’ Movement is one of the most important organs of AIFUCTO Movement. We have been publishing the journal every month for decades. We publish here all Circulars, UGC & MHRD notifications & all documents along with select articles. The quantum of annual subsidy is now over Rs. 2 lakh a year. There are very few new subscribers and from some states there has been no new subscription for years. We must generate resources to protect ‘Teachers’ Movement.’ send all mails regarding teachers’ movement to new email id: teachersmovementjournal@gmail.com,

AIFUCTO in facebook & twitter : Please note these social networks are the fastest available tracks to send latest information directly & continuously. We request you once again to follow @AIFUCTO in twitter & become friends of AIFUCTO Gs. Please note twitter posts are brief, to the point and specific. We explain such points as tweeted in Circulars, face book postings & communications. Please note the numbers of our friends in facebook & followers in twitter do not reflect our strength.

Subscription payments : Many affiliates have not yet paid subscription for the last year. We request all affiliates to pay the subscription as early as possible. We have unhappy experience of not receiving the subscription on a regular basis. The expenses have increased substantially & without regular payment of subscription it has become very difficult to meet expenses.

MODE OF PAYMENT TO AIFUCTO-no account payee cheque will be accepted : Drafts should be in favour of “ALL INDIA FEDERATION OF UNIVERSITY & COLLEGE TEACHERS’ ORGANISATIONS’ only. Our bank details for electronic money transfer are given below. Please note-You must send a mail to General Secretary immediately after your payment electronically. United Bank Of India, Savings Bank Account Number: 0502010072818 Hyderabad Branch, Ifsc Code; Utbiohyd807 Account Name: All India Federation Of University & College Teachers’ Organisations

Greetings



**Asok Barman
General Secretary**

Very important communication from AIFUCTO regarding the dates of hunger strike in Delhi and nationwide cease work & nec meeting

Friends,

In view of the rescheduling of Parliament Monsoon Session the date of Nationwide Cease Work & Hunger strike will be advanced. It will now be August 7, 2015. The NEC Meeting will be held at Gandhi Peace Foundation on August 8, 2015 at 1-30 p.m.

Please print posters accordingly.

Asok barman
GENERALSECRETREY,AIFUCTO

COURT NO. - 9

Case :- WRIT - A No. - 64068 of 2011

Petitioner :- Dr. Hridaya Nath Tripathi **Respondent :-** The State Of U.P. And Others

Petitioner Counsel :- Durga Tiwari : **Respondent Counsel :-** C.S.C.,B.D.Pandey

Hon'ble Rajiv Sharma, J. Hon'ble Satyendra Singh Chauhan, J.

Order Date :- 17.1.2013

Heard learned counsel for the petitioner and learned Standing Counsel as well as learned counsel for the Union of India.

The petitioner, who is a Coordinator of the Association, known as U.P. University College Professors Association and Ex-Reader in Agriculture Engineering Department at National P.G. College, Barhalganj, District Gorakhpur, has filed the instant writ petition on account of non-payment of arrears of salary to the members of Association w.e.f. 1.1.2006 to 30.11.2008 pursuant to the recommendations 6th Pay Commission.

According to the petitioner, the University Grants Commission has been established under the provisions of University Grants Commission Act, 1956, which is a Central Act. The recommendations of the University Grants Commission are binding on all the State Universities. The University Grants Commission has made a recommendation for the pay scales of Teachers throughout the Country which was accepted and implemented by the Ministry of Human Resource Department vide Circular dated 31.12.2008. **The State Government, vide order dated 28.2.2009, has also accepted/adopted the pay scale of Teachers as recommended by the University Grants Commission and implemented by the Ministry of Human Resource Department** with certain conditions. A plain reading of the Government Order dated 28.2.2009 makes it clear that the pay scale of Teachers, Principals and Librarians has been allowed under the said Government Order in terms of the recommendations of the University Grants Commission and the Central Government to the Teachers, Principals and Librarians of the State Universities and Colleges (Government as well as aided non-Government).

