

## IN THE HIGH COURT OF JUDICATURE OF BOMBAY BENCH AT AURANGABAD

### WRIT PETITION NO.5271 OF 2013

Dr.Mahesh Bapurao Swami Age-44 years, Occ Service R/o Chaudhari Nagar, Nanded Road, Basmath-431 512, Tq-Basmath, Dist-Hingoli.....**PETITIONER VERSUS** (1) The State of Maharashtra Through the Secretary, Higher & Technical Education, Maharashtra State, Mantralaya, Mumbai-32 (2) The Director of Higher Education, Maharashtra State, Central Building, Pune 410 001 (3) The Joint Director, Higher Education, Nanded Region, Govt. Polytechnic College Area, Nanded 431 602, (4) The University Grants Commission, Bahadur Shah Jafar Marg, New Delhi 110 002 through its Secretary, (5) The Registrar, Swami Ramanand Teerth Marathwada University, Nanded (6) The Principal, Bahirji Smarak Mahavidyalaya, Basmath, Tq-Basmath, Dist-Hingoli.....**RESPONDENTS**

### WITH WRIT PETITION NO.5270 OF 2013

Dr.Suresh Dagdu Dhimdime Age-46 years, Occ-Service R/o Devashis Nagar, Parbhani Road, Basmath, Tq-Basmath, Dist-Hingoli ..... **PETITIONER VERSUS** (1) The State of Maharashtra Through the Secretary, Higher & Technical Education, Maharashtra State, Mantralaya, Mumbai-32 (2) The Director of Higher Education, Maharashtra State, Central Building, Pune 410 001 (3) The Joint Director, Higher Education, Nanded Region, Govt. Polytechnic College Area, Nanded 431 602, (4) The University Grants Commission, Bahadur Shah Jafar Marg, New Delhi 110 002 through its Secretary, (5) The Registrar, Swami Ramanand Teerth Marathwada University, Nanded (6) The Principal, Bahirji Smarak Mahavidyalaya, Basmath, Tq-Basmath, Dist-Hingoli.....**RESPONDENTS**

### WITH WRIT PETITION NO.5272 OF 2013

Dr.Venkat Sheshrao Maske Age-48 years, Occ-Service R/o Ganesh Nagar, Ashegaon Road, Basmath, Tq-Basmath, Dist-Hingoli ..... **PETITIONER VERSUS** (1) The State of Maharashtra Through the Secretary, Higher & Technical Education, Maharashtra State, Mantralaya, Mumbai-32 (2) The Director of Higher Education, Maharashtra State, Central Building, Pune 410 001 (3) The Joint Director, Higher Education, Nanded Region, Govt. Polytechnic College Area, Nanded 431 602, (4) The University Grants Commission, Bahadur Shah Jafar Marg, New Delhi 110 002 through its Secretary, (5) The Registrar, Swami Ramanand Teerth Marathwada University, Nanded (6) The Principal, Bahirji Smarak Mahavidyalaya, Basmath, Tq-Basmath, Dist-Hingoli.....**RESPONDENTS**

### WITH WRIT PETITION NO.5279 OF 2013

Dr.Vilas Tulshiram Narwade Age-45 years, Occ-Service R/o Devashis Nagar, Parbhani Road, Basmath, Tq-Basmath, Dist-Hingoli ..... **PETITIONER VERSUS** (1) The State of Maharashtra Through the Secretary, Higher & Technical Education, Maharashtra State, Mantralaya, Mumbai-32 (2) The Director of Higher Education, Maharashtra State, Central Building, Pune 410 001 (3) The Joint Director, Higher Education, Nanded Region, Govt. Polytechnic College Area, Nanded 431 602, (4) The University Grants Commission, Bahadur Shah Jafar Marg, New Delhi 110 002 through its Secretary, (5) The Registrar, Swami Ramanand Teerth Marathwada University, Nanded (6) The Principal, Bahirji Smarak Mahavidyalaya, Basmath, Tq-Basmath, Dist-Hingoli.....**RESPONDENTS**

### WITH WRIT PETITION NO.5281 OF 2013

Dr.Sudam Sakharam Bhalerao Age-45 years, Occ-Service R/o 21-B, Krishna Niwas, Bank Colony, Basmath, Tq-Basmath, Dist-Hingoli..... **PETITIONER VERSUS** (1) The State of Maharashtra Through the Secretary, Higher & Technical Education, Maharashtra State, Mantralaya, Mumbai-32 (2) The Director of Higher Education, Maharashtra State, Central Building, Pune 410 001 (3) The Joint Director, Higher Education, Nanded Region, Govt. Polytechnic College Area, Nanded 431 602, (4) The University Grants Commission, Bahadur Shah Jafar Marg, New Delhi 110 002 through its Secretary, (5) The Registrar, Swami Ramanand Teerth Marathwada University, Nanded (6) The Principal, Bahirji Smarak Mahavidyalaya, Basmath, Tq-Basmath, Dist-Hingoli.....**RESPONDENTS**

### WITH WRIT PETITION NO.5285 OF 2013

Dr.Prashant Girijashankar Gawali , Age-45 years, Occ-Service, R/o Ipkalwar Nagar, College Road, Basmath, Tq-Basmath, Dist-Hingoli ..... **PETITIONER VERSUS** (1) The State of Maharashtra Through the Secretary, Higher & Technical Education, Maharashtra State, Mantralaya, Mumbai-32 (2) The Director of Higher Education, Maharashtra State, Central Building, Pune 410 001 (3) The Joint Director, Higher Education, Nanded Region, Govt. Polytechnic College Area, Nanded 431 602, (4) The University Grants Commission, Bahadur Shah Jafar Marg, New Delhi 110 002 through its Secretary, (5) The Registrar, Swami Ramanand Teerth Marathwada University, Nanded (6) The Principal, Bahirji Smarak Mahavidyalaya, Basmath, Tq-Basmath, Dist-Hingoli.....**RESPONDENTS**

The communications impugned in the present petitions, which are issued to the petitioners affecting their pay scales adversely, are unsustainable and deserve to be quashed and set aside.

