

NAGPUR UNIVERSITY TEACHERS' ASSOCIATION

नेट सेट ग्रस्त शिक्षकांच्या

सभांचे नागपूर व अमरावती येथे आयोजन

सभेची सूचना

नेटसेटच्या अटीची चुकीच्या पद्धतीने अम्मलबजावणी करून सेवा विचारात न घेणे, बढती न देणे व दिलेल्या वेतनवाढी रोखून धरणे, या सर्व घटनाक्रमाची नेटसेटग्रस्त शिक्षकांना माहिती देण्यासाठी नेटसेटग्रस्त शिक्षकांच्या विद्यापीठ परिक्षेत्रनिहाय सभांचे आयोजन खाली दिलेल्या स्थळी, वेळी, दिवशी व दिनांकाला केलेले आहे. बैठकीत पुढील कामकाज होईल.

(अ)

१. महाराष्ट्र विधानपरिषदेमध्ये नेटसेटबाबत (i) दिनांक १४ डिसेंबर २००० रोजी लक्षवेधी सुचनेच्या निमित्ताने (सन २००१ च्या नुटा बुलेटीनचे पृष्ठ ३३ पहा) (ii) दिनांक १६ मार्च २००१ रोजी तारांकित प्रश्न क्रमांक ११८३२, दिनांक २३ मार्च २००१ रोजी तारांकित प्रश्न क्रमांक ११८१२ च्या निमित्ताने व दिनांक ३० मार्च २००१ रोजी तारांकित प्रश्न क्रमांक ११८१४ च्या निमित्ताने झालेली चर्चा विचारात घेणे, (सन २००१ च्या नुटा बुलेटीनच्या या अंकामध्ये पहा)

२. मुंबई हायकोर्टामध्ये दाखल झालेले पिटीशन क्र. 2058 OF 2000, 2061 OF 2000 व 2092 OF 2000 अन्वये अर्जदारांनी केलेल्या विनंतीचा मसुदा विचारात घेणे. (Prayer clause is circulated in this NUTA Bulletin)

३. मा. सचिव, उच्च व तंत्रशिक्षण, महाराष्ट्र राज्य यांनी उपरोक्त प्रकरणात न्यायालयात २८ फेब्रुवारी २००१ रोजी दाखल केलेले पहिले व त्यानंतर दाखल केलेले दुसरे, अशी दोनही प्रतिज्ञापत्रे विचारात घेणे. (Circulated in this NUTA Bulletin)

४. दिल्ली उच्च न्यायालयाने C.W.P. No. 3570 of 1992 & C.M.No. 6675/92 या प्रकरणात 13th May, 1993, रोजी Raj Singh Vs. U.G.C. & others या प्रकरणांत दिलेला निवाडा विचारात घेणे (१९९८ च्या नुटा बुलेटीनच्या पृष्ठ ६३ वर प्रसृत केलेला आहे.)

५. To take into consideration the Judgement delivered by the Hon'ble High Court of Judicature at Bombay in Writ Petition No. 3495 of 1998, on 31st August, 1998. (Circulated in this NUTA Bulletin)

६. सर्वोच्च न्यायालयाने Civil Appeal No. 1819 of 1994, D/-8-9-1994. University of Delhi, Appellant v. Raj Singh and others, Respondents. प्रकरणात दिनांक ८ सप्टेंबर, १९९४ रोजी दिलेला अंतिम निवाडा विचारात घेणे. (Circulated in this NUTA Bulletin)

(ब)

उपरोक्त कागदपत्रे विचारात घेवून करावयाची कार्यवाही निश्चित करणे. तसेच वेतनवाढी जोडून प्रत्यक्ष देण्यात येत असलेले वेतन, वेतनवाढी कापून वेतनश्रेणीच्या मुळ टप्प्यावर, रु. ८००० वर निश्चित करण्याचा शासनाच्या अधिकाऱ्यांनी प्रयत्न केल्यास करावयाची कारवाई निश्चित करणे.

