

From : **UMRAOMAL PUROHIT**
Secretary, National Council (STAFF SIDE) JCM
JOINT CONSULTATIVE MACHINERY (JCM)
Staff Side 13-C, Feroze Shah Road, New Delhi -110001 Tele -23382286

To : **THE HON 'BLE CHAIRMAN,**
6th Central Pay Commission, New Delhi.

MEMORANDUM ON THE ISSUE OF INTERIM RELIEF

On behalf of the Staff Side, JCM, we extend our warmest greetings and heartily welcome you and the other members of the 6th Central Pay Commission. We hope to have frequent interaction during the course of the Commission's inquiry and deliberations, to present and discuss our views and suggestions on the vital issues concerning the workers we represent.

Joint Consultative Machinery was conceived as a negotiating forum for Central Government employees to usher in an era of a conflict-free industrial climate, especially **after the tumultuous experience of indefinite strike action of the Central Government employees in 1960.** The negotiating machinery was set up after intense discussions with the Unions/ Federations in all Ministries/Departments of the Government. The signing of the Joint intent agreement on conclusion of the deliberations paved the way for the formal functioning of the Council at all levels. The National Council is the apex forum under the three tier **system of JCM, which is headed by the Cabinet Secretary. The Official Side comprises of the Secretaries / Heads of departments of all employing Ministries and the Staff Side by the nominated representatives of all recognized Federations/ Unions.** Ever since its formation, the Staff Side of the National Council, JCM has been the united voice of the Central Government employees on all common and basic issues, like minimum wage, pay scales, rate of increment, dearness compensation, other compensatory allowances etc.

We reproduce below para 171.12 (Page: 2051-52, Vol. III-Part IX) of the report of 5th Central Pay Commission on the issue of entitlement of Govt. employees for revised wages from 1.1.2006.

"In case, for any reason, Government finds itself unable to set up a **permanent pay body**, it should at least concede the right of Central Government employees to have a complete pay revision once in 10 years. This would mean that if the date of implementation of the Fifth Pay Commission is 1.1.96, **the date of implementation of the Sixth Pay Commission should be pre-determined as 1.1.2006 irrespective of when the next Pay Commission is actually appointed.** However, the Government should also take note of the fact that it generally takes a Pay Commission a period of about three years to complete its deliberations and therefore, the next Pay Commission should be appointed latest by 1.1.2003, so that its report becomes available by 1.1.2006."

The continued nugatory attitude of the Government on this issue, compelled the organizations to ventilate this just and reasonable demand through **organizing various trade union actions which were to culminate in an indefinite strike, on 1st March, 2006.** For this, due strike notices were served by the respective organizations.

However, with the personal intervention of the Prime Minister and announcement of the appointment of Pay Commission, the strike action was averted.

Both at the time of setting up the 4th and the 5th Central

Pay Commissions, the Government **on negotiation with the Staff Side of National Council of JCM had granted interim reliefs.** However, instead of resorting to a bilateral settlement, the question of "desirability and need" for an interim relief has been referred to this Commission for its consideration and decision. The relevant portion of the terms of reference is extracted hereunder:-

"To examine desirability and the need to sanction any interim relief till the time the recommendation of the

Nagpur University Teachers' Association

MEETING NOTICE : 1

DATED : 07.03.2008

From :
Prof. Dr. E. H. KATHALE
Secretary, NUTA
N-162, Reshim Bag, Nagpur-440 009

To,
All the members of the Nagpur University
Teachers' Association

Dear members,

I have the honour to inform you that General Body meeting of the Nagpur University Teachers' Association will be held at 12.00 noon, on the Day and the Date mentioned below.

2. If you propose to move any resolution for the consideration of the General Body, you are requested to send such resolution to me, with a copy to Prof. B.T.Deshmukh, President NUTA, No. 3, Subodh Colony, Near, Vidarbha Mahavidyalaya, Amravati 444604 within a period of 10 days from the date of the posting of this Bulletin.

3. It will not be possible to include in the agenda, resolutions received after the due date. So please make it convenient to send such resolutions, if any, within the stipulated time. The place of the meeting will be intimated to you alongwith the agenda.

Thanking you.

Yours faithfully
Sd/- **Dr.E. H. Kathale,**
Secretary, NUTA.

Time, Day and Date of the Meeting :
12.00 Noon on Sunday, the
25th May, 2008

Commission are made and accepted by the Government."

It is, therefore, the unanimous and considered view of all organizations participating in the JCM that we should first submit a memorandum to the Commission on the question of interim relief, setting out the need, desirability and quantum thereof.

Considering the issue of the methodology and mechanism of periodical wage revision of Civil servants, both the 4th and 5th CPC had suggested setting up of a **Permanent Wage Review Body. The said body was to collect, update and maintain the basic data on Pay scales and allowances and review the same on a continuous basis.**

The 5th CPC, perhaps realizing the reluctance on the part of the Government, to-consider the above suggestion, as was evident from the fate of a similar recommendation of the 4th CPC, alternatively but forcefully advocated for a time bound decennial wage revision (Vide Para 171.12 of their report cited above) through the setting up of a Pay Commission. **The very fact that Government did not set up the Commission in 2003 as a result of which the wages of Central Government employees could not be revised, necessitates the grant of interim relief.**

It would be relevant to mention here that in the intervening period between 1.1.2006 and the actual implementation of the 6th CPC report, **quite a number of Central Government employees are likely to retire from service on superannuation.** The grant of interim relief (if not to the fullest extent) will provide them at least with partial benefit in the form of higher salary and pension entitlements.

Incidentally it may also be pointed out that the grant of **Interim Relief with effect from 1.1.2006 would eventually reduce the financial burden** for the Government at the time of implementation of the final report of the Commission.

Comparison with outside wages has, played a predominant role in the determination of the minimum wage. The concept of comparison with outside employment is, we would like to reiterate, an internationally recognized principle of wage determination in civil services. The Megaw Commission of United Kingdom, on which reliance was placed by the 4th Central Pay Commission, had unambiguously recognized the need for a **fair comparison with outside wages as the most reliable indicator in determining the public service wages.**

In order not to widen the areas of comparison, we shall however confine ourselves to the minimum wages obtaining in some of the Public Sector Undertakings (figures whereof are readily available with us) whose wage system is evolved through the process of collective bargaining within the overall framework of the guidelines issued by the Government from time to time. **It should be mentioned with emphasis that the Government of India is a direct party in all the bilateral wage negotiations in the Public Sector Undertakings, for they are fully owned Government companies.**

Composition of Central Govt. Employees:

It may also be mentioned here that the Central Govt. Employees consist of:

1. Railwaymen	14 lacs
2. Defence -Industrial workers	5 lacs
3. Postal Workers	5.5 lacs
4. Police & Para Military staff	3 lacs
5. Other Civilians including Administrative and Scientific staff	3.5 lacs

Thus it would be seen that about 80% are industrial workers in the central services.

Therefore, for the purpose of determination of Interim Relief, comparison at the lowest unskilled level is most appropriate. We have given below a statement showing the minimum wage (pay + DA) obtaining in certain Public Sector Undertakings, which presently ranges from Rs. 6640/- to Rs. 7291/-. At the time of oral submission, we may submit a list

of more Public Sector Undertakings and the minimum wage obtaining therein.

Table showing the wage gap.

Name	Minimum wage as on 1.1.2006 Pay+DA	Minimum wage Central Govt. 1.1.2006	Difference
Indian Oil Corpn	7291	4743	2548
NTPC	6974	4743	2231
Coal India Ltd.	6904	4743	2161
BHEL	6640	4743	1897

We may also mention that the Public Sector Workers are sanctioned an ex-gratia payment in lieu of Bonus ranging from Rs. 15,000 to 20,000 p.a. **Thus the actual wage gap is considerably higher than what is depicted in the above table.**

Finally we may also state that in most of the Public Sector Undertakings, **fresh wage agreement are due with effect from 1.1.2007.** Therefore, by the time the 6th Central Pay Commission finalises its report and the Government takes action thereon, another wage settlement would have come about in almost all of the PSUs, **further widening the gap in the minimum wage.**

To apply the percentage increase in the per capita net national product registered during the preceding period of 10 years as a compensation factor to the existing minimum pay plus DA was the criterion adopted by the 5th CPC to determine the minimum wage.

Though we did not and also do not accept the said criterion for the elaborate reasons we may adduce at the time of submission of our detailed memorandum on issues connected with the wage revision, it could be seen from the accompanying table that the percentage increase in per capita net national product for the year 1993-94 to 2003-04 (for which authentic figures are available) was at 56.20 at factor cost. (Table given below) **By applying the very same compensation factor to the existing emoluments of 4743/- it could be seen that an increase in the minimum wage is warranted by an amount of Rs. 2666/-.**

Table showing Per Capita Net National Product:

Year	At Factor cost
1993-1994	7552.56
1994-1995	8069.90
1995-1996	8430.03
1996-1997	9007.20
1997-1998	9243.60
1998-1999	9649.80
1999-2000	10071.10
2000-2001	10307.50
2001-2002	10753.80
2002-2003	11013.30
2003-2004	11796.70

Percentage increase in 2003-04 over 1993-94 = 56.20

[Source: Economic Survey 2004-05 -Appendix Table No.1.1.S/3]

Permit us to cite an observation made by the 5th CPC in their report on Interim Relief (vide para 25) submitted on 2.5.1995 in this regard. They have stated and we approvingly quote:

"In the light of the Directive principle of equal pay for equal work and various judicial pronouncements on the subject as well as on administrative consideration, it may also be desirable to ensure that **disparities in the compensation packages provided for the employees in different sectors performing similar functions are minimized.** Too large disparity between the emoluments in the two sectors would

have an undesirable adverse impact on morale and efficiency."

While finally recommending the grant of 10% of pay as Interim Relief, subject to a minimum of Rs .. 100/- across the board, the 5th CPC has also made the following observation, (vide para 34) which we consider germane to the issue under consideration.