( See Para 20 of this High Court Judgement dated 28th August 2013 )

**WITH WRIT PETITION NO.5289 OF 2013**

Dr.Rajkumar Namdeorao Ingle , Age-45 years, Occ-Service,R/o Clpkalwar Nagar, College Road, Basmath-431 512, Tq-Basmath, Dist-Hingoli ..... **PETITIONER VERSUS** (1) The State of Maharashtra Through the Secretary, Higher & Technical Education, Maharashtra State, Mantralaya, Mumbai-32 (2) The Director of Higher Education, Maharashtra State, Central Building, Pune 410 001 (3) The Joint Director, Higher Education, Nanded Region, Govt. Polytechnic College Area, Nanded 431 602, (4) The University Grants Commission, Bahadur Shah Jafar Marg, New Delhi 110 002 through its Secretary, (5) The Registrar, Swami Ramanand Teerth Marathwada University, Nanded (6) The Principal, Bahirji Smarak Mahavidyalaya, Basmath, Tq-Basmath, Dist-Hingoli.....**RESPONDENTS**

**WITH WRIT PETITION NO.5273 OF 2013**

Dr.Ashok Santukrao Kulkarni , Age-47 years, Occ-Service R/o Ipkalwar Nagar, College Road, Basmath, Tq-Basmath, Dist-Hingoli ..... **PETITIONER VERSUS** (1) The State of Maharashtra Through the Secretary, Higher & Technical Education, Maharashtra State, Mantralaya, Mumbai-32 (2) The Director of Higher Education, Maharashtra State, Central Building, Pune 410 001 (3) The Joint Director, Higher Education, Nanded Region, Govt. Polytechnic College Area, Nanded 431 602, (4) The University Grants Commission, Bahadur Shah Jafar Marg, New Delhi 110 002 through its Secretary, (5) The Registrar,

Swami Ramanand Teerth Marathwada University, Nanded (6) The Principal, Bahirji Smarak Mahavidyalaya, Basmath, Tq-Basmath, Dist-Hingoli.....**RESPONDENTS**

Mr. N.T.Bhagat, Advocate for the petitioner : Mrs.

A.V.Gondhalekar, AGP for respondents No.1 to3 : Mr. Alok Sharma, Assistant Solicitor General for respondent No.4 : Mr. S.R.Bagul, Advocate for respondent No.6

**WITH WRIT PETITION NO.5810 OF 2013**

Dr.Chandramuni Shiwaji Bhowate, Age-52 years, Occ-Service, R/o 70, Aniketnagar, Malegaon Road, Nanded, Dist-Nanded ..... **PETITIONER VERSUS** (1) The State of Maharashtra Through the Secretary, Higher & Technical Education, Maharashtra State, Mantralaya, Mumbai-32 (2) The Director of Higher Education, Maharashtra State, Central Building, Pune 410 001 (3) The Joint Director, Higher Education, Nanded Region, Govt. Polytechnic College Area, Nanded 431 602, (4) The University Grants Commission, Bahadur Shah Jafar Marg, New Delhi 110 002 through its Secretary, (5) The Registrar, Swami Ramanand Teerth Marathwada University, Nanded (6) The Principal, Nanded Education Society's Science College, Nanded.....**RESPONDENTS**

Mr. N.T.Bhagat, Advocate for the petitioner : Mr. K.J.Ghute Patil, AGP for respondents No.1 to 3 : Mr. Alok Sharma, Assistant Solicitor General for respondent No.4

**CORAM : MOHIT S. SHAH, C.J. AND SUNIL P.DESHMUKH, J.**

**DATE : 28 th AUGUST 2013**

**JUDGMENT (PER SUNIL P.DESHMUKH, J.)**

Rule. Rule made returnable forthwith and heard finally by consent.

2. Petitioners assail, in this group of writ petitions, propriety, legality and validity of communications / letters dated 14.02.2013, 06.06.2013 and 26.06.2013 [dated 25.02.2013 Exhibit-G1 in Writ Petition No.5272/2013, dated 21.02.2013 and 26.02.2013 Exhibit-F2 and Exhibit-F1 in Writ Petition No.5810/2013], Exhibit-G1, Exhibit-G2 and Exhibit-I respectively to rest of the the writ petitions, **issued by respondents No.3 and 6 respectively**, communicating that pay fixation of the lecturers under the list appended to the same, has been done taking into account the dates of their appointment and accordingly giving them benefit of "Career Advancement Scheme" (herein after 'CAS' for brevity). **The CAS benefits given are not according to the Government Resolution dated 18.10.2001** whereunder the benefits would be available from the date of acquiring requisite qualifications and as such their pay fixation needs revision. **It is further communicated that accordingly their pay be fixed and the revised pay fixation be recorded in their service books and the same be sent for certification and further that pay bills in respect of such teachers** be submitted according to the revised fixation else pay bills will not be accepted.

3. Petitioners were appointed as lecturers by the respondent management, by following due procedure viz,

issuing advertisement, selection by duly constituted selection committee and their appointments were also approved by the University. **The petitioners possess all other qualifications, save and except that they have not passed National Eligibility Test (NET) or State Eligibility Test (SET), as was required.** Since no candidate having NET / SET qualification was available the petitioners came to be appointed. Petitioners continued in service without any interruption.

4. In due course of time, **the petitioners were granted benefits of senior pay scale so also selection grade and accordingly entries were taken in their respective service books.** Pay fixation of the petitioners was done by the Joint Director of Higher Education, after following due procedure.

5. The petitioners contend that suddenly, vide communications impugned in the petitions, respondent Joint Director of Higher Education directed the respective colleges to re-fix the pay scale over again, pursuant to Government Resolution dated 18.10.2001. According to the petitioners, GR dated 18.10.2001, would not govern their case, as their services are approved by the University so also it would not be made applicable wherein appointments have been made during the period from 19.09.1991 to 03.04.2000. The impugned communications have been issued without notice to the petitioners and without giving

**This Court in its order dated 01.08.2013 has found that benefits of CAS cannot be denied to such teachers by considering them ad hoc appointees.**

( See Para 18 of this High Court Judgement dated 28th August 2013 )

Consequently, all the petitions succeed. The impugned communications dated 14.02.2013, 21.02.2013, 25.02.2013, 06.06.2013 issued by Joint Director of Higher Education and further communications issued by the respondent No.6 college dated 26.02.2013 and 26.06.2013 pursuant thereto, stand quashed and set aside, and would be ineffective and inoperative.

( See Para 21 of this High Court Judgement dated 28th August 2013 )

any opportunity of hearing. On the basis of the impugned communications, salary of the petitioners have been revised and scaled down. According to the petitioners, said action is illegal and unsustainable and has resulted into pecuniary loss to them.

**6. The petitioners contend that they have been exempted from passing NET / SET and as such , the purported action of revising their pay fixation, after such a huge time gap is unsustainable.** The authorities are not empowered to take such an action.

7. The petitioners place strong reliance on the order dated 10.05.2013 in Writ Petition (Lodging) No.1326/2012 passed by a Division Bench at Principal Seat wherein one of us (the Hon'ble the Chief Justice) was a member and on the decision of Division Bench at Aurangabad in Writ Petition No.11477 of 2010 in case of *Smt Asha Ramdas Bidkar & Others V/s The State of Maharashtra & Others* decided on 1st August 2013.