नागपूर विद्यापीठ क्षेत्रातील सर्व नेटसेटग्रस्त शिक्षकांनी नागपूर येथील सभेला व अमरावती विद्यापीठ क्षेत्रातील शिक्षकांनी अमरावती येथील सभेला उपस्थित रहावे अशी त्यांना विनंती आहे. सभेला नुटाचे अध्यक्ष व पदाधिकारी उपस्थित रहातील. संबंधित सर्व शिक्षकांनी उपस्थित रहावे अशी विनंती आहे.

- डॉ. एकनाथ कठाळे, सचिव, नुटा

सभेचा दिवस, दिनांक, वेळ व स्थळ

विद्यापीठ क्षेत्र	दिवस	दिनांक	वेळ	स्थळ
अमरावती	शनिवार	२३.०६.२००१	दुपारी ४.३० वाजता	भारतीय महाविद्यालय, अमरावती
नागपूर	रविवार	२४.०६.२००१	सकाळी ११.३० वाजता	जी.एस.कॉलेज, नागपूर

MINUTES

of the General Body Meeting of
NAGPUR UNIVERSITY TEACHERS' ASSOCIATION
held at 12.00 noon on
SUNDAY, the 6th May, 2001 at
Bharatiya Mahavidyalaya, Amravati

General Body of Nagpur University Teachers' Association met at 12.00 noon on Sunday, the 6th May, 2001 at Bharatiya Mahavidyalaya, Amravati Prof. B.T. Deshmukh, President was in the chair. The membership numbers of the members present at the meeting are as follows :

0044, 0072, 0090, 0129, 0153, 0154, 0159, 0220, 0248, 0260, 0269, 0284, 0370, 0380, 0389, 0391, 0438, 0489, 0496, 0547, 0557, 0581, 0662, 0724, 0738, 0840, 0895, 1113, 1121, 1122, 1161, 1177, 1185, 1258, 1298, 1406, 1433, 1540, 1627, 1629, 1632, 1655, 1820, 1963, 2103, 2108, 2120, 2131, 2138, 2154, 2157, 2350, 2414, 2427, 2434, 2439, 2524, 2537, 2575, 2603, 2606, 2607, 2814, 2815, 2985, 3079, 3205, 3297, 3305, 3319, 3321, 3341, 3351, 3374, 3377, 3383, 3432, 3449, 3451, 3462, 3464, 3467, 3471, 3480, 3494, 3498, 3577, 3597, 3612, 3619, 3659, 3686, 3734, 3750, 3794, 3800, 3837, 3839, 3842, 3847, 3851, 3852, 3860, 3865, 3895, 3970, 4019, 4063, 4076, 4081, 4132, 4146, 4160, 4209, 4258, 4259, 4316, 4321, 4360

Agenda of the Meeting was circulated on pages 29 to 30 of 2001 Nuta Bulletin. Additional Agenda of the Meeting was circulated on pages 49 to 52 of 2001 Ex-File.

ITEM NO. 286 : CONFIRMATION OF MINUTES :

CONFIRMED the minutes of the General Body meeting of Nagpur University Teachers' Association held at 12.00 noon on Sunday, the 17th September, 2000 at R.L.T. Science College, Akola.

Notes :- 1) Copy of the minutes was circulated on pages 109 to 111 of 2000 NUTA Bulletin. 2) Corrections, if any, were invited in the copy of the Minutes of the General Body Meeting of Nagpur University Teachers' Association held at 12.00 noon on Sunday, the 17th September, 2000, at R.L.T. Science College, Akola. vide No. CIM/9 Dated 21st November 2000 published on page 118 of 2000 Nuta Bulletin. No correction was received.

ITEM NO. 287 : APPROVAL TO THE ANNUAL REPORT :

CONSIDERED AND APPROVED the Annual Report regarding the working of the Association for the calendar year ending on 31st December, 2000, with the following correction :-

On page 32 of 2001 NUTA Bulletin, in the report regarding the working of the Association for the calendar year ending on 31st December, 2000, The following words be added at the end of para 10, namely :-

“The problem of implementation of revised pay-scales to engineering institutions has already been undertaken by our hon'ble president Prof. B.T. Deshmukh at the Govt. level through Legislative Council. This problem has not been solved fully, it requires continuous follow-up with perseverance.”