"after taking into account the relief of Rs. 100/- p.m. already sanctioned by the Government in September, 1993, **the payment of further relief as now recommended would result in aggregate benefit of 26.66% and 24.24% respectively** to those Group D and Group C employees drawing pay at the minimum of their lowest pay scales as against 13.33% and 12.12% currently admissible."

Taking into account the yawning and the steadily widening gap between the minimum wage of the Central Government employees and the employees of the Public Sector Undertakings as depicted in the table above, which presently ranges from Rs. 2161/- p.m. to 2548/- p.m. and more prominently due to the fact that the Central Govt. Employees are today lagging behind by a whopping amount of Rs. 2666/- even on the basis of the percentage increase of per capita net national product, a criteria adopted by the 5th CPC in determination of minimum wage, **we demand that the Commission recommend an interim relief of 15% of Pay + DP, subject to a minimum of Rs. 1000/- p.m. with effect from 1.1.2006.** The fact that the employees of various Government organizations on their conversion as corporate entities like the Department of Telecom were given an adhoc increase of Rs. 1000/- p.m. on their absorption, lends credence

to the legitimacy of the quantum of Interim Relief, we have computed and suggested. In order to extend the benefit of Pay revision to the employees, who might retire from service during the period between 1.1.2006 and the date of implementation of the recommendation of the 6th Central Pay Commission, **the interim relief may be treated as Pay for the purpose of Pension and other retirement benefits as was done by the 5th Central Pay Commission.**

Interim Relief to Pensioners:

We may also refer to Para 127.8 of the report of the 5th CPC wherein they have made the following observation on the grant of interim relief to the existing pensioners:

"We hope and trust that this nexus between the serving employees and pensioners with regard to grant of interim relief is now firmly established and will subsist."

We, therefore, urge upon the Commission to simultaneously recommend grant of interim relief to the existing pensioners at the same rate applicable to the serving employees viz. 15% of the Basic Pension including the dearness relief to the extent of 50% subject to a minimum of Rs. 500/-.

We humbly submit that the purpose of this memorandum is to seek a minimum of interim relief as requested above.

Sd/-UMRAOMAL PUROHIT
Secretary,
National Council
(STAFF SIDE) JCM

9.11.2006

(9)

सरकारी-निमसरकारी कर्मचारी शिक्षक संघटनेच्या मागण्यांवर शासनाने घेतलेला निर्णय

महाराष्ट्र विधानपरिषद : सोमवार, दिनांक ३० जुलै, २००७ : दुसरे अधिवेशन २००७

सरकारी-निमसरकारी कर्मचारी शिक्षक संघटनेच्या मागण्यांवर शासनाने घेतलेल्या निर्णयाबाबत सन्माननीय सदस्य सर्वश्री. व्ही. यू. डायगव्हाणे, बी. टी. देशमुख, वसंतराव खोटे वि.प.स. यांनी दिलेली नियम ९३ अन्वये सूचना.

श्री. राजेश टोपे (सामान्य प्रशासन राज्यमंत्री) : सभापती महोदय, सन्माननीय सदस्य सर्वश्री व्ही. यू. डायगव्हाणे, बी. टी. देशमुख, वसंतराव खोटे, वि.प.स. यांनी "सरकारी-निमसरकारी कर्मचारी शिक्षक संघटनेच्या मागण्यांवर शासनाने घेतलेला निर्णय" या विषयावर नियम ९३ अन्वये जी सूचना दिली होती, तिला अनुलक्षून, आपल्या निदेशाप्रमाणे मला निवेदन करावयाचे आहे. निवेदनाच्या प्रती सदस्यांना अगोदरच वितरीत केलेल्या असल्याने मी हे निवेदन सभागृहाच्या पटलावर ठेवतो.

तालिका सभापती : निवेदन सभागृहाच्या पटलावर ठेवण्यात आले आहे.

मा. मुख्यमंत्री यांचे निवेदन

निमंत्रक, सरकारी-निमसरकारी कर्मचारी शिक्षक संघटना, समन्वय समिती, मुंबई यांनी शासनाला दि. ५ जून २००७ रोजीच्या पत्रान्वये सरकारी व निमसरकारी कर्मचारी, प्राथमिक व माध्यमिक शिक्षक, शिक्षकेतर कर्मचारी आणि प्राध्यापक दि. २४ व २५ जुलै, २००७ ह्या दोन दिवशी आणि २८, २९ व ३० ऑगस्ट, २००७ ह्या तीन दिवशी लाक्षणिक संप करणार असल्याची नोटीस दिली होती. सदर नोटीसमध्ये त्यांनी शासनाला विविध मागण्या सादर करून त्या मागण्यांबाबत वाटाघाटी सुरु करून समाधानकरक निर्णय घेण्यात आला तर लाक्षणिक संप व त्यानंतरचा करण्यात येणारा वेमुदत संपही टूळू शकेल असे नमुद केले होते.

२. सदरहू संपाच्या नोटीशी संदर्भात व संबंधीत समितीच्या मागण्यांसंदर्भात मा. मुख्यमंत्री यांच्याशी सदर समन्वय समितीचे निमंत्रक व या समितीच्या इतर पदाधिकारी समवेत चर्चा झाली. सदर मागण्यांपैकी केंद्र शासनाप्रमाणे सेवेतील २४ वर्षांनंतर दुसरी कालबद्ध पदोन्नती देण्याची मागणी तत्ततः मान्य करण्यात आली. तसेच कर्मचाऱ्यांनी संगणक परीक्षा पूर्वीच्या मान्यताप्राप्त संस्थांकडून उत्तीर्ण केली असल्यास ती ग्राह्य धरण्याची विनंती मान्य करण्यात आली व उर्वरित मागण्यांबाबत देखील चर्चा झाली आणि या मागण्यांचा शासनातर्फे लवकरात लवकर सहानुभुतीपूर्वक विचार करून योग्य तो निर्णय घेण्यात येईल असे सांगण्यात आले.

३. मा. मुख्यमंत्री यांचेशी उपरोक्त समन्वय समितीचे निमंत्रक व समितीचे इतर पदाधिकारी यांचे समवेत चर्चा यशस्वी झाली व सदर समितीने नियोजित होणारा लाक्षणिक संप मागे घेतला आहे.

श्री. व्ही. यू. डायगव्हाणे : अतिशय महत्त्वाच्या अशा राज्यातील २०-२१ लाख कर्मचाऱ्यांच्या मागण्यांच्या संदर्भात दिनांक ५ जून २००७ रोजीच्या पत्रान्वये सरकारी व निमसरकारी कर्मचारी, प्राथमिक व माध्यमिक शिक्षक, शिक्षकेतर कर्मचारी आणि प्राध्यापक दिनांक २४ व २५ जुलै, २००७ ह्या दोन दिवशी आणि २८, २९ व ३० ऑगस्ट, २००७ ह्या तीन दिवशी लाक्षणिक संप करणार असल्याची नोटीस दिली होती. वर्तमानपत्रात आलेल्या बातमीच्या अनुषंगाने निवेदन केलेले आहे. त्यामध्ये एक मागणी अंशतः मान्य केलेली आहे. बाकीच्या मागण्यांच्या संदर्भात कोणताही उल्लेख केलेला नाही. खरे तर माननीय वित्त मंत्री किंवा मुख्यमंत्री यांनी उत्तर द्यायला पाहिजे होते. २० लाख कर्मचाऱ्यांच्या भविष्याचा प्रश्न आहे. माझा स्पेसिफिक प्रश्न आहे की, १ जुलैपासून केंद्र सरकारच्या महागाई भत्त्यामध्ये जी काही वाढ होईल, ती वाढ जशीच्या तशी राज्य सरकारी कर्मचारी आणि शिक्षक शिक्षकेतर कर्मचारी यांना देऊ, अशी माननीय मुख्यमंत्र्यांनी घोषणा केली. वर्तमानपत्रामध्ये आलेली बातमी वाचून दाखवितो, "१ जुलै २००७ पासून केंद्रीय कर्मचाऱ्यांप्रमाणे राज्य सरकारी कर्मचाऱ्यांना वाढीव महागाई भत्ता लागू करण्यात येईल, असे आश्वासन माननीय मुख्यमंत्री श्री. विलासराव देशमुख यांनी दिले", हे खरे आहे काय? असल्यास, त्याप्रमाणे ते केव्हापासून देणार आहात? दुसरा प्रश्न असा की, शिक्षकांच्या संदर्भातील महाराष्ट्र खाजगी शाळा नियमावली १९८१ मध्ये जी सुधारणा प्रस्तावित केलेली आहे, या संदर्भात संघटना आणि प्रतिनिधींना विश्वासात घेऊनच सुधारणा करण्यात येईल काय ?

श्री. राजेश टोपे : सन्माननीय सदस्यांच्या दोन्ही प्रश्नांना उत्तर 'होय' असे आहे.

श्री. बी. टी. देशमुख : संघटनेला असे लिहून दिलेले आहे की, या संबन्धाने धोरणात्मक निर्णय घेतलेला आहे, त्याप्रमाणे महागाईभत्ता दिला जाईल. माझा प्रश्न असा आहे की, संघटनेचे असे म्हणणे आहे की, २८ महिने निर्णय घेण्यासाठी उशीर केला. त्या २८ महिन्यांच्या कालावधीतील थकवाकी देण्याच्या संदर्भात चर्चेमध्ये निर्णय झालेला आहे काय ?

श्री. राजेश टोपे : २८ महिन्यांच्या थकवाकीच्या संबंधातील निर्णय झालेला नाही. केंद्र सरकार जसा महागाई भत्ता वाढवेल त्याप्रमाणे राज्य सरकारी, निमशासकीय कर्मचाऱ्यांना महागाई भत्ता यापुढे रिट्रॉस्पेक्टिव्ह इफेक्टने नाही तर प्रॉस्पेक्टिव्ह इफेक्टने दिला जाईल, असा निर्णय झालेला आहे.