8. Respondents No.1 to 3 have filed affidavit in reply in Writ Petition No.5271/2013 and have submitted that the same stand is being taken in other connected writ petitions also. It is contended that since the petitioners did not possess essential qualifications prescribed by the UGC, temporary approvals on 'ad hoc' basis, were given to them each year. **It has been submitted that pursuant to Government Resolution dated 18.10.2001, the candidates, who have passed NET / SET during their service, were held eligible for CAS and were considered eligible from the date of passing NET / SET. It has also been submitted that exemption in respect of NET / SET to Ph.D. holders for availing benefit of CAS would be effective from the date of award of the Ph.D.** It is further contended that benefit of CAS to the candidates, who are exempted from NET/SET, would be available from the date of grant of exemption by the UGC and as the UGC has not referred to any specific date of exemption, the service period for eligibility for the benefit of CAS would be computable from the date of issuance of the order by UGC . The respondents as such justify the impugned communications directing refixation of pay of the petitioners. The respondents also rely on an order passed by the Apex Court in Special Leave Petition (C) No.30858 of 2011, in the case of "*Chandi Prasad Uniyal and Others V/s State of Uttarakhand and Others*".

9. The affidavit in reply also makes reference to the

Government Resolution dated 27.06.2013, which is issued after taking into consideration interim orders passed in several writ petitions.

**10. Factual position that all the petitioners, in this group of petitions, are appointed as lecturers in their respective subjects during the period from 1991 to 2000, by a duly constituted selection committee and after following the requisite procedure and that initial approval to their appointments has been culminated into permanent in 2006 is undisputed. It is also not disputed that the petitioners possess all other requisite qualifications, except National Eligibility Test (NET) or State Eligibility Test (SET), as was required and further that since no candidate having NET / SET qualification was available the petitioners were appointed. In due course of time, the petitioners were granted benefits of senior pay scale so also selection grade and accordingly entries were taken in their respective service books. Pay fixation of the petitioners was done by the concerned, accordingly, after following due procedure.**

**11. The factual position indisputably shows that all the petitioners have been continuously and uninterruptedly working since the dates of their initial appointment which are during 1991 to 2000 and that their services have been permanently approved by the University.** It is also an undisputed fact that UGC has exempted the candidates who were appointed during the period from 1991 to 2000, from acquiring NET / SET qualifications. The petitioners possess Ph.D. or M.Phil. and thus stand exempted from NET / SET. Even the Assessment Committee of the University had selected the petitioners for senior scale / selection grade. The University had accepted and recommended the petitioners, pursuant to the report of the said Committee comprised also with a government nominee.

**12. It further appears that in Writ Petition No.4908/2010, a Division Bench of this Court at Nagpur, under its order dated 20.04.2011, had directed the University Grants Commission to communicate to the State Government as to the date from which exemption would become effective pursuant to its notification dated 05.11.2008 granting exemption from NET / SET.** It appears that thereafter by letter dated August 16, 2011, addressed to the Principal Secretary, Government of Maharashtra, Higher and Technical Education Department, it came to be communicated by UGC that in its meeting

Under the circumstances Government Resolution dated 18.10.2001 is of little significance and cannot be relied upon or resorted to, to support the impugned actions. Having regard to the aforesaid, the recourse to government resolution dated 18.10.2001 by the concerned authorities, is of no avail to them to justify the impugned orders.

( See Para 17 of this High Court Judgement dated 28th August 2013 )

It is also not in dispute that the UGC has resolved to grant exemption to the teachers who were appointed during 1991 to 2000 and has also stated that “Therefore, the services of such teachers, for all purpose, should be counted from the date of their regular appointment”

(Vide communication of UGC dated 26.08.2011).

( See Para 18 of this High Court Judgement dated 28th August 2013 )

held on 08.07.2011, Commission had passed a resolution and requested further action accordingly. In furtherance of the same, the UGC, vide its communication dated 16.08.2011, addressed to the General Secretary of Maharashtra Federation of University and College Teachers Organization, stated thus - “Kindly referred to your representation dated 17th August, 2011 on the subject mentioned above. The issue raised in the representation has been examined in the UGC and this is to inform you that, the Commission in its meeting held on 08.07.2011 considered the representation received in respect of lecturers appointed in the State of Maharashtra from 19th September, 1991 till 3rd April 2000 and resolved as under :-

“The Commission deliberated on the issue regarding appointment of various teachers in the State of Maharashtra from September 19, 1991 until April 3, 2000 and resolved that, all such appointments made on regular basis by various Universities in the State of Maharashtra where the University has granted exemption to teacher from the requirement of NET in terms of the UGC Regulations, 1991 and subsequent notification dated 24.12.1998 and where the representation has been forwarded to Commission seeking further approval in relation to such regular appointment made during the said period w.e.f. September 19, 1991 till April 3, 2000 is approved .....” The above decision of the Commission has already been communicated by the UGC vide its letter No.F-1-1/2002 (PS) Exemp. Pt. File IV dated 16th August 2011 to the Principal Secretary, State of Maharashtra, Higher and Technical Education Department, Mumbai. As may be seen from the above decision of the Commission, the Commission has taken the said decision in respect of all such appointments made on regular basis by various universities during the period from September 1991 to April 3, 2000. Therefore, the services of such teachers for all purpose should be counted from the date of their regular appointment.”

13. Despite aforesaid clear communication, it appears that the Joint Director of Higher Education issued

communication dated 14.02.2013, making reference to Government Resolution dated 18.10.2001, to the effect that benefits of CAS would not be available to the teachers in the respondent No.6 College since under said resolution the benefits would be available from the date of acquiring eligibility and as such the pay scale granted to the petitioners need to be revised and refixed accordingly and further communicating to furnish requisite information accordingly. Along with the said communications, the revised CAS fixation was sent to the college. Thereafter, the Joint Director of Higher Education, Nanded under communication dated 06.06.2013 directed respondent No.6 to furnish service books, according to the revised CAS fixation in respect of the petitioners for certification and also to submit pay bills accordingly in the month of June, 2013, further stating that otherwise pay bills would not be accepted. It is against these orders the petitioners are before this Court.

14. It was also the stand of the Government, as emerging from the order dated 20.04.2011 in Writ Petition No.4908/2010 at Nagpur wherein it was contended on behalf of the State that though exemption from NET / SET has been granted vide notification of UGC dated 05.11.2008, however the date of exemption in respect of passing of NET / SET has not been specifically mentioned and in absence of the same, the Government has not been able to decide the claims of the petitioners for grant of benefits under CAS and further that if it is made known to the State Government by UGC, same would be considered in accordance with law and the prescribed procedure.