Notes :- (i) As per Article VI (b) (iii) of the Constitution of NUTA, the Annual Report of the working of the Association was prepared by the Executive Committee (vide item No. 4 of 2001) and was placed for the approval of the General Body.

(ii) The Copy of the Annual Report was circulated in 2001 NUTA Bulletin on pages 31 & 32

(iii) Prof. E.H. Kathale, Secretary presented the Annual Report on behalf of the Executive Committee.

ITEM NO. 288 : APPROVAL TO THE ANNUAL BUDGET :

APPROVED the Annual Budget of the Association for the Financial year commencing on 1st April, 2001.

Notes :- (i) Prof. S.A. Tiwari, Treasurer, NUTA, presented the Budget on behalf of the Executive Committee.

(ii) The copy of the Budget was circulated on page No. 31 of 2001 NUTA Bulletin.

ITEM NO. 289 : APPOINTMENT OF THE AUDITORS :

CONSIDERED AND APPROVED the following resolution for the appointment of Auditors for the Financial year ending on 31st March, 2001 namely :-

“C.R. Sagdeo & Co. Chartered Accountant “Prabha Niwas” Nagpur be appointed as auditor for the Financial year ending on the 31st March 2001”

Note : (i) As per Article VII of the Constitution of NUTA the "General Body shall appoint auditors annually in the Annual Meeting of the Association."

(ii) The Executive Committee resolved to recommend the above resolution (Vide item No. 2 of 2001) which was placed before the General Body for its approval.

(iii) Prof. S.A. Tiwari Treasurer, on behalf of the Executive Committee, moved the resolution.

ITEM NO. 290 : AMENDMENT TO THE CONSTITUTION OF NUTA

(A) CONSIDERED the following Proposal for the amendment to the constitution of NUTA.

PROPOSAL

(1) In Article VII of the Constitution of NUTA for the words "Semi Government Corporations" the words " Semi Government Corporations or Scheduled Bank or Co-operative Bank" shall be substituted.

(2) The following proviso be added at the end of the Article VII, namely :-

Provided that the amount of deposit in any one Scheduled Bank or Co-operative Bank shall not be more than Rs. 1 Lac.

(B) **RESOLVED** to refer back the proposal to the Executive Committee for further detailed scrutiny thereof.

Notes :- (1) Article X of the Constitution of NUTA reads as follows:- “(a) Proposal to amend the Constitution may come with fourteen clear days notice either from the Executive Committee or from one fifth of the total membership of the Association. (b) The Constitution shall stand amended if the proposal is approved by a majority of not less than two third of the members present and voting in its General Body Meeting.”

(2) Text of the Constitution of NUTA is given on page 2 of 1978 NUTA Bulletin and reprinted as amended up to date on page 32, 33 of 1993 NUTA Bulletin.

(3) Text of Article VII :-

“ VII) The Treasurer shall be the custodian of the funds of the Association. He shall be responsible for maintaining the accounts of the Association. Long term fixed deposits, as mentioned in the second proviso of Article III, may be invested in fixed deposit Receipts of Nationalised Banks or in such units

of Unit Trust of India or such other Securities of Government and **Semi Government Corporations** as may be decided by the Executive Committee and the accounts shall be operated jointly by the Secretary and the Treasurer of the Association. The General Body shall appoint auditors annually in the Annual meeting of the Association."