THE RECOMMENDATIONS OF THE NATIONAL KNOWLEDGE COMMISSION AND ITS IMPLICATIONS FOR THE SYSTEM OF HIGHER EDUCATION IN INDIA

MANAS BEHERA

Dept. of Pol. Science, Govt. of Women's College, Sundergarh, Orissa

The National Knowledge Commission (NKC) under the Chairmanship of Sam Pitroda has made a number of important recommendations to reform the system of higher education in the country and has submitted them to the Govt. There have been many commission on higher education in post-independent India, but the knowledge commission needs serious attention as it aims at bringing a paradigmatic shift in the higher education system. The recommendations of the NKC, if implemented, will not only bring structural changes but **also will challenge the concept of state funded higher education system**, considered to be vital for the development and sustenance of an egalitarian, inclusive system of higher education.

One is in agreement with the NKC that, "there is a quiet crisis in higher education in India that runs deep & higher education needs a systematic overhaul". But the problem is that the NKC finds justification in this crisis **to push forward its neo-liberal agenda in higher education**. So a rational critique is very much necessary, not only to defend the system of higher education from the onslaught of neo-liberal forces, but for a better, progressive, pro-people alternative system of higher education. The paradigm advocated by the NKC **should be understood in the context of present hegemonic political- economic discourse in the country**.

Before the advent of the neo-liberal policies in India in **1991 in the form of the new economic policy (NEP)** under the stewardship of the present prime minister, education was primarily a state-financed and state-controlled subject. At least, there was no outright challenge to this paradigm of state directed education system. This was in consonance with the ideals of the freedom struggle as well as of the constitution. But since the working of the

LPG model (liberalization, privatization, globalization), **different governments at the centre, irrespective of their political color have consistently tried to privatize the higher education sector. There has been gradual decline in the allocation of State fund for higher education.** The Central Govt. share in the total expenditure in higher education in India fell from 20.57% in 1990-91 to 16.71 % in 1996-97 and come to 19% in 2003-04. In terms of percentage of GDP, the Govt. expenditure on higher education was 0.46% in 1990-91 and it declined to 0.37% in 2003-04. **The expenditure per student has declined from Rs 7676 (as per 1993-94 prices) in 1990-91 to Rs.5522 in 2002-03.** This is 28% decline in just twelve years and it reflects the trend. Govt. expenditure on scholarship in higher education has decreased from 15.35 crores (as per 1993-94 prices) in 1990-91 to Rs.13.49 crores in 2002-03.

The Punnaiyya Committee recommended that 25% of the recurring expenditure to be recovered from the students and raising resources by renting out the facilities in the institutions of higher education. The report on subsidies by the finance ministry of the **Central govt. in 1997 categories higher education as "non-merit good"** for which subsidies should be withdrawn. Again **in 2004 it describes it as "Merit-II good"**. The Prime Ministers Council on Trade and Industry (PMCT) during the NDA regime constituted a special subject group for private investment in education, health and rural development and entrusted the task of preparing the report in this regard to none other than Ambani and Birla. They submitted their report on 24th April 2000. As per the logic of the interests that these capitalists serve, they defined education as a marketable commodity and education sector as a profitable sector. **The UGC in its concept paper (Oct. 2003) talked of "commercial culture" and "corporate culture" for governing the universities.** The central govt. is also trying to bring higher education under the General Agreement in Trade in Services (GATS) of the WTG and the consequences will be far reaching.

The study of the establishment of the universities and colleges in recent years also reflects this trend of privatization. In 1950-51 there were three central universities and 24 state universities. By April 2005 there are 18 central universities, 205 state universities and 95 deemed to be universities. The number of deemed to be universities suddenly increased from 29 in 1990-91 to 95 in 2005. This is a 228% growth. 57 of these have come after 1999-2000. The UGC rules for these deemed to be universities were modified or rather relaxed 5180 colleges could come up in four decades (1950-51 to 1990-91) but 5398 colleges came up in just eleven years (1990-91 to 2001-02). And a huge number of 5719 colleges were started in just two years (2001-02 to 03-04). A majority of these colleges are private, self-financing colleges which include professional colleges. The private professional colleges outnumber in a big way the public institutions. They are dominant in states like Andhra Pradesh, Maharashtra, Tamilnadu, Karnataka, Orissa etc. The total fees realized by these private institutions were estimated to be around 147 crores in 1995.

In this background the recommendations of the NKC have come. **They are meant to push the agenda of privatization and commercialization in higher education.** An analysis of these recommendations clearly reveals this. The NKC has suggested reforms in six areas: (a) reforming the existing public universities and undergraduate colleges, (b) to overhaul the entire regulatory structure governing higher education, (c) exploring every

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केंद्र शासकीय कर्मचाऱ्यांना देण्यात आलेला
महागाई भत्ता राज्य शासकीय
कर्मचाऱ्यांनाही देण्याबाबत

महाराष्ट्र विधानपरिषद : : तिसरे अधिवेशन २००७

शनिवार, दिनांक १ डिसेंबर, २००७

(१) १३६६३ (५.४.२००६) सर्वश्री. व्ही. यू. डायगव्हाणे, बी. टी. देशमुख, वसंतराव खोटे तारांकित प्रश्न क्रमांक ९२९८ ला दिनांक ८ डिसेंबर २००५ रोजी दिलेल्या उत्तराच्या संदर्भात सन्माननीय शालेय शिक्षण, क्रिडा व युवक कल्याण मंत्री पुढील गोष्टीचा खुलासा करतील काय:-

(१) राज्य शासकीय व इतर पात्र कर्मचाऱ्यांना शासन निर्णय दिनांक ८ नोव्हेंबर, २००५ अन्वये दिनांक १ नोव्हेंबर, २००५ पासून लागू करण्यात आलेली ४ टक्के महागाई भत्ता वाढ राज्यातील खाजगी माध्यमिक/उच्च माध्यमिक शिक्षण विभागाकडील पात्र शिक्षक शिक्षकेत्तर कर्मचारी व सेवानिवृत्ती वेतन धारकांना वितरित करण्यात आली आहे काय,

(२) वितरित केला असल्यास, केव्हा व निर्णयाचे स्वरूप काय आहे,

(३) नसल्यास, याबाबत होणाऱ्या विलंबाची कारणे काय आहेत?

प्रा.वसंत पुरके (३१.१०.२००७) (१) होय

(२) आदेश क्रमांक अमाशा २००५-२००६ -अनुदान-१५क्र-१९९८ दिनांक २३.१.२००६ नुसार वाढीव तरतूद व वाढीव महागाई भत्ताकरीता तरतूद करण्यात आली.

(३) प्रश्न उद्भवत नाही.

possible source of financing investment in higher education, (d) pro-active strategy for quality in higher education, (e) creation of national universities as centers of academic excellence and (f) to provide access to the marginalized and excluded groups to higher education.

One of the important recommendations of the NKC is to change the system of regulation for higher education. One is in agreement with the NKC that the present system of regulation of higher education is flawed and discretionary. **But the alternative provided by the NKC in the form of an independent regulatory authority for higher education (IRAHE) is at the same time seriously flawed.** The NKC considers IRARE as "necessary and desirable" and feels "a clear need" for its establishment. But there is no clear justification for it in its note. The proposed IRAHE would be responsible "for setting the criteria and deciding on entry" and it would be the "only agency" to accord degree granting power to institutions, will be responsible for monitoring study and settling disputes. Again it advocates for a redefined **role for UGC, confining it or rather reducing it, to disbursement of public funds and maintenance of public institutions.** It wants to abolish AICTE and to limit the role of MCI and BCI. The NKC does not speak of reorganizing and revamping the UGC and other bodies. It has not analyzed the reasons behind the failure of UGC and other bodies. The UGC was established with high expectation and noble intention. **But unnecessary interference, political and bureaucratic strangulation of its autonomy, lack of adequate finance and many other reasons made it dysfunctional. So now there is a talk of replacing it with another body. What is the guarantee that the new IRAHE will have sufficient finance and autonomy** for its functioning, So the rationale behind this new body is ambiguous. The NKC want to give monopoly power to the IRAHE and its consequences are far reaching in a developing country like India, where there is a necessity for higher education to confirm to national policy goals. The NKC considers that at present there is over regulation and wants to streamline it. But despite the talk of over regulation there are many universities and institutions without the minimum requirement and standard. So there is an apprehension that the NKC wants to favour the establishment of private universities through liberalized regulatory structure.

Finance is the lifeline of the education system of the country and more so of the higher education system. Lack of adequate finance has been the single most factors for our ailing system of higher education. But the recommendations of the NKC regarding financing higher education is pregnant with dire consequences for higher education in future. Though the NKC is correct in its proposition that the Govt. finance will remain "the cornerstone of any strategy to improve our system of higher education", **it recommends for private finance liberally. Finance from sources other than the Govt. is problematic and controversial. The NKC recommends the use of land by universities as source of income and advocates for allocation of public land even to private university. The use of land for finance can be its sale or lease for commercial purposes.** This defeats the very purpose the universities as an education institution with academic pursuits. This leads to naked commercialization of higher education. Again the NKC recommends for land grants to attract more (not for profit) private investment. This is simply unrealistic. **There can be no such not-for-profit private investment that will come into higher education with philanthropic motives.** So the subsidized grant of public land has no justification. It is clear case of commercialization of higher education. The suggestion by NKC to use private firm and agencies for generating alumni contribution and licensing fee is nothing but commercialization and privatization of higher education in disguise. The NKC argues for a change of laws so **that universities can invest in financial instruments of their choice, and this is nothing but marketisation.** Again the note of the NKC points that there has been de-facto privatization of education in engineering, medicine and management as two third to three fourth of the seats are in private institutions. But private investment in university education is negligible. Here the NKC finds justification for stimulating private investment in this sector to extend educational opportunity. **But this is false perception of the NKC that private investment will extend educational opportunities.**

Where there are more private universities, there has not been related expansion of opportunities in higher education. The proactive stand of NKC regarding private investment in higher education is neo-liberal in its essence. It aims at reducing the role of the state in higher education which has serious consequences for the overall development process of the country. The NKC recommends that the student **fees should meet at least 20%** of the total expenditure in universities, which was also suggested by other committees. But any increase beyond this limit will hamper equity in higher education. And the **NKC has not put any categorical seal on this 20%.**