15. It appears that in Writ Petition (Lodging) No.1326/2012, a statement was made on behalf of the State Government that Government Resolution would be issued exempting teachers, who were appointed after following prescribed procedure during the period from 19.09.1991 to 03.04.2000, and stating that a GR will be issued granting exemption from NET / SET to those teachers who were appointed during 1991 to 2000 and the Government and the Universities would protect the pay

It is nobody's case that the petitioners are not otherwise qualified or their appointments have not been approved by the University or they do not possess requisite qualifications except NET/SET

( See Para 16 of this High Court Judgement dated 28th August 2013 )

The factual position indisputably shows that all the petitioners have been continuously and uninterruptedly working since the dates of their initial appointment which are during 1991 to 2000 and that their services have been permanently approved by the University. It is also an undisputed fact that UGC has exempted the candidates who were appointed during the period from 1991 to 2000, from acquiring NET / SET qualifications.

( See Para 11 of this High Court Judgement dated 28th August 2013 )

fixation, including increments already paid to the teachers and, therefore, there will be no recovery of annual increments which the teachers have already earned. It appears that **subsequently, Government Resolution dated 27.06.2013 has been issued from which it emerges that it has been decided that -**

1. Notification dated 19.09.1991 of the UGC has been adopted by the State Government under a Resolution dated 23.10.1992 and, as such, the stipulations in the notification dated 19.09.1991 would not be applicable to the lecturers appointed before 23.10.1992.

2. The lecturers, who are appointed during 23.10.1992 to 03.04.2000, who do not possess NET / SET / Ph.D. / M.Phil., would be considered for all purposes, on fulfillment of the conditions that -

(a) Their appointments should be on regular basis.

(b) Their appointments should be made after following the prescribed procedure.

(c) The lecturers shall have all other qualifications except NET / SET.

(d) Proposals of such lecturers should have been forwarded to the UGC for approval.

16. The Government Resolution dated 27.06.2013 has been considered by the Division Bench of this Court in the order dated 01.08.2013 in Writ Petition No.11477/2010 (Supra). **It is nobody's case that the petitioners are not otherwise qualified or their appointments have not been approved by the University or they do not possess requisite qualifications except NET / SET.** Government Resolution dated 27.06.2013 also makes reference to the Government Resolution dated 18.10.2001. It is also not the case of the respondent authorities that the petitioners do not fulfill the conditions referred to in the Government Resolution dated 27.06.2013.

**17. Under the circumstances Government Resolution dated 18.10.2001 is of little significance and cannot be relied upon or resorted to, to support the impugned actions. Having regard to the aforesaid, the recourse to government resolution dated 18.10.2001 by the concerned authorities, is of no avail to them to justify the impugned orders.**

18. It is also not in dispute that the UGC has resolved to grant exemption to the teachers who were appointed during 1991 to 2000 and has also stated that *'Therefore, the services of such teachers, for all purpose, should be counted from the date of their regular appointment'*. (Vide communication of UGC dated 26.08.2011). **This Court in its order dated 01.08.2013 has found that benefits of CAS cannot be denied to such teachers by considering them ad hoc appointees.**

19. The decision of the Supreme Court in the case of *"Chandi Prasad Uniyal and Others V/s State of Uttarakhand and Others"* (Supra) is of little benefit to the respondents in the facts and circumstances of the present matter, which are wide apart from those in the case before the Apex Court.

20. Having regard to the same, **the communications impugned in the present petitions, which are issued to the petitioners affecting their pay scales adversely, are unsustainable and deserve to be quashed and set aside.**

21. Consequently, all the petitions succeed. The impugned communications dated 14.02.2013, 21.02.2013 (Writ Petition No. 5810/2013) 25.02.2013 (Writ Petition No.5272/2013), 06.06.2013 issued by Joint Director of Higher Education and further communications issued by the respondent No.6 college dated 26.02.2013 (in Writ Petition No. 5810/2013) and 26.06.2013 pursuant thereto, stand quashed and set aside, and would be ineffective and inoperative.

22. Rule is made absolute in the aforesaid terms in each matter with no order as to costs.

CHIEF JUSTICE

[SUNIL P.DESHMUKH, J.]

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### १ जानेवारी २००६ नंतर पण २९ ऑगस्ट २००९ पूर्वी सेवानिवृत्त झालेल्या प्राध्यापकांसाठी : २

१ जानेवारी २००६ नंतर पण २९ ऑगस्ट २००९ पूर्वी सेवानिवृत्त झालेल्या विद्यापीठीय व महाविद्यालयीन प्राध्यापकांना सेवानिवृत्ती समयी अदा करावयाच्या ग्रॅज्युईटी संदर्भात मा. सर्वोच्च न्यायालयाने दिनांक ३० जानेवारी २०१३ रोजी एक महत्वपूर्ण निर्णय दिलेला असून तो निर्णय सन २०१३ च्या नुटा बुलेटीनच्या पृष्ठ ९३ ते ९५ वर प्रसृत केलेला आहे.

२. मा. सर्वोच्च न्यायालयाने दिलेल्या उपरोक्त निर्णयाच्या संदर्भात पुढे करावयाच्या कारवाईबाबत विचार करण्यासाठी नागपूर व अमरावती विभागातील १ जानेवारी २००६ नंतर पण २९ ऑगस्ट २००९ पूर्वी सेवानिवृत्त झालेल्या विद्यापीठीय व महाविद्यालयीन प्राध्यापकांची सभा शनिवार, दिनांक ३ ऑगस्ट २०१३ रोजी शिक्षक भवन, अमरावती विद्यापीठ परिसर, अमरावती येथे दुपारी ४.०० वाजता पार पडली.

३. त्या सभेत झालेल्या निर्णयाप्रमाणे प्रधान सचिव उच्च शिक्षण, संचालक उच्च शिक्षण व सहसंचालक उच्च शिक्षण नागपूर व अमरावती विभाग यांना २६ ऑगस्ट २०१३ रोजी नोटीस देण्यात आलेली आहे. या नोटीसमध्ये "मा. सर्वोच्च न्यायालयाचा निकाल लक्षात आणून देवून ७ महिन्यापेक्षा जास्त काळ होऊन गेल्यावरही तुम्ही याबाबत योग्य ती कारवाई केलेली नाही. तावडतोबीने आपण कारवाई न केल्यास न्यायालयामध्ये याबाबत दाद मागितली जाईल." असे सूचित करण्यात आले आहे. याचिका दाखल करण्याची तयारी सुद्धा अंतिम टप्प्यात आलेली आहे.