According to the petitioner, the Scheme of revision of pay-scale and other service conditions of teacher, which were made applicable for the teachers of Central Universities, was adopted by the State Government. Thereafter, the Director of Higher Education, U.P., Allahabad issued a letter dated 25.11.2010 to all the Regional Higher Education Officers for submitting the report with regard to the payment of arrears of salary for the period of 1.1.2006 to 30.3.2010. On receipt of the said letter dated 25.11.2010, the Principal of National Post Graduate College, Barhalganj, Gorakhpur has sent a letter on 1.2.2011 to the Regional Higher Education Officer, Gorakhpur, demanding the fund for the payment of arrears from the State Government for the period 1.1.2006 to 3.10.2008 but no decision in respect thereof was made by the State Government and as such, the petitioner preferred representation, which too was not decided. In these backdrop of the aforesaid facts, the petitioner approached this Court **by filing a writ petition No. 20375 of 2011. A Co-ordinate Bench of this Court, vide order dated 7.4.2011, disposed of the writ petition with a direction to the respondent No.1 to decide the representation of the petitioner with regard to the payment of arrears of salary.**

As the aforesaid order dated 7.4.2011 passed by this Court was not complied in its letter and spirit and as such, the petitioner preferred a **contempt petition**, bearing No. 3226 of 2011, in which, notice was issued.

According to the petitioner, **after issuing notice by the Contempt Court, the respondent No.1 decided the petitioner's representation in compliance of the order dated 7.4.2011, whereby the respondent No.1 rejected the petitioner's representation.**

Hence the instant writ petition.

Learned Counsel for the petitioner has submitted that though the State Government had accepted the revision of pay-

scale in pursuant to the Scheme dated 31.12.2008 and also issued a Government Order dated 28.2.2009 to this effect but the respondent No.1, **without considering the Government Orders, rejected the petitioner's representation in a cursory manner.**

Elaborating his submission, learned Counsel for the petitioner submits that the Scheme of the Central Government for the payment of revision of pay scale, which was accepted by the State Government vide order dated 28.2.2009, is reimbursive in nature and the purpose of reimbursement is that the State Government will pay first and thereafter the State Government will get the money from the Central Government. He submits that the sole ground for nonpayment of the revision of pay-scale to the petitioner is that the Central Government has not provided 80% budget. **He submits that while rejecting the petitioner's representation, the respondent No.1 has not stated a whisper of word about the reimbursement.** Furthermore, the State Government has already obtained the budget of Rs. 780.00 Crore for the Financial Year 2011-2012 and 800 Crore in the financial year 2010-2011 for the payment of revision of pay-scale to the teachers of the higher education and the same was also accepted by the respondent 1 in the impugned order. Thus, the impugned order is liable to be rejected.

Supporting the action of the State Government, learned Standing Counsel submits that for payment of arrears from 1.1.2006 to 30.11.2008, the State Government adopted the scheme of revised pay-scale, inter alia, on the assurance that 80% of the expenses to be incurred in the implementation of the scheme would be borne by the Central Government. Accordingly, the State Government has demanded 80% of the money under the Scheme from the Central Government vide letters dated 16.6.2010 and 1.8.2011 but not a single penny has been sent by the Central Government. Therefore, the revised pay-scale to the teachers of the Universities could not be paid. Furthermore, vide impugned order dated 21.8.2011, it has been explained that after receipt of assistance from the Central Government, arrears will be paid. Thus, the respondent No.1, after considering the entire aspect of the matter, has rightly rejected the petitioner's representation.

Mr. Ajai Ballabh, learned counsel for the Union of India states that after taking into consideration the views expressed by the several State Education Ministers during the Conference held in the year 2010, the Central Government decided to delink the condition of enhancement of age of superannuation from the payment of Central share of 80% arrears to the States. Accordingly, vide letter No. F-1- 7/2010-U,II dated 14.8.2012 issued to all the State Education Secretaries in charge of Higher Education, the Ministry of Human Resource Development Department of Higher Education informed that the issue of age of retirement has been left to the State Government to decide at their level and the condition of enhancement of age of superannuation to 65 years as mentioned in the Ministry's letter dated 31.12.2008 may be treated as withdrawn for the purpose of seeking reimbursement of central share of arrears to be paid to the State University and College teachers. **It was also clarified vide letter dated 14.8.2012 that reimbursement of 80% of central share of the additional payment of arrears for the period 1.1.2006 to 31.3.2010 will be made by the Central Government in 2-3 installments, however, this would be by way of reimbursement only, after the State Government has made the payment.** Thus, as per the provisions of the Scheme, the State Government has to pay the revision of pay-scale to the employees under the Scheme and it is only thereafter on demand made by the State Government from the Central Government, 80% of the amount would be reimbursed by the Central Government and as such, it is the duty of the State Government to pay the amount

to its employees.