The NKC recommends for the establishment of 1500 universities to enhance enrolment in higher education. It believes that by 2015 the enrolment will reach 15%, which is 7% at present. But the commission has not given a clear logic behind the proposition. Creating new universities will not automatically increase enrolment. **The other factor behind the poor enrolment like poverty, social injustice, exclusion etc. need to be addressed which the commission has not.** Other options like increase of seats in smaller universities have not been explored. The large number of universities as proposed by the NKC creates scope for privatization. **The proposal to create 50 national universities, both public and private also favours private universities considering the fact of public finance today.**

The commission has made recommendations for reforming the higher education to ensure high standard and excellence in institutions of higher education. But they are mainly for existing public universities. **There is no detail discussion on the improvement of the vast private sector, which avoids accountability and**

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केंद्र शासकीय कर्मचाऱ्यांप्रमाणे राज्य शासकीय कर्मचाऱ्यांना २४ वर्षांच्या सेवेनंतर पदोन्नती देण्याबाबत

महाराष्ट्र विधानपरिषद : : तिसरे अधिवेशन २००७

शनिवार, दिनांक १ डिसेंबर, २००७

प्रा. बी. टी. देशमुख, व्ही. यू. डायगढाणे, वसंतराव खोटे यांनी विधानपरिषद नियम १०१ अनुसार दिलेली लक्षवेधी सूचना

“केंद्र शासनातील कर्मचाऱ्यांप्रमाणे राज्य शासकीय कर्मचाऱ्यांना २४ वर्षांच्या सेवेनंतर दुसरी पदोन्नती देण्याचे शासन आदेश निर्गमित न होणे, मा. मुख्यमंत्र्यांसोबत दिनांक २३ जुलै २००७ रोजी राज्य शासकीय कर्मचारी संघटनेशी झालेल्या चर्चेमध्ये ही बाब मान्य होऊन सुद्धा शासन निर्णय निर्गमित होण्यास विलंब होणे, इतरही मागण्या बाबत सहमती झालेल्या निर्णयाची अंमलबजावणी न होणे, परिणामी या हजारो कर्मचाऱ्यांमध्ये निर्माण झालेला तिब्र असंतोष व याबाबत शासनाची भूमिका व प्रतिक्रिया.”

मा. मुख्यमंत्री यांचे निवेदन

मा. मुख्यमंत्री यांचेशी सरकारी/निमसरकारी कर्मचारी शिक्षक संघटना, समन्वय समितीचे निमंत्रक व या समितीच्या इतर पदाधिकारी यांचे समवेत चर्चा झाली. सदर चर्चेत खालील मागण्या तत्त्वतः मान्य करण्यात आल्या.

१) शासकीय कर्मचाऱ्यांना केंद्राने दिलेल्या तारखांपासून केंद्रीय दराने महागाई भत्त्यातील वाढ मंजूर करणे.

२) केंद्र शासनाप्रमाणे सेवेतील २४ वर्षांनंतर दुसरी कालबद्ध पदोन्नती देणे.

३) कर्मचाऱ्यांनी संगणक परीक्षा पूर्वीच्या मान्यता प्राप्त संस्थाकडून उत्तीर्ण केली असल्यास ती ग्राह्य धरणे.

वरील मागण्यापैकी १) राज्य शासकीय कर्मचाऱ्यांना केंद्र शासनाने मंजूर केलेल्या दराप्रमाणे व केंद्राने दिलेल्या दिनांकापासून जुलै २००७ पासून महागाई भत्ता मंजूर करण्यात आलेला आहे.

२) सहाय्या वेतन आयोगाच्या शिफारशी लवकरच अपेक्षित असल्यामुळे केंद्र शासनाप्रमाणे वर्ग-३ व वर्ग-४ मधिल कर्मचाऱ्यांना सेवेतील २४ वर्षांनंतर दुसरी कालबद्ध पदोन्नती द्यावी किंवा कसे याबाबत सखोल विचार चालू आहे.

३) संगणक परीक्षा पूर्वीच्या मान्यता प्राप्त संस्थाकडून उत्तीर्ण केली असल्यास ती ग्राह्य धरण्याबाबतचा प्रस्ताव विचाराधीन आहे.

indulges in commercialization. The concept of single examining system and a uniform under graduate syllabus and examinations will affect academic autonomy. It does not take into account the specific need of a diversified education system. It will also create a low standard denominator for institutions.

The NKC advocates for affirmative action to ensure inclusion of marginal and excluded groups. Apart from reservation (caste-based) the commission considers other categories like income, gender, religion and place of residence. It suggest for attention to be paid to different factor of deprivation But it is not clear whether this multi dimensional approach will replace caste based reservation or will supplement it. **The commission's silence is doubtful as it may dilute the caste-based reservation;** considered to be acceptable in the present context.

Higher education is directly linked to the development of a nation. It not only creates and sustains the human capital necessary for development but influences the development process itself. It is more vital for a 'developing country like India where majority of people are the victims of socio-economic inequality and exploitation, social injustice, marginalisation and exclusion. **But the question is whether the system of higher education will be state-funded and state-directed or will be left to the market forces?** The NKC favors the latter. Its recommendations are neo-liberal in essence. They are designed to accelerate

the privatization and commercialization of higher education, which is already there under the neo-liberal regime. **The forces of privatization see education as a marketable commodity.**

Higher education creates organic intellectuals, in a Gramscian sense, who articulate and defend the interests of the common people, the poor, the exploited and the marginalized. But the prescriptions of the NKC will squeeze the space for these organic intellectuals through privatization. **Institutions of higher education are very important in a country like India for the creation of progressive, people-centered ideas necessary for the life, liberty and development of a nation.** This cannot be left to the market forces, which will serve the interests of the market and those who benefit from it. The NKC's advocacy for **privatization contradicts with its goals of inclusion and excellence. Privatization along with liberalized regulation will create poor quality institutions and will reduce the access of the poor and the marginalized to higher education.** There is no alternative to a public system of higher education. This may sound orthodox in the age of globalization, but this is the right road before us. **The NKC has failed to learn from the failures of the LPG model particularly in the developing world which has already been acknowledged even by the advocates of this model.**

- Courtesy " Teachers of the world"

महाराष्ट्र शासन : शिक्षण संचालनालय (उच्च शिक्षण) : महाराष्ट्र राज्य, मध्यवर्ती इमारत पुणे-४११ ००९

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क्रमांक आरएसपी/या.क्र.१६१२/११/२००७/नावि/विशि-१-७७९३

दिनांक २ नोव्हेंबर २००७

तात्काळ
प्रति,

सर्व विभागीय सहसंचालक, उच्च शिक्षण, महाराष्ट्र राज्य

विषय :- १) याचिका क्रमांक १६१२/११९१ मध्ये मा. उच्च न्यायालय नागपूर यांनी दिनांक २.८.२००२ च्या आदेशाप्रमाणे दिनांक १.१.८६ पुर्वीच्या पीएच.डी धारकांना तीन आगाऊ वेतनवाढी देण्याबाबत घेतलेला निर्णय.

२) दिनांक १.१.९६ पुर्वीच्या पीएच.डी धारकांना दिनांक १.१.९६ पासून दोन वेतनवाढी देण्याबाबतचा निर्णय.

संदर्भ :- १. शासनाचे क्रमांक न्यायाप्र-२००७/(५६/०६)/विशि-४ दिनांक २३ एप्रिल, २००७.

२. संचालनालयाचे समक्रमांक दिनांक १५ मे, २००७

उपरोक्त विषयाबाबतचे शासनाचे संदर्भिय पत्र तसेच संचालनालयाचे संदर्भिय पत्र क्रमांक २ पहावे.

वरील विषयाबाबत संदर्भिय पत्रानुसार कळविण्यात येते की, याचिका क्रमांक १६१२/११ मध्ये दिनांक १.१.८६ रोजी रुपये ३७००-५७०० या वेतनश्रेणीत कार्यरत असलेल्या पीएच.डी धारकांना मा. उच्च न्यायालय नागपूर यांनी जो निर्णय दिलेला होता. त्या निर्णयाविरुद्ध मा. सर्वोच्च न्यायालयाने विशेष अनुमती याचिका दाखल करण्यात आलेली होती. या विशेष अनुमती याचिकेवर मा. सर्वोच्च न्यायालयाने दिलेल्या निर्णयाविरुद्ध पुनर्विलोकन याचिकाही दाखल करण्यात आलेली होती. तथापि मा. सर्वोच्च न्यायालयाने मा. उच्च न्यायालय नागपूर यांचा निर्णय कायम ठेवलेला असल्याने दिनांक १.१.८६ रोजी जे अधिव्याख्याते पीएच.डी अर्हताधारक होते त्यांना तीन आगाऊ वेतनवाढी देण्याबाबत शासन स्तरावर निर्णय घेणे आवश्यक झालेले आहे.

तरी याचिका क्रमांक १६१२/११ मध्ये दिनांक २.८.२००२ रोजी दिलेला निकाल विचारात घेऊन त्यासाठी व्याज व थकवाकीपोटी किती खर्च येईल याबाबतचा आपल्या विभागाचा सविस्तर प्रस्ताव या संचालनालयास सादर करावा असे नमूद केलेले होते. परंतु नागपूर विभाग वगळता इतर कोणत्याही विभागाने त्यांच्या विभागात असणाऱ्या विद्यापीठातील अधिव्याख्यात्यांचा समावेश केलेला नाही. तरी सर्व विभागाने आपल्या विभागात येणाऱ्या विद्यापीठांतर्गत पीएच.डी प्राप्त अधिव्याख्यात्यांची माहिती सादर करावी.