विषय क्र. २९१ :

नेटसेट बाबतचा महाराष्ट्र प्राध्यापक महासंघाचा आंदोलन कार्यक्रम

(अ) नेटसेट ग्रस्त शिक्षकांच्या संदर्भात कृति आंदोलनाचा महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाने दिनांक १५ मार्च २००१ च्या बैठकीत मंजूर करण्यात आलेला पुढील कार्यक्रम विचारात घेण्यात आला :-

“मा. मुख्यमंत्री, मुख्य सचिव, उच्च शिक्षणमंत्री, वित्तसचिव, उच्च शिक्षण सचिव यांनी सतत पाच दिवस, पाच पाच तास वसून महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळासोबत चर्चा करून काही निर्णय घेतले. त्या मतैक्यपत्रातील महत्वाचा निर्णय असा होता की, केंद्र शासनाच्या सूचनांप्रमाणे महाराष्ट्रात वेतन पुनर्रचनेची अम्मलबजावणी करावयाची त्याला वित्त विभागाची मान्यता होती. याप्रमाणे २७.२.१९८९ चा शासननिर्णय निर्गमित झाल्यावर महाराष्ट्रातल्या अधिकाऱ्यांनी केंद्राच्या अटीमध्ये नसलेल्या अनेक अटी घुसडल्या. ३१ मार्च १९९४ ला त्यांना सेवामुक्त करा ही अट केंद्राने टाकलेली अट नव्हती. ३१ मार्च १९९५ ला त्यांना सेवामुक्त करा ही अट केंद्राने टाकलेली नव्हती. ३१ मार्च १९९६ ला त्यांना सेवामुक्त करा ही सुद्धा केंद्राची अट नव्हती. त्यांना अॅडहॉक नेमणूका द्या, हे केंद्राने सांगितले नव्हते, त्यांच्या वेतनवाढी रोखून ठेवा, हे केंद्राने सांगितले नव्हते. त्यांना वरिष्ठ जागावर प्रमोशन देऊ नका, हे केंद्राने सांगितले नव्हते.

नेटसेट बाबत महाराष्ट्र शासनाची भूमिका विद्यापीठ अनुदान आयोगाच्या, तसेच केंद्र शासनाच्या धोरणाशी व महाराष्ट्र शासनाशी महाराष्ट्र प्राध्यापक महासंघाचा जो समझोता झाला त्याच्याशी पूर्णपणे विसंगत रहात आली. तदर्थ स्वरूपाच्या नेमणूका देणे, सेवेत असलेल्या अधिव्याख्यात्यांना नेट सेट परीक्षा उत्तीर्ण होण्याची सक्ती करणे, न झाल्यास वार्षिक वेतनवाढ देण्यात न येणे, त्यांची सेवा वरिष्ठ व निवडश्रेणीसाठी विचारात न घेणे, सेवा ज्येष्ठता न देणे या शासन निर्णयातील अटी संपूर्णपणे समझोत्याच्या व विद्यापीठ अनुदान आयोगाच्या व केंद्र शासनांच्या सूचनांच्या विरुद्ध आहेत. त्यामुळे या अटी ताबडतोब मागे घेण्यात याव्या अशी मागणी महासंघाने सातत्याने केली आहे. विद्यापीठ अनुदान आयोगाच्या व केंद्र शासनाच्या सूचनांच्या आधारावर झालेल्या समझोत्याचा भंग करणाऱ्या कोणत्याही अटी स्वीकारण्यास हे कार्यकारी मंडळ ठाम नकार देत आहे.

“शिक्षक म्हणून सेवेत येणारी व्यक्ती नेटसेटची पात्रताधारक असली पाहिजे”, असा विद्यापीठ अनुदान आयोगाच्या एप्रिल २००० च्या रेग्युलेशनमधील मूळ नियम आहे. “परंतु असे की त्या त्या वेळी अस्तित्वात असलेली किमान विधिमय पात्रता धारण करणाऱ्या ज्या शिक्षकांची यथोचित निवड समितीमार्फत यापूर्वीच निवड झालेली आहे अशा शिक्षकांना “नेटसेट पात्रता” लागू असणार नाही”, असे त्या नियमाचे परंतुक आहे. मूळ नियमात “नेटसेटची पात्रता” आवश्यक आहे. तर परंतुकामध्ये “हे नियम होण्याच्यापूर्वी त्या त्यावेळी अस्तित्वात असलेली किमान विधिमय पात्रता” धारण करणाऱ्यांना नेटसेटची पात्रता लागू रहाणार नाही असे विहित केले आहे. मूळ नियमातील पात्रता व परंतुकातील पात्रता म्हणजे दोनही ठिकाणी “नेटसेटचीच पात्रता” असा अर्थ मंत्रालयातील अधिकारी लावत आहेत. आपलाच अर्थ खरा आहे या आनंदात ते एवढे बेभान झाले आहेत की दोनही ठिकाणच्या पात्रतेचा अर्थ जर “नेटसेटची पात्रता” असाच आहे हे मान्य केले तर विद्यापीठ अनुदान आयोगाने आपल्या मूळ नियमाला हे परंतुक जोडण्याचे काही कारणच उरत नाही याचेही भान या अधिकाऱ्यांना राहिलेले नाही.