डॉ. प्रविण रघुवंशी, अध्यक्ष, ( NUTA ) डॉ. अनिल ढगे, सचिव,

# न्यायालयीन संघर्षाचा केंद्रबिंदू 'एसएलपी' कडे सरकत असतांना सावध रहाण्याची गरज

प्रा.बी.टी.देशमुख, महाराष्ट्र प्राध्यापक महासंघाचे माजी अध्यक्ष

मा. मुंबई उच्च न्यायालयाच्या औरंगाबाद खंडपीठासमोर नेटसेटमुक्त शिक्षकांच्या बाबतीत दिनांक २८ ऑगस्ट २०१३ रोजी दुसरा एक अत्यंत महत्त्वपूर्ण निर्णय झाला आहे. निरनिराळ्या ९ प्राध्यापकांनी वेगवेगळ्या ९ याचिका सन २०१३ मध्ये औरंगाबाद खंडपीठासमोर दाखल केल्या होत्या. यातील आठ प्राध्यापक हे बसमत, तालुका बसमत, जिल्हा हिंगोली येथील बहिरजी स्मारक महाविद्यालयात कार्यरत आहेत व ९ वे शिक्षक नांदेड एज्युकेशन सोसायटीच्या नांदेड येथील महाविद्यालयात कार्यरत आहेत. मुळात हे सर्वच प्राध्यापक नेटसेटमुक्त असून त्या सर्वांनी नंतरच्या काळात 'पीएचडी' ही पदवी प्राप्त केलेली आहे.

२. 'पीएचडी' पदवी प्राप्त केल्यानंतर सर्व प्रक्रिया यथोचितरित्या पार पडून नेमणूकीच्या दिनांकापासून त्यांची सेवा धरून त्यांना स्थाननिश्चितीचे सर्व आर्थिक लाभ मिळाले व आजही मिळत आहेत. नांदेडच्या सहसंचालकांनी (व त्यामुळे नंतर कॉलेजच्या प्राचार्यांनी) १४ फेब्रुवारी २०१३, २१ फेब्रुवारी २०१३, २५ फेब्रुवारी २०१३, ६ जून २०१३, २६ फेब्रुवारी २०१३, व २६ जून २०१३ रोजी वेगवेगळे आदेश काढून "पीएचडी पदवी प्राप्त झाल्याच्या तारखेपासून सेवा मोजून नव्याने स्थाननिश्चिती करून त्याप्रमाणे त्यांच्या सर्व्हिस बुकात नोंद करा" असे आदेश काढले. अर्जदारांनी न्यायालयात या आदेशांना आव्हानित केले. मा. उच्च न्यायालयाने याबाबतीत "Consequently, all the petitions succeed. The impugned communications dated 14.02.2013, 21.02.2013 (Writ Petition No. 5810/2013) 25.02.2013 (Writ Petition No.5272/2013), 06.06.2013 issued by Joint Director of Higher Education and further communications issued by the respondent No.6 college dated 26.02.2013 (in Writ Petition No. 5810/2013) and 26.06.2013 pursuant thereto, stand quashed and set aside, and would be ineffective and inoperative." असा निर्णय दिला.

३. स्थाननिश्चितीचे देण्यात आलेले लाभ काढून घेण्याच्या प्रकरणी मा. मुंबई उच्च न्यायालयाने दिनांक ३ सप्टेंबर २०१० रोजी सन २०१० च्या याचिका क्रमांक १८९३ मध्ये पुढील प्रमाणे निर्णय दिला होता. :-

"2. Admitted position is that the Petitioner in these petitions are working as Lecturers in different Colleges affiliated to Pune University. It is also common ground that their pay was fixed in the senior scale and the selection grade earlier. They were also paid in the senior scale and the selection grade as per the Government Resolution dated 11th December, 1999. It is also an admitted position that now by the orders which are impugned in these petitions, the Joint Director, Higher Education has cancelled the order made by him earlier fixing the scale of pay of the Petitioners in senior scale and selection grade. It is also an admitted position that this has been done without issuing any show cause notice to the Petitioners. In our opinion, the orders made in favour of the Petitioners as a result of which there was enhancement in the pay package of the Petitioners, could not have been cancelled by the Joint Director without hearing and issuing show cause notice to them. As it is an admitted position that the orders granting senior scale and selection grade have been cancelled without granting an opportunity of being heard to the Petitioner, in our opinion, those orders will have to be set aside.

3. In the result, therefore, all the petitions succeed and allowed. The orders impugned in the petitions, whereby the orders made earlier fixing the scale of pay of the Petitioners in senior scale and selection grade have

been cancelled, are set aside, with liberty to the Respondent No.2 to make fresh order in accordance with law. All the contentions available to both sides are kept open. Rule made absolute. No order as to costs." (P 39 of NB 2011)

४. मा. उच्च न्यायालयाच्या औरंगाबाद खंडपीठाने दिनांक २४ मार्च २०११ रोजी १९९१ ऑफ २०११ या प्रकरणात पुढील प्रमाणे निर्णय दिला होता. :-

"2. Admittedly, the petitioners in the present petitions are appointed as Lecturers in different colleges in this region. Admittedly, their pay was fixed in the senior scale and the selection grade earlier as per the applicable Government Resolution dated 11th December, 1999. Admittedly, the Joint Director of Higher Education, Pune Region has cancelled the order of earlier pay fixation. It is admitted fact that this exercise was carried without issuing any show cause notices to the petitioners. Thus, the petitioners are adversely affected by the order without granting an opportunity of being heard. In our opinion, therefore, those orders will have to be set aside. Further, some of the Lecturers working within the jurisdiction of Pune University with the similar grievances have succeeded on this ground, vide order dated 3rd September, 2010 passed in writ petition No. 1893/2010 and five other writ petitions, a copy of which is placed before us by learned counsel for the petitioners.

3. In the result, all the petitions succeed and are allowed. The impugned orders are set aside with liberty to the Joint Director of Higher Education to make fresh order in accordance with law. All the contentions to both the sides are kept open. Rule made absolute. No order as to costs." (P 38 of NB 2011)

५. पहिल्या दिवसापासून सेवा धरून प्रत्यक्षात आर्थिक लाभ देण्यात आलेल्या शिक्षकांची संख्या २ ते ३ हजाराच्या घरात आहे. या शिक्षकांना कायदेशिररित्या अनुज्ञेय झालेले हे लाभ बेकायदेशीरपणे काढून घेण्याचा प्रयत्न पहिल्यावेळी ३० सप्टेंबर २०१० रोजी (सन २०१० ची याचिका क्रमांक १८९३ या प्रकरणामध्ये) मुंबई खंडपीठाने व दुसऱ्या वेळी दिनांक २४ मार्च २०११ च्या निर्णयान्वये (सन २०११ ची याचिका क्रमांक १९९१ या प्रकरणात) औरंगाबाद खंडपीठाने हाणून पाडला. मात्र या दोनही प्रकरणात निर्णय प्रश्नाच्या गुणवत्तेवर झालेला नव्हता तर तो तांत्रिक मुद्यांवर व निसर्गन्यायाच्या तत्त्वाचे पालन न केल्यामुळे झाला होता. "संबंधितांचे म्हणणे ऐकून न घेता आदेश काढले" या कारणावरून आदेश रद्दबादल करण्यात आले होते. दोनही प्रकरणामध्ये कायदानुसार कारवाई करण्याची मोकळीक सहसंचालकांना "The Joint Director of Higher Education to make fresh order in accordance with law." या शब्दात देण्यात आलेली होती.