१०८४/२००३ मध्ये मा. उच्च न्यायालय खंडपीठ नागपूर यांनी दिनांक १.१.९६ पुर्वी पीएच.डी अर्हता धारकांना दोन आगाऊ वेतनवाढी देण्याबाबत जो निर्णय दिलेला आहे त्या अनुषंगाने सुद्धा सदर प्रकरणी दोन आगाऊ वेतनवाढी द्यावयाच्या झाल्यास त्यासाठी किती खर्च येईल याबाबतची माहिती सुद्धा या संचालनालयास सादर करावी. तसेच सदरची माहिती पाठवितांना शासन पत्र क्रमांक युएसजी१२००/१६३/२०००/विशि-४ दिनांक २० सप्टेंबर, २००१ मधील तरतुदी विचारात घेण्यात याव्यात. या तरतुदीनुसार ज्यांना करिअर अॅडव्हान्समेंट योजनेतर्गत पुर्वी कोणत्याही अतिरिक्त वेतनवाढीचा लाभ झालेला नाही. त्यांनाच

या दोन वेतनवाढी लागू करावयाच्या असल्याने सदरचा प्रस्ताव या संचालनालयास सादर करावा.

तसेच शासन निर्णय दिनांक २७.२.८९ नुसार चौथ्या आयोगाच्या वेतनश्रेण्या १.१.८६ पासून मंजूर करण्यात आलेल्या आहेत. त्या शासन निर्णयानुसार जे अधिव्याख्याते १.१.८६ पुर्वी किंवा नंतर सेवेत लागण्यापूर्वी पीएच.डी असतील त्यांना तीन वेतनवाढी आपल्या स्तरावरून मंजूर केलेल्या असतील त्याचा या माहितीमध्ये समावेश करू नये. असे अधिव्याख्याते वगळून ज्या अधिव्याख्यात्यांना पीएच.डी चा आर्थिक लाभ दिलेला नाही त्यांचा प्रस्ताव खालील दिलेल्या तक्त्यात भरून या संचालनालयास सादर करावा.

सेवेत दाखल होण्यापूर्वी १.१.८६ पुर्वी पीएच.डी अर्हता प्राप्त झालेले अधिव्याख्याते व १.१.८६ ते ३१.१२.९५ या कालावधीत सेवेत दाखल होण्यापूर्वी पीएच.डी अर्हता धारण केलेले अधिव्याख्यात्यांची माहिती.

अ.न. महाविद्यालयाचे अधिव्याख्यात्यांचे		पीएच.डी सेवेत रुजू		सेवानिवृत्त		थकवाकीचा		थकवाकीचा	
नाव	नाव	प्राप्त झालेला दिनांक	झालेला दिनांक	झालेला दिनांक	झालेला दिनांक	कालावधी	रक्कम	कालावधी	रक्कम
१	२	३	४	५	६	७	८	७	८

शासन निर्णय दिनांक ११.१२.९९ व शासन निर्णय उच्च व तंत्र शिक्षण विभाग क्रमांक एनजीसी १२००/७३३९६/(१५/२०००)/विशि-४ दिनांक १३ जून २००० नुसार जे अधिव्याख्याते हे पीएच.डी आहेत त्यांना दिनांक ११.१२.९९ च्या शासन निर्णयानुसार दोन वेतनवाढी दिनांक २७.७.९८ पासून मान्य करण्यात आलेल्या आहेत. सदरच्या अधिव्याख्यात्यांना जर १.१.९६ पासून सदरच्या वेतनवाढी देण्यासाठी (१.१.९६ ते २७.७.९८ या कालावधीतील फरक) किती रक्कम द्यावी लागेल त्याचा स्वतंत्र प्रस्ताव खाली दिलेल्या तक्त्यात भरून या संचालनालयास सादर करावा.

अ.न. महाविद्यालयाचे अधिव्याख्यात्यांचे		पीएच.डी सेवेत रुजू		सेवानिवृत्त		थकवाकीचा		थकवाकीचा	
नाव	नाव	प्राप्त झालेला दिनांक	झालेला दिनांक	झालेला दिनांक	झालेला दिनांक	कालावधी	रक्कम	कालावधी	रक्कम
१	२	३	४	५	६	७	८	७	८

वरिल तक्त्यात माहिती भरून या संचालनालयास तात्काळ सादर करावी. शासनाचे संदर्भिय पत्र व प्रस्तुतपत्र काळजीपूर्वक वाचन करावे. वैयक्तिक लक्ष देवून नियोजन करून सदरची माहिती संकलित करावी.

(डॉ. का.म.कुळकर्णी)

शिक्षण संचालक (उच्च शिक्षण) महाराष्ट्र राज्य, पुणे-१

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5338 OF 2007

Dr.Ranjana Yamaji Abhang ...Petitioner V/s. Maharashtra Education Society, Pune & Ors. ...Respondents

ALONGWITH WRIT PETITION NO. 6006 OF 2007

Dr.Vishwas Dattatreya Gogate ...Petitioner V/s. State of Maharashtra & Ors. ...Respondents

ALONGWITH WRIT PETITION NO. 6552 OF 2007

Dr.Mrs.Vasudha Anil Kulkarni ...Petitioner V/s. State of Maharashtra & Ors. ...Respondents

ALONGWITH WRIT PETITION NO. 6563 OF 2007

Dr.Nathan Malachi Aston & Ors. ...Petitioners V/s. State of Maharashtra & Ors. ...Respondents

ALONGWITH WRIT PETITION NO. 6564 OF 2007

Dr.Mrs.Snehala Prafullchandra Tawde ...Petitioner V/s. State of Maharashtra & Ors. ...Respondents

ALONGWITH WRIT PETITION NO. 6566 OF 2007

Prof.Vaman Bhaurao Joshi ...Petitioner V/s. State of Maharashtra & Ors. ...Respondents

ALONGWITH WRIT PETITION NO. 6761 OF 2007

Mrs.Pratibha Vinayak Barve ...Petitioner V/s. State of Maharashtra & Ors. ...Respondents

ALONGWITH WRIT PETITION NO. 6914 OF 2007

Prof.Narayan Vishnu Chaudhari ...Petitioner V/s. Janata Shikshan Sanstha, Wai & Ors. ...Respondents

ALONGWITH WRIT PETITION NO. 7505 OF 2007

Smt.Uma Sadashiv Palkar ...Petitioner V/s. State of Maharashtra & Ors. ...Respondents

ALONGWITH WRIT PETITION NO. 7511 OF 2007

Mrs.Sunanda Jayant Atre ...Petitioner V/s. State of Maharashtra & Ors. ...Respondents

ALONGWITH WRIT PETITION NO. 7654 OF 2007

Dr.Hoshang Eruch Master ...Petitioner V/s. State of Maharashtra & Ors. ...Respondents

ALONGWITH WRIT PETITION NO. 7659 OF 2007

Dr.Sureshchandra Jagdishmitr Gupta ...Petitioner V/s. State of Maharashtra & Ors. ...Respondents

Appearance :- Mr.A.V. Anturkar i/b. Mr.V.H. Kulkarni for Petitioner in all the writ petitions except Writ Petition No.6914/2007. Mr.V.A. Sonpal, AGP for the State. Ms.Anjali Helekar for Respondent Nos.1 and 2 in Writ Petition No.5338/2007. Mr.A.G. Kothari for Respondent No.2 in Writ Petition No.7654/2007. Mr.B.V. Phadnis for University in Writ Petition Nos.7654/2007 and 7659/2007. Ms.Nandini Menon for Respondent Nos.2 to 4 in Writ Petition No.7505/2007. Mr.G.H. Keluskar for Petitioner in Writ Petition No.6914/2007. Mr.A.H. Solkar, AGP for State in Writ Petition No.6914/2007.

CORAM

D.K. DESHMUKH & V.M. KANADE, JJ.

DATED : NOVEMBER 28, 2007

P.C. :- 1. The question that arises for consideration in these petitions is the same viz. whether Government Resolution issued by the Government of Maharashtra dated 11th December, 1999 **laying down 60 years as the age of retirement for teachers working under the University**

and colleges affiliated to the University in the State of Maharashtra is valid ?

2. The petitioners in Writ Petition Nos.5338/2007, 6006/2007, 6552/2007, 6563/2007, 6564/2007, 6566/2007, 7505/2007, 7511/2007 are teachers working in colleges

affiliated to the **Pune University**. The petitioner in Writ Petition No.6914/2007 is working in a college affiliated to the **Shivaji University** and the petitioners in Writ Petition Nos.6761/2007, 7654/2007 and 7659/2007 are teachers working in colleges affiliated to the **Mumbai University**. All these petitioners have approached the Court challenging the Government Resolution issued by the Government of Maharashtra dated 11th December, 1999 in so far as it fixes the age of retirement of teachers working in affiliated colleges at 60 years. The case of the petitioners is that they are teachers working in colleges affiliated to above-referred Universities in the State of Maharashtra. Relying on the Circular dated 24th December, 1998 issued by the University Grants Commission (UGC), **they claim that in view of that Circular, their age of retirement should be 62 years.**

3. It is submitted by the petitioners that the Government of India had issued a letter dated 27th July, 1998 directing all the State Government to adopt the conditions of service which were prescribed in the letter dated 27th July, 1998 in relation to the teachers working under various Universities in the States. According to the petitioners as per letter dated 27th July, 1998, **the age of retirement of teachers should be 62 years.** It is submitted that the pay scales recommended by the Fifth Pay Commission have been made applicable by the State Government as per Government Resolution dated 27th February, 1998. It is submitted that the package put forth by the Government of India has been accepted by the State Government in its entirety and therefore, the Government Resolution dated 11th December, 1999 prescribing the age of retirement as 60 years for teachers, is illegal. Thus, according to the petitioners, as the retirement age laid down by the University Grants Commission and the Government of India in relation to the teachers working under various Universities and colleges affiliated to the University is 62 years, the Government of Maharashtra could not have by the Government Resolution dated 11th December, 1999 prescribed a lower age of retirement. The petitioners also relied on a judgment of the Supreme Court in the case of State of Maharashtra and others V/s. Association of Maharashtra Education Service Class II Officers and others, reported in (1974) 4 SCC 706.)