शासनाने नेटसेटग्रस्त शिक्षकांच्या संदर्भात अवांछनीय व अनधिकाराने घुसडलेल्या अटी काढून टाकल्या नाहीत तर २ मे २००१ पासून महाराष्ट्र प्राध्यापक महासंघाच्या वतीने महाराष्ट्रभर मा. उच्च शिक्षण मंत्र्यांच्या कोणत्याही सार्वजनिक कार्यक्रमाच्या वेळी जिल्ह्याच्या ठिकाणी काळे झेंडे दाखवून शांततापूर्वक निषेध निदर्शने आयोजित केली जातील.”

(ब) नेटसेट ग्रस्त शिक्षकांच्या संदर्भात महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाने दिनांक २९ एप्रिल २००१ च्या बैठकीत मंजूर करण्यात आलेला पुढील ठरावाशी सहमती व्यक्त करण्यात आली :-

“1) WHEREAS the MFUCTO at the meeting of Executive Committee held on **Thursday, 15th March 2001 resolved** to express its protest against the total inaction on the

part of the Government of Maharashtra, more particularly the Minister for Higher & Technical Education, in respect of proper implementation of NET/SET qualification condition and in respect of non- NET/SET teachers being done grave injustice at the university and colleges in Maharashtra;

2) WHEREAS the MFUCTO at the said meeting also decided that the form of protest should be **BLACK FLAG DEMONSTRATION** at all the official functions where the Minister for Higher & Technical Education, Shri Dilip Valse Patil, remained present, starting from 2nd may 2001; till the issue was satisfactorily resolved by the Government;

3)WHEREAS the MFUCTO's attention has been drawn to various developments that have taken place in the meantime, such as,

a) Filing of Writ Petition No.2058 of 2000 and Writ Petition No.2061 by teachers Kanshiram S. Waghmode, Petitioner V/s. Parle Tilak Vidyalaya Association & Ors; and Suryakant Eknath Jaware, Petitioner V/s. Parle Tilak Vidyalaya Association & Ors; in the High Court, Mumbai.

b)The filing of Affidavit on behalf of the state of Maharashtra by Smt. Kumud Bansal, Principal Secretary to the Government of Maharashtra in the department of Higher & Technical Education;

c)The direction of the Hon'ble High Court at Mumbai to join the University Grants Commission as a Party- Respondent to the Writ petitions;

d) The Affidavit of Smt. Kumud Bansal refers to the MFUCTO discussion with the Government of Maharashtra including Agreement with the Government of Maharashtra in 1989 and in 1999;

4. WHEREAS the MFUCTO taking into account all those developments has **at its meeting held on Sunday, 29th April 2001 in Mumbai** of the Executive Committee, came to the considered view that a number of important facts and circumstances which will have a bearing on the matters pending before the Hon'ble High Court, needs to be brought to the notice of the Hon'ble Court, to enable the Court to arrive at a judicial decision which would be just, proper and fair;

THE MFUCTO THEREFORE RESOLVES-

a) to stay the decision of holding the BLACK FLAG DEMONSTRATION against the Hon'ble Minister for Higher & Technical Education , Maharashtra;

b) to move the Hon'ble High Court for permitting the MFUCTO to be an intervening Respondent in the Petitions, and to do all things which are necessary to bring to the notice of the Hon'ble High Court, facts and circumstances, Government of Maharashtra orders from time to time, etc., including the total number of teachers who are likely to be affected by any decision of the Hon'ble Court;

c) to present a total picture of the issue before the Hon'ble court to enable the court to arrive at a judicial decision which would be just, proper and fair.