६. ज्या दोन तीन हजार शिक्षकांना नेमणूकीच्या दिनांकापासून सेवा धरून सर्व लाभ देण्यात आलेले आहेत. त्यातील काहीच्या बाबतीत "रिकव्हरी" काढण्याचा तिसरा प्रयत्न मा. औरंगाबाद उच्च न्यायालयाच्या खंडपीठाने २८ ऑगस्ट २०१३ च्या या निर्णयाने हाणून पाडला आहे. हा निर्णय प्रश्नाच्या गुणवत्तेवर झालेला आहे असे आपणास दिसून येईल. "म्हणणे ऐकून न घेता रिकव्हरी काढली" ही बाब या प्रकरणातसुद्धा होतीच. मात्र मा. खंडपीठाने त्या मुद्यावरून निर्णय दिलेला नसून प्रश्नाच्या गुणवत्तेच्या मुद्यावरून निर्णय दिलेला आहे.

७. “ही ‘रिकव्हरी’ काढणे योग्य कसे आहे” याबाबतचे शासनाचे/सहसंचालकाचे म्हणणे न्यायालयाने ऐकून घेतले व त्याची आपल्या निर्णयाच्या परिच्छेद ८ व ९ मध्ये नोंदही केलेली आहे. सहसंचालकातर्फे रिकव्हरीचे समर्थन करतांना पहिला मुद्दा या सर्वांच्या सेवा “अॅडव्हाक” आहेत असा मांडण्यात आला. दुसरा मुद्दा १८ ऑक्टोबर २००९ च्या शासननिर्णयाचा मांडण्यात आला होता. त्या निर्णयाप्रमाणे पीएचडी. मिळाल्याच्या तारखेपासून सेवा धरली जाईल असे त्यात आहे. तिसरा मुद्दा विद्यापीठ अनुदान आयोगाने एक्झमन देतांना ते कोणत्या तारखेपासून घ्यावे ते कळविले नाही हा होता व चौथा मुद्दा २७ जून २०१३ च्या शासननिर्णयाबाबतचा मांडला गेला. मुख्यत्वे या चार मुद्द्यांच्या आधारे सहसंचालकांनी आपल्या रिकव्हरीच्या आदेशाचे समर्थन या प्रकरणात केले आहे.

८. मा. उच्च न्यायालयाने सहसंचालकांनी उपस्थित केलेल्या चारही मुद्दांचा आपल्या निर्णयात यथायोग्य समाचार घेतलेला आहे.

(i) पहिला मुद्दा “अॅडव्हाक सर्व्हिस” असण्याबाबतचा. त्याबाबत मा. खंडपीठाने असे नमुद केले आहे की, “**This Court in its order dated 01.08.2013 has found that benefits of CAS cannot be denied to such teachers by considering them *ad hoc* appointees.**”

(ii) १८ ऑक्टोबर २००९ च्या शासननिर्णयाचा जो दुसरा मुद्दा सहसंचालकांनी उपस्थित केला. त्याला मा. खंडपीठाने “**Under the circumstances Government Resolution dated 18.10.2001 is of little significance and cannot be relied upon or resorted to, to support the impugned actions. Having regard to the aforesaid, the recourse to government resolution dated 18.10.2001 by the concerned authorities, is of no avail to them to justify the impugned orders.**” या शब्दात खोडून काढला.

(iii) विद्यापीठ अनुदान आयोगाने ५.११.२००८ च्या पत्रात एक्झमन देतांना कोणत्या तारखेपासून लाभ घ्यावेत हे विद्यापीठ अनुदान आयोगाने आम्हाला कळविले नाही याबाबत मा. न्यायालयाने १६ ऑगस्ट २०११ रोजी प्रधान सचिव, उच्च शिक्षण यांना पाठविलेल्या व त्यानंतर त्याच महिन्यात महाराष्ट्र प्राध्यापक महासंघाच्या सचिवांना विद्यापीठ अनुदान आयोगाने पाठविलेल्या पत्राचा निर्णयाच्या परिच्छेद १८ मध्ये उल्लेख करून “It is also not in dispute that the UGC has resolved to grant exemption to the teachers who were appointed during 1991 to 2000 and has also stated that *Therefore, the services of such teachers, for all purpose, should be counted from the date of their regular appointment.* (Vide communication of UGC dated 26.08.2011).” असा निर्णय दिलेला आहे.

(iv) २७ जून २०१३ च्या शासननिर्णयाबाबत सुद्धा मा. खंडपीठाने सहसंचालकांचे म्हणणे परिच्छेद १५ व १६ मध्ये अमान्य केले ते पुढील शब्दात :-

“It appears that in Writ Petition (Lodging) No.1326/2012, a statement was made on behalf of the State Government that Government Resolution would be issued exempting teachers, who were appointed after following prescribed procedure during the period from 19.09.1991 to 03.04.2000, and stating that a GR will be issued granting exemption from NET / SET to those teachers who were appointed during 1991 to 2000 and the Government and the Universities would protect the pay fixation, including increments already paid to the teachers and, therefore, there will be no recovery of annual increments which the teachers have already earned.....It is nobodys case that the petitioners are not otherwise qualified or their appointments have not been approved by the University or they do not possess requisite qualifications except NET / SET. .... It is also not the case of the respondent authorities that the petitioners do not fulfill the conditions referred to in the Government Resolution dated 27.06.2013.”

९. गुणवत्तेवर सहसंचालकांचे सर्व मुद्दे खोडून काढल्यानंतर मा. खंडपीठाने परिच्छेद २१ मध्ये पुढीलप्रमाणे निर्णय दिलेला आहे. :-

“Consequently, all the petitions succeed. The impugned communications dated 14.02.2013, 21.02.2013 (Writ Petition No. 5810/2013) 25.02.2013 (Writ Petition No.5272/2013), 06.06.2013 issued by Joint Director of Higher Education and further communications issued by the respondent No.6 college dated 26.02.2013 (in Writ Petition No. 5810/2013) and 26.06.2013 pursuant thereto, stand quashed and set aside, and would be ineffective and inoperative.”

१०. विधानपरिषदेमध्ये नेटसेटमुक्त शिक्षकांच्या बाबतीत अनेक आश्वासने देण्यात आली पण शासनाने त्यांचे पालन केले नाही. सभागृहाच्याबाहेर महाराष्ट्र प्राध्यापक महासंघाला शासनाने अनेक लेखी आश्वासने दिलीत पण त्यांचे पालन केले नाही. राज्याच्या मा. मुख्यमंत्र्यांनी दिलेला लिखित शब्दसुद्धा पाळला गेला नाही आता माननीय उच्च न्यायालयासमोर दिलेला शब्द सुद्धा शासन पाळत नाही. याची भरपूर नोंद मा. उच्च न्यायालयाच्या या निर्णयामध्ये करण्यात आलेली आहे.