4. According to the respondents, however, the age of retirement laid down by the University Grants Commission and the Government of India as 62 years for teachers does not by its own force apply to the teachers working under various Universities and colleges affiliated to the Universities in the State of Maharashtra unless and until it is accepted by the Government of Maharashtra. It is submitted that power to fix the age of retirement of teachers working in various Universities in the State of Maharashtra and colleges affiliated to the Universities is with the State Government and therefore, the State Government has power to fix the age of retirement even if the age of retirement is different than the age of retirement which is recommended by UGC and Government of India. On behalf of the respondent, reliance is placed on a Judgment of the Supreme Court in the case of **T.P. George and others** V/s. State of Kerala and others, reported in 1992 Supp (3) SCC 191. The respondents also rely on a

judgment of the Supreme Court in the case of **B. Bharat Kumar and Others** V/s. Osmania University & Others, reported in CDJ 2007 SC 557.

5. Now it is common ground that the petitioners are working as teachers in colleges affiliated to Pune, Mumbai or Shivaji University. All the three Universities are constituted under the Maharashtra Universities Act, 1994. Perusal of **Section 5(49)** of the Maharashtra Universities Act shows that the University has the power to lay down, for teachers and University teachers, the conditions of service. The relevant provision reads as under :-

"5. The University shall have the following powers and duties, namely :- (49) to lay down for teachers and university teachers, service conditions including code of conduct, workload, norms of performance appraisal, and such other instructions or directions as, in the opinion of the university, may be necessary in academic matters;"

Thus power is conferred on the University to prescribe conditions of service of teachers. The term "teacher" is defined in **Section 2(34)** which reads as under :-

"2(34) "teacher" means full-time approved professor, associate professor, assistant professor, reader, lecturer, librarian, principal, deputy or assistant librarian and documentation officer in the university and college librarian, Director or instructor of physical education in any university department, conducted, affiliated or autonomous college, autonomous institution or department or recognised institution in the university;"

6. Perusal of the above definition shows that the teacher working in a college affiliated to University will be a teacher within the meaning of Act. Thus, the conditions of service of teachers working in affiliated colleges can be prescribed by the University. Subsection 3 of Section 8 confers on the State Government power to frame Standard Code laying down the conditions of service of the teachers working under the Universities as also the teachers working in affiliated colleges. Subsection 3 of Section 8 reads as under :-

"8(3) The State Government may in accordance with the provisions contained in this Act, for the purpose of securing and maintaining uniform standards, by notification in the Official Gazette, prescribe a Standard Code providing for the classification, manner and mode of selection and appointment, absorption of teachers and employees rendered surplus, reservation of posts in favour of members of the Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes and Other Backward Classes, duties, workload, pay, allowances post retirement benefits, other benefits, conduct and disciplinary matters and other conditions of service of the officers, teachers and other employees of the universities and the teachers and other employees in the affiliated colleges and recognised institutions (other than those managed and maintained by the State Government, Central Government and the local authorities). When such Code is prescribed, the provisions made in the Code shall prevail, and the provisions made in the Statutes, Ordinances, Regulations and Rules made under this Act, for matters included in the Code shall, to the extent to which they are inconsistent with the provisions of the Code, be invalid."

7. Perusal of the provisions of Section 51 of the Maharashtra Universities Act shows that the University can frame a statute laying down the conditions of service of the teachers. Perusal of Section 81 of the Universities Act shows that it is one of the conditions of grant of affiliation and recognition by the University that the conditions of service of teachers working in said affiliated colleges shall be such as may be prescribed by the

“7. In our view, interim relief only represents a provisional arrangement, during an intervening period, and is primarily intended to provide some relief to employees pending a comprehensive determination of their salary structure and other benefits. It is, therefore, necessarily ad hoc in character”

University. Perusal of these various provisions of the Act thus show that the power to lay down conditions of service of teachers under the University and in colleges affiliated to the University constituted under the Maharashtra Universities Act is vested in the University as also in the State Government. Therefore, so far as the Maharashtra Universities Act is concerned, the State Government is competent to lay down the conditions of service of teachers working in the Universities and the affiliated colleges. **The age of superannuation or retirement is definitely a conditions of service and therefore, the competence of the State Government to prescribe age of retirement can not be denied.**

8. It appears that after appointment of the Fifth Pay Commission in relation to the employees of the Central Government, the University Grants Commission appointed a Committee under the Chairmanship of Shri Rastogi to examine the present structure of emoluments and to make suitable recommendations to the University Grants Commission in relation to the conditions of service of teachers in University and colleges. It appears that the report submitted by Shri Rastogi was accepted by the UGC and the UGC made recommendations to the Central Government. The Central Government accepted those recommendations and implemented them in relation to the Central University and Colleges. It is thereafter that the Central Government addressed a letter dated 27th July, 1998 to the various State Governments. The subject of that letter was "Revision of Pay scales of teachers in Universities and Colleges following the revision of pay scales of Central Government employees on the recommendations of Fifth Central pay commission". In the letter, it was stated that in discharging its constitutional responsibility, the Central Government had decided to provide financial assistance to the State Government who wish to adopt and implement the scheme of revisions of

pay scales subject to the terms and conditions mentioned in that letter. It is thus clear that the scheme for revision of pay scales propounded by the Central Government did not apply to the teachers working under the University under the State Governments by its own force. It needed to be adopted by the concerned State Government. The consequence of adoption of the scheme was that the State Government became entitled to financial assistance from the Central Government for the period from 1.1.96 to 31.3.2000. The Government of Maharashtra decided to adopt the scheme propounded by the Central Government and for that purpose, issued Government Resolution dated 11th December, 1999. Paragraph 1 of the Government Resolution reads as under :-

"Government of Maharashtra had approved the implementation of revised pay scales for University and College teachers with effect from 1st January, 1986 vide Government Resolution, Education and Employment Department No.NGC 1286/(1224)/UNI.4, dated 27th February, 1989. After appointment of the Fifth Pay Commission for Central Government employees, the University Grants Commission had appointed a Committee under Chairmanship of Prof.Rastogi to examine the present structure of emoluments and conditions of service of University and College teachers. After considering the Rastogi Committee's Report, the University Grants Commission submitted its recommendations to the Government of India. After examination of this report, Government of India evolved a scheme of pay revision for the University and College Teachers and other measures for improvement of standards in higher education. By their letter dated 27th July, 1998 and subsequent letters dated 22nd September, 1998 and 6th November, 1998, the Government of India accepted and approved the recommendations of UGC to Central Universities and Colleges thereunder. Similarly, the Government of India recommended to the State Government to implement this scheme in the State Universities and affiliated Colleges. The question of implementing Government of India's scheme of revision of pay scales of University and College teachers and other relevant guidelines and notifications issued by U.G.C. from time to time was under consideration of the State Government. After careful consideration of the Government of India's Package Scheme, 1996 for maintenance of standards in Higher Education, the State Government has now decided to implement the revised pay scales and the terms and conditions of service as detailed below."

9. Perusal of the abovequoted paragraph from the Government Resolution dated 11th December, 1999 shows that the decision of the State Government to implement the Government of India's Package Scheme of 1996 was on the terms and conditions mentioned in the Government Resolution.

10. It was submitted on behalf of the petitioners that as per the letter from the Government of India, the State Government was under obligation to accept the scheme as it is and it had no power to make any modification in the scheme. It was submitted that the scheme propounded for by the Government of India contemplated that the age of retirement of teachers would be 62 years whereas by the Government Resolution dated 11th December, 1999, the age of retirement provided is 60 years. The relevant clause is **Clause 22** in the Government Resolution. It reads as under :-

"Superannuation and re-employment:

* The age of superannuation of teachers shall be 60 years and thereafter no extension in service shall be given. However, it may be open to a University or a College to re-employ a superannuated teacher according to the existing guidelines framed by the University Grants Commission, upto the age of 65 years. However, salary expenditure for such re-employed period beyond 60 years of age shall not be held admissible for purposes of grant-in-aid. The age of superannuation of teachers in Government Colleges and Institutes of Science shall, however, continue to be 60 years subject to the conditions laid down under Government Resolution NO.SCT-1089/68588/(4672)/ADM-2, dated 20.12.90.

* Age of superannuation of Registrars, Librarians, Physical Education personnel, who are being treated at par with the teachers will be 60 years. No re-employment facility is recommended for the Registrars, Librarians and Directors of Physical Education. The persons appointed to the post of Registrar other than teachers will be retired at the age of 58 years."

11. It was submitted that the Government of Maharashtra, while adopting the package scheme of the

शिवाजी विद्यापीठ, कोल्हापूर - ४१६ ००४

दुरध्वनी (ईपीएबीएक्स) १६०९००० (विस्तारित क्रमांक ९०८९,
९१३६

तार : युनिशिवाजी फॅक्स : ००९१-०२३१-२६९१५३३ व २६९२३३३
संलग्नता/टे.१/एमएके/१६३ : दिनांक : १२ डिसेंबर २००७

प्रति,
प्राचार्य,
सर्व संलग्न महाविद्यालय.

विषय :- दिनांक ०१.०१.१९८६ पुर्वीच्या पीएच.डी धारकांना आगाऊ वेतनवाढी देणेबाबत.

संदर्भ :- शिक्षण संचालनालय, उच्च शिक्षण महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे पत्र आरएसपी/या.ख./१६१२/९१/२००७/नावि/विशि-१/७७९३ दि. ०२ नोव्हेंबर, २००७.