The MFUCTO also decided to constitute a three-man Committee consisting of the President of the MFUCTO (Dr.Arun Dixit), Prof.C.R.Sadasivan (General Secretary) and Prof.B.T.Deshmukh, to deal with the matter including appointment of a Counsel to appear in the Court.- Dated:29th April 2001”

(क) नेटसेटशी संबंधीत सर्व शिक्षकांनी स्वतंत्रपणे बैठकी घ्याव्यात. न्यायालयासमोर उपस्थित करावयाच्या मुद्द्यांचे चिंतन करावे, असे मुद्दे निश्चित करावे, आवश्यकता वाटल्यास न्यायालयातील या प्रकरणामध्ये कायदेशीर रित्या सहभागी व्हावे असेही ठरविण्यात आले.

(ड) आवश्यकता वाटल्यास सर्व जिल्ह्यातील संबंधीत शिक्षकांची एक संयुक्त बैठक संघटनेतर्फे बोलावण्यात यावी असेही ठरविण्यात आले.

(ई) १ जानेवारी १९९६ नंतरच्या वेतनवाढी देऊन नविन वेतनश्रेणीमध्ये अशा शिक्षकांची वेतननिश्चिती करण्यात आलेली आहे व त्यांना त्याप्रमाणे दरमहा वेतन दिले जात आहे. त्यातून वेतनवाढी कापून मुळ टप्प्यावर म्हणजे रुपये ८०००/- वर त्यांचे दरमहाचे देय वेतन पुनर्निश्चित करण्याचा शासनाने किंवा शासकीय अधिकाऱ्यांनी प्रयत्न केल्यास त्याबाबत ताबडतोबीने मा. उच्च न्यायालयापुढे याचिका दाखल करून संबंधीत शिक्षकांनी स्थगनादेश मिळविण्यासाठी प्रयत्न करावा असेही ठरविण्यात आले.

विषय क्र. २९२ :

अर्धवेळ अधिव्याख्यात्यांना नविन वेतनश्रेणी

श्री.वि.रा.काथर्देकर हे सभेला अनुपस्थित असल्याने पुढील प्रस्ताव मांडण्यात आला नाही:-

महाराष्ट्र शासनाने पूर्ण वेळ अधिव्याख्यात्यासाठी ११ डिसेंबर १९९९ च्या शासननिर्णयान्वये पाचव्या वेतन आयोगाप्रमाणे सुधारित वेतनश्रेणी लागू करण्याचा शासननिर्णय प्रसूत केला, त्यातील परिच्छेद १७ मध्ये अर्धवेळ अधिव्याख्यात्यांना जे कायम स्वरुपी आहेत, त्यांना सेवाकाळाच्या आधारावर उच्च वेतनश्रेणीत वेतनवाढ मिळेल असे सुचविण्यात आले. पण Higher placement तर दुरुच राहिले. कायम स्वरुपी अर्धवेळ अधिव्याख्यात्यांना ८०००-२७५-१३५०० या साध्या वेतनश्रेणीची निम्मी म्हणजे, ४०००-१३७-५०-६७५० सुद्धा (नुटा बुलेटीन अंक १५ जुलै २००० पृ.सं. ७४-७५ मधील शुद्धीपत्रक क्रमांक वेपूर ६ 'अ' शिक्षण संचालनालय, उच्च शिक्षण, महाराष्ट्र राज्य पूणे-१ दिनांक २१ मार्च, २००० परिच्छेद १०) अजून लागू झालेली नाही. शासनाने याबाबतची कारवाई तातडीने पूर्ण करावी अशी ही सभा विनंती करीत आहे.