It is not in dispute that the said Scheme was essentially for teachers in Central Universities and the provisions of the Scheme could be made applicable by the State Government to State Universities and Colleges coming under the purview of the State Government, provided the State Governments adopted and implemented the scheme as a composite scheme and the regulations laid down by the University Grants Commission in this regard. **For implementation of the said scheme, the Central**

Government had decided to provide financial assistance for the period 1.1.2006 to 31.3.2010 to the extent of 80% as reimbursement to those State Governments, who may opt for these revised pay-scales. Furthermore, the State Governments were to provide 20% of the arrears from its own resources. The said assistance was subject to the condition that the entire pay revision package together with all conditions laid down in this regard by the University Grants Commission by way of regulations, would be implemented as a composite scheme by the State Governments without any modification except to the date of implementation (on or after 1.1.2006) and any higher scales of pay which the State Governments may decide after taking into consideration local conditions into consideration. However, the assistance from the Central Government would be limited to the scales of pay as approved by the Central Government under the Scheme.

It is also not in dispute that the State Government had accepted the terms and conditions of the Scheme and as such, we are of the view that once the scheme has been accepted by the State Government, it is the bounden duty of the State to act thereupon. In the instant case, on perusal of the letter dated 14.8.2012, which has been produced before us during the course of arguments by the learned Counsel for the Union of India, it transpires that the Central Government has made it clear that reimbursement of 80% of Central share of the additionality of payment of arrears for the period from 1.1.2006 to 31.3.2010 would be made by the Central Government in 2-3 installments by way of reimbursement only after the State Government had made the payment but the State Government has not paid the entire amount of revised pay-scale to the eligible teachers on the pretext that after receiving 80% share from the Central Government, the revised pay-scale would be paid to the eligible teachers, which vitiates the dictum of the scheme so formulated for paying revised pay-scale in pursuant to the VI Pay Commission's Report. Once it is clearly mentioned in the said scheme that after paying the revised pay-scale to the eligible teachers make a request to this effect will be made by the State Government and the Central Government would there after reimburse the same.

In view of the aforesaid facts, we are of the view that the stand taken by the State Government in the impugned order is wholly erroneous and cannot be sustained. The proper course available to the State Government is first to pay the amount pursuant to the recommendations of the UGC, which admittedly has been accepted by the State Government and thereafter shall apply to the Central Government for reimbursement of the amount so incurred towards the payment of arrears of salary. For the reasons aforesaid, the impugned order dated 21.8.2011 is liable to be quashed.

Accordingly, impugned order dated 21.8.2011 is hereby quashed. The State Government is directed to release the necessary fund for payment of arrears of salary of teachers of National Post Graduate College, Barhalganj, Gorakhpur within a maximum period of one month, from the date of receipt of certified copy of this order. Before parting, we would like to observe that if any request for reimbursement of the amount is made by the State Government, then the Central Government will release the necessary funds as per the provisions of scheme as has been assured by the Counsel for the Union of India within a period of three months thereafter.

The writ petition stands allowed in above terms.

Item No.6

Court No.11

Section XI

SUPREME COURT OF INDIA

Record of proceedings

Petition(s) for Special Leave to Appeal (Civil) No(s).15927/2013 (From the judgement and order dated 17/01/2013 in CMWP No.64068/2011 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

STATE OF U.P. & ORS.Petitioner(s)

VERSUS

HRIDAYA NATH TRIPATHI Respondent(s)

(With prayer for interim relief and office report)

DATE: 29/07/2013

This Petition was called on for hearing today.

CORAM

HON'BLE MR. JUSTICE H.L. GOKHALE

HON'BLE MR. JUSTICE J.

CHELAMESWAR

For Petitioner(s) : Mr. Sunil Gupta, Sr.Adv.* Mr. M.R. Shamshad, Adv.* Ms. Sangeeta Chandra,Adv.*Mr. Shashank,Adv.*

For Respondent(s) : Mr. P.K.Jain,Adv.* Mr. Saurabh Jain,Adv.* Mr. P.K.Goswami,Adv.* Mr. S.P.Singh,adv.*

UPON hearing counsel the Court made the following

ORDER

Heard Mr. Sunil Gupta, learned senior counsel appearing for the petitioners and Mr. P.K.Jain, learned counsel appearing on behalf of the respondent.

We find no reason to interfere with the impugne order.

The special leave petition is dismissed.

(SUMAN WADHWA)
AR-cum-PS

(SNEH LATA SHARMA)
COURT MASTER

नोट :- सहाय्या वेतन आयोगाची थकवाकी अदा करण्याबाबत मा.अलाहाबाद उच्च न्यायालयाने दिलेला निर्णय आज पृष्ठ ९७ वर प्रसूत करण्यात आलेला आहे. या निर्णयाच्या विरोधात उत्तरप्रदेश शासनाने दाखल केलेली 'एसएलपी' मा. सर्वोच्च न्यायालयाने दिनांक २९ जुलै, २०१३ रोजी 'डिसमिस' केली तो निर्णय वर प्रसूत केलेला आहे - **संपादक**

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To,.....