महोदय,

मा. उच्च न्यायालय, याचिका क्र. १६१२/१९९१ नुसार दि. ०१.०१.१९९६ रोजी जे अधिव्याख्याते पीएच.डी पदवी धारण करीत होते त्यांना ३ आगाऊ वेतनवाढी देण्याबाबत शासन स्तरावर निर्णय घेणे आवश्यक झाले आहे. सदर निर्णयाच्या अनुषंगाने मा. शिक्षण संचालक यांचे दि. ०२ नोव्हेंबर, २००७ रोजीच्या पत्रान्वये विहित नमुन्यात माहिती मागितली आहे. कृपया सदरची माहिती मा. सहसंचालक, उच्च शिक्षण, कोल्हापूर विभाग, कोल्हापूर यांचेकडे पाठवून त्याची एक प्रत विद्यापीठास पाठवावी. माहिती निरंक असल्यास निरंक अहवालही पाठवावा. सोबत मा. शिक्षण संचालक यांचे दि. ०२ नोव्हेंबर २००७ रोजीचे पत्र पाठवित आहे.

कळावे

आपला विश्वासू
(डॉ.ए.ए.डांगे)
संचालक

महाविद्यालय व विद्यापीठ विकास मंडळ

Central Government of India, could not have made departure in relation to the age of retirement. In this regard, it is to be noted that it is common ground that after the Government of Maharashtra issued the Resolution dated 11th December, 1999, the central assistance was extended to the Government of Maharashtra. It is thus clear that the Central Government and the UGC accepted that the adoption of the scheme done by the Government of Maharashtra under the Government Resolution dated 11th December, 1999 was proper. **The question whether the UGC scheme is mandatory or the State Government has power to accept the scheme with modification** appears to have been considered by the Supreme Court in its judgment in the case of T.P. George and others (supra). The Supreme Court in that case was considering the 1986 Package Scheme in relation to the University teachers. It is paragraph 3 and 4 of that judgment, in our opinion, is relevant. It reads as under :-

"3. We are in agreement with the observations of the Division Bench of the Kerala High Court in Writ Appeal No.223 of 1991 quoted in the impugned judgment which run as follows :

* Though Clause 26 of the scheme provides that the age of superannuation for teachers should be 60 years, and the scheme contemplates certain improvements in providing for assistance in that behalf, it is not a scheme which is statutorily binding either on the State Government or the different Universities functioning under the relevant statutes in the State of Kerala. What the State Government has done by its order dated March 13, 1990 is to implement the UGC Scheme including revision of scales of pay in relation to teachers in Universities including Kerala - Agricultural University, affiliated colleges, Law Colleges, Engineering Colleges and qualified Librarians and qualified Physical Education Teachers with effect from January 1, 1986, subject however to the express condition insofar as the age of retirement is concerned, the present fixation of 55 years shall continue. The contention of the appellant is that the State Government having accepted the UGC Scheme, and as the scheme provides for a higher age of 60 years, once the State Government accepted the scheme, all the clauses of the scheme became applicable. It is not possible to accede to this contention. Firstly, as already stated the UGC Scheme does not become applicable because of any statutory mandate making it obligatory for the Government and the Universities to follow the same. Therefore the State Government had the discretion either to accept or not to accept the scheme. In its discretion it has decided to accept the scheme, subject to the one condition, namely, insofar as the age of superannuation is concerned, they will not accept the fixation of higher age provided in the scheme. The State Government having thus accepted the scheme in the modified form, teachers can only get the benefit which flows from the scheme to the extent to which it has been accepted by the State Government and the concerned Universities. The appellant cannot claim that major portion of the scheme having been accepted by the Government, they have no right not to accept the clause relating to fixation of higher age of superannuation. That is a matter between the State Government on the one hand and the University Grants Commission on the other, which was provided certain benefits by the scheme. It is for the University Grants Commission to extend the benefit of the scheme or not to extend the benefit of the scheme, depending upon its satisfaction about the attitude taken by the State Government in the matter of implementing the same. That is a matter entirely between the State Government on the one hand and the University Grants Commission on the other. Teachers of the private institution concerned are governed by the statutes framed under the relevant statutory enactment. As long as the superannuation remains fixed at 55 years and as long as the State Government has not accepted the UGC's recommendation to fix the age of superannuation at 60 years, teachers cannot claim as a matter of right that they are entitled to retire on attaining the age of 60 years."

4. We may clarify the scheme referred to as UGC (University Grants Commission) Scheme of 1986, framed by the Government pursuant to the Malhotra Committee's Reports. We may further point out that it is clear from paragraph 4 of the circular dated **June 17, 1987**, addressed by the Ministry of Human Resources Development, Department of Education, to the Education Secretary of all States/UTs (Union Territories) that the adoption of the scheme was voluntary, and the only result which might follow from the State Government not adopting the scheme might be that it may not get the benefit of the offer of reimbursement from the Government to the extent of 80 per cent of the additional expenditure involved in giving effect to the revision of pay scales as recommended by the scheme.

12. Perusal of the observations of the Supreme Court in the judgment quoted above makes it clear that the State Government had an option to accept the scheme propounded by the UGC in modified form and in so far as the prescription of age of retirement is concerned, power vests solely with the State Government of prescribing a different age of retirement than the one which is mentioned in the scheme. We further find that a question identical to the one which is raised in this petition has been considered by the Supreme Court in its judgment in the case of B. Bharat Kumar referred to above. Perusal of that judgment shows that in that case, the Supreme Court was considering the letter of the Central Government dated 27th July, 1998 which is relied on in these petitions also. The Supreme Court was considering identical controversy raised in relation to the teachers working in the Universities in the State of Andhra Pradesh. It appears that the Government of Andhra Pradesh also while accepting the UGC scheme had prescribed the age of retirement as 60 years as has been done by the Government of Maharashtra and the Andhra Pradesh High Court relying on the judgment of the Supreme Court in the case of T.P. George referred to above, dismissed the petitions challenging the prescription of different age of retirement by the Government of Andhra Pradesh than the one which is provided in the UGC scheme. The Supreme Court has upheld the decision of the Andhra Pradesh High Court. The observations of the Supreme Court in para 12, 13 and 14 in its judgment in the case of B. Bharatkumar (supra), in our opinion, are relevant which read as under :-

"12. We would, therefore, first examine as to whether the two Division Benches have rightly relied upon the said judgment held against the appellants. We have examined the judgment in extenso. This is also a case where the UGC had floated a scheme in 1986 which was framed by the Central Government pursuant to the Mehrotra Committee Report. In that scheme there was a Circular dated 17.6.1987 addressed by the Ministry of Human Resource Development, Department of Education to the Education Secretaries of all the States, UTs and it was clearly mentioned therein that the adoption of the scheme was voluntary and the only result follow from the State Government not adopting the scheme might be that the State Government may not get the benefit of the offer of reimbursement from the Central Government to the extent of 80% of the additional expenditure involved in giving effect to the revision of pay-scales as recommended by the scheme. Therefore, the factual situation was almost identical as in the present case. This Court approved specifically a paragraph in the Kerala High Court judgment which we have already quoted earlier in this judgment in

We demand that the Commission recommend an interim relief of 15% of Pay + DP, subject to a minimum of Rs. 1000/- p.m. with effect from 1.1.2006.

para 5. In that the Kerala High Court had specifically rejected the contention that the State Government having accepted the UGC Scheme and as the scheme provided for the higher age of 60 years, the clause of the scheme regarding age of retirement also would become applicable. The Kerala High Court had specifically further observed that the UGC scheme did not become applicable as it was not obligatory for the Government and the Universities to follow the same. The Kerala High Court read a discretion in the State Government to accept or not the accept the scheme.

13. The situation is no different in the present case also. The very language of the letter dated 27.7.1998 suggests that the scheme is voluntary and not binding at all. Further it is specified in the judgment of the Kerala High Court that the teachers had no right to claim a specific age because it suggested in the scheme which scheme was itself voluntary and not binding. The Court clearly observed that "the appellant cannot claim that major portion of the scheme having been accepted by the Government, they have no right not to accept the clause relating to fixation of higher age of superannuation". The Court therein observed that it is a matter between the State Government on the one hand and the University Grants Commission on the other and it would be for the University Grants Commission to extend the benefit of the scheme or not to extend the same depending upon its satisfaction about the attitude taken by the State Government in the matter of implementing the scheme. It was lastly clearly observed that as long as the State Government has not accepted the UGC's recommendations to fix the age of superannuation at 60 years, teachers cannot claim as a matter of right that they were entitled to retire on attaining the age of 60 years.

14. In spite of our best efforts, we have not been able to follow as to how the judgment of the Kerala High Court, which has been approved by this Court is, in any manner, different from the factual situation that prevails herein this case. It is for that reason that we have extensively quoted not only the aforementioned letter dated 27.7.1998 but also the subsequent letters and the further policy statement. Plain reading of all these is clear enough to suggest that the scheme was voluntary and it was upto the State Governments to accept or not to accept the scheme. Again even if the State Government accepted a part of the scheme, it was not necessary that all the scheme as it was, had to be accepted by the State Government. In fact the subsequent developments suggest that the State Government has not chosen to accept the scheme in full inasmuch as it has not accepted the suggestions on the part of the UGC to increase the age of superannuation."