विषय क्रमांक २९३

कार्यकारी मंडळातील रिक्त पदे भरणे

(१) नुटाच्या कार्यकारी मंडळाने दिनांक १ मे, २००१ रोजीच्या बैठकीत विषय क्रमांक ४७ अन्वये मंजूर केलेला पुढील प्रस्ताव विचारात घेण्यात आला व **सम्मत करण्यात आला:-**

“डॉ. अरुण सातपूतळे यांनी नुटाच्या उपाध्यक्ष पदाचा राजीनामा दिल्यामुळे रिक्त झालेल्या उपाध्यक्षपदी (नागपूर) नुटाच्या घटनेतील खंड ५ (ब) मधील तरतुदीनुसार प्रा. अनिल ढगे यांना उपाध्यक्ष म्हणून तसेच प्रा. अनिल ढगे यांच्या सहसचिव पदाच्या रिक्त झालेल्या जागेवर प्रा. व्ही.बी.ढोणे यांना सहसचिव म्हणून स्विकृत करावे असे ठरविण्यात येत आहे.”

Note : **Article V** (b) of the constitution of NUTA is as follows :-

" b) Casual Vacancy : Vacancies on the Executive Committee shall be filled up by the Executive Committee by Co-option from among the members of the Association. Such co-opted member shall hold office till the next annual General Body meeting."

विषय क्रमांक २९४

शारिरीक शिक्षण संचालकांच्या प्रकरणी

मा. उच्च न्यायालयाचा निवाडा

शारिरीक शिक्षण संचालकांच्या वेतन निश्चितीच्या प्रकरणांत वेतन कपात करण्याच्या निर्णयास मा. उच्च न्यायालयाने (याचिका क्रमांक ३६७५/२०००) दिलेल्या निकालाची नोंद घेण्यात आली

Note :- The copy of the Judgement, dated 4th April 2001, by THE HIGH COURT OF JUDICATURE, APPELLATE

No.CIM/10 : : Dated 21st June 2001

**CORRECTION
in the copy of the Minutes
of the General Body Meeting of NUTA**

Copy of the Minutes of the General Body Meeting of NAGPUR UNIVERSITY TEACHERS' ASSOCIATION held at 12.00 noon on Sunday, the 6th May, 2001 at Bharatiya Mahavidyalaya, Amravati, is circulated in this NUTA Bulletin. If you propose to suggest any Correction to the Minutes, it may be pointed out to the Secretary (Prof.E.H.Kathale, Secretary, NUTA, N-162 Reshim Bagh, Nagpur-440 009.) by letter within 10 days from the date of posting of this Bulletin.

It will not be possible for the Corrections received after the due date to be included in the List of Corrections for consideration.

Please send one copy of your amendment to Prof. B.T.Deshmukh, President NUTA, 3 Subodh Colony, Near Vidarbha Mahavidyalaya, Amravati-444 604. - *Secretary NUTA*

SIDE, BOMBAY NAGPUR BENCH: NAGPUR, in WRIT PETITION NO.3675/2000 was circulated on page 49 of 2001 Ex-File, (Now circulated in this NUTA Bulletin)

विषय क्रमांक २९५

नुटा बुलेटीनचे विशेषांक

नुटा बुलेटीनच्या रौप्य महोत्सवानिमित्त अनेक विशेषांक काढण्याच्या बाबतीत आमसभेने यापूर्वीच निर्णय घेतलेला आहे. याकामी अर्धवेळ उभारणीच्या संदर्भात ठरविण्यात आलेला स्वेच्छाधिन सहभाग उभा करणे बाबत जिल्हा कार्यकारी मंडळांनी बैठक घेऊन योजना आखावी अशी त्यांना विनंती करण्याचे ठरले.

विषय क्रमांक २९६

तालुका युनिटची रचना

तालुका युनिटच्या रचनेबाबत अध्यक्षांनी सभागृहाला अशी माहिती दिली की, “बहुतेक तालुका युनिटच्या रचनेबाबतचे अहवाल आलेले असले तरी अनेक तालुक्यातुन याबाबतचे अहवाल अजूनही आलेले नाहीत अशा तालुक्यांची यादी नुटा बुलेटीनमध्ये दिली जाईल” याबाबत विचारांती असा निर्णय घेण्यात आला की, नुटाच्या जिल्हा युनिटच्या कार्यकारी मंडळाच्या बैठकी ताबडतोबीने घेण्यात याव्यात त्या बैठकीमध्ये

१) बैठक झालेली आहे पण अहवाल आला नसेल तर त्या ठिकाणच्या बैठकीचा अहवाल प्राप्त करुन घेणे.