(i) ‘एक्झमन’ देतांना विद्यापीठ अनुदान आयोगाने आम्हाला ५ नोव्हेंबर २००८ रोजी नोटीफिकेशन पाठविले त्यामध्ये ते कोणत्या तारखेपासून लागू होईल हे युजीसीने आम्हाला कळविले नाही अशी तक्रार शासनाच्या वतीने मा. उच्च न्यायालयाच्या खंडपीठासमोर करण्यात आली होती. त्यावर मा. उच्च न्यायालयाने २० एप्रिल २०११ रोजी विद्यापीठ अनुदान आयोगाला आदेश दिले. त्याप्रमाणे विद्यापीठ अनुदान आयोगाने तारिख कळविली पण त्यानंतर सुद्धा सहसंचालक १८ ऑक्टोबर २००९ च्या शासननिर्णयाचे तुणतुणे वाजवित आहेत. याची नोंद मा. खंडपीठाच्या या निर्णयाच्या परिच्छेद १२ व १३ मध्ये पुढील शब्दात करण्यात आलेली आहे. :-

“It further appears that in Writ Petition No.4908/2010, a Division Bench of this Court at Nagpur, under its order dated 20.04.2011, had directed the University Grants Commission to communicate to the State Government as to the date from which exemption would become effective pursuant to its notification dated 05.11.2008 granting exemption from NET / SET. It appears that ..... the UGC, vide its communication dated 16.08.2011, addressed to the General Secretary of Maharashtra Federation of University and College Teachers Organization, stated thus.... **Therefore, the services of such teachers for all purpose should be counted from the date of their regular appointment.....**Despite aforesaid clear communication, it appears that the Joint Director of Higher Education issued communication dated 14.02.2013, making reference to Government Resolution dated 18.10.2001, to the effect that benefits of CAS would not be available to the teachers in the respondent No.6 College”

(ii) मा. उच्च न्यायालयाच्या नागपूर खंडपीठासमोर शासनाच्या वतीने दिनांक २० एप्रिल २०११ रोजी काय मान्य करण्यात आले होते याची आठवण मा. खंडपीठाने परिच्छेद १५ मध्ये पुढील शब्दात करून दिलेली आहे. :- “It was also the stand of the Government, as emerging from the order dated 20.04.2011 in Writ Petition No.4908/2010 at Nagpur wherein it was contended on behalf of the State that though exemption from NET / SET has been granted vide notification of UGC dated 05.11.2008, however the date of exemption in respect of passing of NET / SET has not been specifically mentioned and in absence of the same, the Government has not been able to decide the claims of the petitioners for grant of benefits under CAS and further that if it is made known to the State Government by UGC, same would be considered in accordance with law and the prescribed procedure.”

(iii) आज ज्या खंडपीठातर्फे हा निर्णय दिला जात आहे त्या खंडपीठातील

एक न्यायमुर्ती (म्हणजे खुद्द मा. मुख्य न्यायमुर्ती) पीठासीन असतांना मुंबई खंडपीठातर्फे १० मे २०१३ रोजी तेथे शासनातर्फे काय सांगण्यात आले होते. याचीही नोंद मा. खंडपीठाने आपल्या निर्णयाच्या परिच्छेद १५ मध्ये पुढील शब्दात केलेली आहे.

**“15. It appears that in Writ Petition (Lodging) No.1326/2012, a statement was made on behalf of the State Government that Government Resolution would be issued exempting teachers, who were appointed after following prescribed procedure during the period from 19.09.1991 to 03.04.2000, and stating that a GR will be issued granting exemption from NET / SET to those teachers who were appointed during 1991 to 2000 and the Government and the Universities would protect the pay fixation, including increments already paid to the teachers and, therefore, there will be no recovery of annual increments which the teachers have already earned.”**

११. आजपावेतो झालेल्या मा. उच्च न्यायालयाच्या दोन न्यायनिर्णयामध्ये (१) “अॅडव्हाक सर्व्हिस”बाबतचा मुद्दा. (२) २७ जून २०१३ च्या शासननिर्णयाचा मुद्दा (३) विद्यापीठ अनुदान आयोगाचे पहिल्या दिवसापासून सर्व प्रयोजनार्थ सेवा धरण्याबाबतचे ऑगस्ट २०११ मधील दोन आदेश (४) १८.१०.२००१ चा शासननिर्णय या महत्त्वाच्या बाबीवर मा. उच्च न्यायालयाचे निर्णय प्राप्त झालेले आहेत.

१२. अजून पावेतो (१) अनेक शिक्षकांची निवड होतांना मान्य झालेल्या व प्रसिद्ध झालेल्या जाहीरातीत नेटसेट पात्रतेचा अजिबात उल्लेख नव्हता. (२) अनेक शिक्षकांच्या बाबतीत ही मान्यता त्यावेळी कायम स्वरूपी (ONWARD) देण्यात आलेली आहे. (३) अनेक शिक्षकांच्या बाबतीत दोन वर्षांच्या सेवेनंतर त्यांना सेवेत कायम करण्याचे परिनिर्णय त्या त्या विद्यापीठात अस्तित्वात आहेत. (४) अनेक ठिकाणी दोन वर्षांनंतर डिम्ड कन्फर्मेशनची तरतुद आहे. (५) मा. सर्वोच्च न्यायालयाच्या या निर्णयाप्रमाणे सन १९९१ चे रेग्युलेशन शिफारशीच्या स्वरूपाचे होते, ते पूर्वलक्षी प्रभावाने लागू करता येणार नाही. (६) अमुक एका कायद्याच्या तमुक एका कलमान्वये दिलेल्या अधिकाराचा वापर करून नेटसेट पात्रता सक्तीची करणारा शासननिर्णय सन १९९१ ते २००० या काळात कॅव्हाही काढण्यात आलेला नाही (७) पात्रता ठरविण्याचे शासननिर्णय हे कायदेशीर माध्यम नसणे (८) कायदेशीर माध्यम असलेले कुलगुरूंचे निदेश व या मा. राज्यपालांच्या सम्मतीनंतर परिनिर्णय सन १९९९ च्या शेवटी किंवा २००० च्या सुरुवातीला झाले. (९) त्या त्या विद्यापीठाच्या कुलगुरूंनी घेतलेली भूमिका, जाहिराती, मान्यता, परिनिर्णय, कन्फर्मेशन. (१०) एक्झॅम्पशन देणारे विद्यापीठ अनुदान आयोगाचे अनेक निर्णय (११) शासनाने सभागृहात व सभागृहाबाहेर एकामागून एक दिलेली लेखी आश्वासने (१२) ४४ दिवसाच्या संपकाळात वृत्तपत्रातून याबाबत शासनाने जाहीरपणे आश्वासने देणाऱ्या मोठमोठ्या जाहिराती. (१३) मा. उच्च शिक्षणमंत्री, मुख्यसचिव व सचिव हे तर सोडाच पण खुद्द मा. मुख्यमंत्र्यांच्या सारख्या ज्येष्ठ पदधारकाकडून होणारे विश्वासघाताचे वर्तन (१४) मा. सर्वोच्च न्यायालयाच्या निर्णयातील परिच्छेद २१ व २४ याबाबतचा तपशील या महत्त्वाच्या बाबी आहेत. महासंघाच्या ठरावानंतर उपरोक्त मुद्द्यांची मांडणी करण्याच्या याचिका दाखल झालेल्या असल्या किंवा होत असल्या तरी त्या मुद्द्यांवर मा. उच्च न्यायालयाचे निर्णय मिळालेले नाहीत. यथावकाश ते मिळतील.