13. In our opinion, the observations of the Supreme Court quoted above are complete answer to the submissions made on behalf of the petitioners in this case. The competence of the State Government to prescribe age of retirement different from the one which is recommended in the package scheme has been accepted by the Supreme Court and therefore, challenge to the Government Resolution dated 11th December, 1999 prescribing the 60 years as the age of retirement for the petitioner has to fail. So far as the reliance placed on a

judgment of the Supreme Court in the case of Association of Maharashtra Education Service (supra) is concerned, perusal of that judgment shows that there was no dispute before the Court that the teachers involved in that case were entitled to the scale prescribed by the UGC. The case of the State Government was that for being entitled to that pay scale, they will have to present themselves for selection before the Public Service Commission. The Supreme Court found that the State Government was insisting on the teachers who were claiming revised scales recommended by the UGC, were required to appear before the Public Service Commission because those were the scales payable to Class II and Class III Government servants. The Government was assuming that application of the pay scales to teachers results in promotion and therefore, consultation with Public Service Commission is necessary. The Supreme Court found that the stand of the State Government was based on misunderstanding in the scheme initiated by the UGC. The Supreme Court in para 8 has observed thus :-

"The contention that Lecturers in Class II of the Maharashtra Educational Service must present themselves for selection before the public Service Commission was introduced apparently on a misunderstanding of the Scheme initiated by the University Grants Commission. That Scheme envisages no promotion of Lecturers from one Class to another. It concerns itself with the revision of pay-scales of the Collegiate teachers and its object was to raise the salary-structure as one of the basic essentials for improvement of educational standards. The letter of the Government of India to the State Government, dated April 7, 1966 shows that the subject matter of the correspondence was "Improvement of Salary Scales of College and University teachers" and that the Government of India had accepted the recommendations of the University Grants Commission for (a) "revision of the salary scales" of collegiate teachers with effect from April 1, 1966. The Government of Maharashtra misunderstood the Scheme as requiring the promotion of Class II teachers to Class I and since under its Rules such a promotion could not be granted without consultation with the Public Service Commission, it asked respondents 2 to 11 to offer themselves for selection by that Commission. The imposition of such a condition being based on a misunderstanding of the Scheme proposed by the University Grants Commission, the High Court was right in directing the Government to place respondents 2 to 11 in the pay-scale of 700-1100 without asking them to appear before the Public Service Commission. As stated by the High Court whether respondents 2 to 11 should, as a consequence of the upgrading of their pay-scale, be placed in Class I Educational Service and whether they are entitled to the other benefits available to Class I officers is an entirely separate matter which the State Government will be at liberty to decide in accordance with the relevant rules and procedure."

14. It is thus clear that the judgment of the Supreme Court in the case of Association of Maharashtra

अनेक प्रकरणात हायकोर्टाने निर्णय दिल्यानंतरसुद्धा पदे अनारक्षित करण्याची कारवाई न होणे

महाराष्ट्र विधानपरिषद : तिसरे अधिवेशन २००७
गुरुवार, दिनांक २९ नोव्हेंबर, २००७ रोजी

सभागृहाच्या पटलावर ठेवण्यात आलेल्या अतारक्षित प्रश्नांकरिता सोळाव्या यादिलील प्रश्न क्रमांक (१) २९३५५

(१) २९३५५ (९.८.२००७) सर्वश्री. एन.पी.हिराणी, प्रा. बी. टी. देशमुख, व्दि. यु. डायगव्हाणे, वसंतराव खोटे, जी.एल.अनापूरे : तारांकित प्रश्न क्रमांक १७३४२ ला दिनांक ६ जुलै २००६ रोजी दिलेल्या उत्तराच्या संदर्भात सन्माननीय उच्च व तंत्र शिक्षण मंत्री पुढील गोष्टींचा खुलासा करतील काय :-

(१) एकामागुन एक अनेक प्रकरणांमध्ये मा. उच्च न्यायालयाने स्पष्टपणे निर्णय दिल्यानंतरसुद्धा अधिव्याख्यात्यांची पदे अनारक्षित करण्यामध्ये शासनाकडून विलंब होत आहे अशी तक्रार करणाऱ्या नागपूर विद्यापीठ शिक्षक संघाच्या (नुटा) सहसचिवांनी दिनांक ३० मे २००५ रोजी किंवा त्यादरम्यान सह संचालक उच्च शिक्षण अमरावती विभाग यांच्यामार्फत मा. प्रधान सचिव, उच्च व तंत्र शिक्षण यांना सादर केलेल्या विचाराधीन निवेदनात नमूद असलेल्या प्रस्तावासंदर्भात पदे अनारक्षित करून संबंधितांना सेवा सातत्याने लाभ लागू करण्याबाबतच्या कार्यवाहीची सद्यस्थिती काय आहे?

(२) कार्यवाही झालेली असल्यास, याबाबत शासनाने घेतलेल्या निर्णयाचे स्वरूप काय आहे,

(३) नसल्यास, याबाबत होणाऱ्या विलंबाची कारणे काय आहेत?

श्री. दिलीप वळसे पाटील (२३.१०.२००७) : (१) व (२) नागपूर विद्यापीठ शिक्षक संघाच्या दि. ३०.५.२००५ रोजीच्या निवेदनात नमूद अधिव्याख्यात्यांची राखीव पदे विनाराखीव करणेबाबत दाखल झालेल्या याचिकांच्या अनुषंगाने शासनस्तरावर कार्यवाही विचाराधीन होती. याबाबत, संचालक, उच्च शिक्षण तसेच अमरावती विद्यापीठाने अमरावती विद्यापीठांतर्गत संलग्न महाविद्यालयातील उक्त राखीव पदे सुधारित बिंदुनामावलीनुसार खुल्या वर्गातील असल्याबाबत कळविले आहे. याबाबतची पुढील कार्यवाही विद्यापीठ स्तरावर सुरु आहे.

याबाबत संबंधित अधिव्याख्यात्यांना सेवासातत्य व अन्य इतर अनुषंगिक फायदे देण्याबाबत कुलसचिव/सहसंचालक यांना संचालक उच्च शिक्षण यांनी कळविले आहे. तसेच विद्यापीठास सदर पदे खुल्या वर्गात मोडत असल्याचा स्पष्ट खुलासा संबंधित महाविद्यालयास व अध्यापकांना करण्याबाबत कळविण्यात आले आहे.

सद्यस्थितीत शासन स्तरावर उपरोक्त प्रकरणी कार्यवाही प्रलंबीत नाही.

(३) प्रश्न उद्भवत नाही.

Education Service Class II Officers (supra) is not relevant for deciding the controversy that arises for consideration in this case. What is pertinent is the Supreme Court in para 1 of that judgment has observed thus :

"It is open to grave doubt whether the recommendations of a body like the University Grants Commission, can give rise to rights and obligations enforceable in a court of law but of that we shall say nothing as everyone concerned approached the questions on the assumption that the petition raised a justiciable issue."

15. Thus in that judgment, the Supreme Court expressed grave doubt whether merely recommendations of the UGC gives rise to a justiciable right. The Supreme Court in its subsequent judgment referred to above in the cases of T.P. George and B. Bharat Kumar referred to above has answered that question by holding that mere recommendations of the UGC do not give rise to any right. The Supreme Court in the judgment in the case of T.P. George has categorically held that the Government is free to fix different age of superannuation than the one recommended by the UGC. If the State Government fixes a different age of retirement than the one recommended by the UGC, that is the matter between the State Government on the one hand and the UGC on the other. The Supreme Court has with approval quoted the following observations from the judgment of Kerala High Court in para 3 of the judgment in T.P. George case.

"xxxxxxxxxxxxx The appellant cannot claim that major portion of the scheme having been accepted by the Government, they have no right not to accept the clause relating to fixation of higher age of superannuation. That is a matter between the State Government on the one hand and the University Grants Commission on the other, which was provided certain benefits by the scheme. It is for the University Grants Commission to extend the benefit of the scheme or not to extend the benefit of the scheme, depending upon its satisfaction about the attitude taken by the State Government in the matter of implementing the same. That is a matter entirely between the State Government on the one hand and the University Grants Commission on the other. Teachers of the private institution concerned are governed by the statutes framed under the relevant statutory enactment. As long as the superannuation remains fixed at 55 years and as long as the State Government has not accepted the UGC's recommendation to fix the age of superannuation at 60 years, teachers cannot claim as a matter of right that they are entitled to retire on attaining the age of 60 years."

16. It is thus clear that the Supreme Court has in terms held that unless the State Government accepts the recommendation of the UGC and prescribes a different age of retirement than the one which is provided in the statute framed by various Universities, the age of retirement of the teachers will continue to be governed by the statutes framed by various Universities.

17. In so far as the present petitions are concerned, though the petitioners in their petitions have claimed that they are entitled to continue in service till the age of 62 years because of the recommendation of the UGC, they have nowhere in the petition stated as to what was the age of retirement applicable to them under the statutes framed by various Universities before the UGC recommended the age of superannuation as 62 years and the State

Government by Resolution dated 11th December, 1999 fixed the age of retirement as 60 years. Perusal of Section 115 of the Maharashtra Universities Act shows that by that Act, Bombay University Act, 1974, Pune University Act, 1974 and the Shivaji University Act, 1974 among other Acts have been repealed. Perusal of subsection 2(XII) of Section 115 shows that all statutes and ordinances made under the Acts which are repealed by the Maharashtra Universities Act in respect of any existing University shall continue to be in force to the extent that they are not inconsistent with the provisions of the Act till a different provision is made under the Maharashtra Universities Act. Thus, till the Government issued a Resolution dated 11th December, 1999, the statutes framed by various Universities prescribing the age of retirement continued in force. Perusal of the provisions of Section 43 of the Bombay University Act, Pune University Act as also Shivaji University Act shows that it is one of the conditions of grant of affiliation to the University that the conditions of service of the teachers working in affiliated colleges shall be governed by the statutes framed by the University. So far as Pune University is concerned, we have been informed by the learned Counsel for the petitioner that the age of retirement laid down by the statutes framed by the Pune University is also 60 years. Thus, before the Government Resolution dated 11th December, 1999 was issued, the age of retirement of the petitioner teachers was 60 years. As pointed out above, the Supreme Court has approved the observations made in the judgment of the Kerala High Court that the age of retirement of the teachers will continue to be governed by the statutes unless the State Government by issuing the Government Resolution prescribes the age of retirement. **Thus, looking at the matter from any point of view, no exception can be taken to the action of the respondent of retiring the petitioners at the age of 60 years. We, thus, find no substance in any of these petitions. All the petitions fail and are dismissed.**

18. In some of the petitions, there were interim orders made by the Division Bench of this Court in favour of teachers and because of that interim orders, they are continued in service though they have reached the age of superannuation which is 60 years. As a result of this judgment, **it goes without saying that interim orders stand vacated and no longer continue.** But so far as the period during which, because of the interim orders passed by this Court, the petitioner teachers have actually worked, **they will be entitled to be paid and the managements which are getting grant-in-aid from the State Government, would also entitle to claim grant for making payment of salary to the petitioner teachers** for the period during which they worked under the interim orders passed by this Court.

(D.K. DESHMUKH, J.)

(V.M. KANADE, J.)

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