१३. मा. सर्वोच्च न्यायालयाचे खटले पुनर्निर्णयास घेण्यासंबंधीचे विशेष अधिकार (Special Appellate Power) या संदर्भात लक्षात घेतले पाहिजे. सर्वसाधारणपणे जे खटले मा. सर्वोच्च न्यायालयाकडे पुनर्निर्णयासाठी येऊ शकतात, त्यामध्ये उपरोक्त प्रकरणे बसत नाहीत. मात्र भारतीय संविधानाच्या १३६ व्या कलमानुसार खटले पुनर्निर्णयासाठी घेण्याची विशेष सत्ता सर्वोच्च न्यायालयाला देण्यात आली आहे. भारतातील कोणत्याही न्यायालयाने किंवा लवादाने दिलेला निकाल विशेष परवानगीने (Special Leave) हे न्यायालय पुनर्निर्णयासाठी सुनावणीस घेऊ शकते. राज्य शासनातर्फे अपिलासाठी विशेष परवानगी मागणारा अर्ज (Special Leave Petition : SLP in short) सर्वोच्च न्यायालयापुढे दाखल केला जाईल असे निश्चितपणे गृहित धरून न्यायालयीन संघर्षामध्ये कोणतीही शिथिलता येवू देता कामा नये. औरंगाबाद खंडपीठाच्या या निर्णयामुळे २ ते ३ हजार शिक्षकांना यापूर्वी देण्यात आलेले लाभ काढून घ्यायचे की इतर ५ ते ६ हजार शिक्षकांना ते अनुज्ञेय ठरविण्याचा मा. उच्च न्यायालयाचा निर्णय कायम ठेवावयाचा हा महत्त्वाचा मुद्दा इतर मुद्द्यांसोबत एसएलपीच्या वेळी मा. सर्वोच्च न्यायालयापुढे येईल.

१४. महाराष्ट्र प्राध्यापक महासंघाने ९ ऑगस्ट २०१३ रोजी या संदर्भात केलेला तपशीलवार ठराव काळजीपूर्वक पहिला तर त्या ठरावाच्या परिच्छेद ३६ (तीन) मध्ये पुढील उल्लेख आहे. :-

“कायद्याचे प्रश्न त्यामध्ये गुंतलेले असल्याने न्यायालयाच्या मार्गानेच ठामपणे यशाच्या दृष्टीने दृढनिश्चयपूर्वक वाटचाल करण्याचा भाग म्हणून न्यायालयीन याचिकांच्या मजबुत बांधणीसह ठोस व भक्कम अशा प्रकारचा न्यायालयीन संघर्ष उभा करण्याचा निर्णय घेण्यात येत आहे. मा. औरंगाबाद खंडपीठाचा निर्णय होण्यापूर्वी अशा बहु याचिका दाखल होण्यामुळे या प्रकरणाच्या न्यायालयीन प्रवासाचा घटनाक्रम कसा राहिला असता व आता मा. औरंगाबाद खंडपीठाचा निर्णय झाल्यामुळे अशा बहु याचिका दाखल होण्यामुळे तो प्रवास कसा होईल याची विधी क्षेत्रातील तज्ञांशी चर्चा करून कार्यकारी मंडळाने विचारपूर्वक हा निर्णय घेतलेला आहे. हे मुद्दाम नमूद करण्यात येत आहे.”

१५. महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाने दिनांक ९ ऑगस्ट रोजी सम्मत केलेल्या ठरावातील मा. उच्च न्यायालयाच्या पातळीवर “समानतेच्या आत असलेले वेगळेपण आपापल्या बलस्थानासह मा. न्यायसत्तेच्या लक्षात आणून देणे व त्याचबरोबर शासन ज्या टोकापर्यंत जाईल त्या टोकापर्यंत निष्णात विधिज्ञांची नामांकित फळी या संघर्षामध्ये नेटसेटमुक्त शिक्षकांच्या पाठीशी उभी होणे ही दोन मुख्य उद्दिष्टे या धोरणामागे आहेत.” हा उल्लेख अतिशय महत्त्वाचा असून तो लक्षात ठेवूनच या कामाची पुढील वाटचाल करावी लागेल. या नेटसेटमुक्त शिक्षकांची कायदेशीर बाजू अत्यंत मजबुत असल्यामुळे मा. उच्च न्यायालयाच्या स्तरावर मिळत असलेल्या यशामुळे उत्साहित न होता कमी शक्तीवान मुद्द्यांवर उत्तम यश मिळालेले आहे हे लक्षात घेता बलवत्तापूर्ण मुद्दे मा. उच्च न्यायालयाच्या विविध खंडपीठापुढे मांडून त्यावर निर्णय मिळविण्याचा प्रयत्न चिवटपणे पूर्णत्वास नेला पाहिजे व तसे करतांना मा. सर्वोच्च न्यायालयामध्ये “एसएलपी”च्या सुनावणीच्या वेळी मा. उच्च न्यायालयासमोर मांडला गेला नाही असा मुद्दा किंवा असे कागदपत्र पुढे काही उपयोगाचे नसतात हे पुरतेपणी लक्षात ठेवले पाहिजे. त्याच बरोबर दुसरे हे सुद्धा लक्षात ठेवले पाहिजे की मा. उच्च न्यायालयाच्या स्तरावरील हा संघर्ष पुढच्या २-४ महिन्यामध्ये संपुष्टात आलेला असेल व न्यायालयीन संघर्षाचा हा केंद्रबिंदू “एलएलपी”च्या दिशेने मा. सर्वोच्च न्यायालयाकडे सरकलेला असेल.

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