२) ज्या तालुक्यात बैठक झाली नसेल तेथे बैठकीचे आयोजन करणे व तालुका युनिटची रचना करणे.

३) ज्या एखाद्या तालुक्यात सदस्यच नसल्यामुळे तालुका युनिटची रचना झालेली नसेल तेथे सदस्य नोंदणी करुन तालुका युनिटची रचना करणे.

उपरोक्त तीन मुद्यांच्या बाबतीत जिल्हा कार्यकारी मंडळांनी निर्णय घ्यावे व त्याप्रमाणे कारवाई पार पाडावी. **असा निर्णय घेण्यात आला.**

विषय क्रमांक : २९७

सभा व्यवस्थेबद्दल आभार :

सहसचिव प्रा.व्ही.बी.ढोणे यांनी, महाविद्यालयाचे प्राचार्य व स्थानिक शाखेच्या इतर प्राध्यापकांनी, जिल्हा नुटाचे अध्यक्ष, सचिव व सदस्य यांनी, ही सभा यशस्वी करण्यासाठी घेतलेल्या परिश्रमाबद्दल आणि दिलेल्या सहकार्याबद्दल त्यांचे मनःपूर्वक आभार मानले. शेवटी सर्व उपस्थित सदस्यांचे आभार मानून सभा संपली असे अध्यक्षांनी जाहीर केले.

स्वा / वी.टी.देशमुख
अध्यक्ष

स्वा / एकनाथ कठाळे
सचिव

REPORTS NOT RECEIVED

तालुका युनिटच्या रचनेबाबतचे अहवाल अजूनही आलेले नाहीत अशा तालुक्यांची यादी पुढील प्रमाणे

AMRAVATI 1) Amravati 2) Bhatkuli 8) ChandurRly. 9) Teosa 10) Morshi 11) Warud 12) Dharani 13) Chikhaldara 14) Dhamangaon (Rly)	(4) Parseoni (5) Ramtek (6) Mouda (7) Kamtee (8) Kuhi (9) Bhiwapur (10) Umred (11) Higna (12) Katol (13) Narkhed (14) Kalmeshwar	(3) Goregaon (4) Tiroda (5) Deori (6) Salekasa (7) Amgaon (8) Sadak Arjuni CHANDRAPUR (1) Chandrapur (2) Mul (3) Ballarpur (4) Gondpipri (5) Saoli (6) Warora (7) Bhadravati (8) Chimur (9) Bramhapuri (10) Sindewahi (11) Nagbhid (12) Rajura
AKOLA 5) Balapur BULDANA 1) Buldana 3) Nandura 4) Motala 7) Sindkhed Raja 9) Mehkar 10) Khamgaon 11) Shegaon 13) Sangrampur	WARDHA (1) Wardha (2) Seloo (3) Deoli (6) Arvi (7) Karanja (8) Asthi (9) Pulgaon BHANDARA (1) Bhandara (2) Mohadi (3) Tumsar	GADCHIROLI (1) Gadchiroli (2) Dhanora (3) Chamorshi (4) Mulchera (5) Aheri (6) Sironcha (7) Ettapalli (10) Kurkheda (11) Korchi (12) Bhamragarh
YAVATMAL 6) Ralegaon 12) Maregaon	NAGPUR (1) Nagpur City (2) Nagpur Rural (3) Saoner	GONDIA (1) Gondia (2) Arjuni Mor.

कोल्हापूर विभागातील महाविद्यालयीन शिक्षकांना वेतन थकबाकीपासून वंचित ठेवणे

महाराष्ट्र विधानपरिषद : शुक्रवार, दिनांक २३ मार्च २००९ : पहिले अधिवेशन, २००९

(१) * १९८९२ सर्वश्री सुरेश पाटील, बी.टी.देशमुख, व्ही.यू.डायगव्हाणे, प.म.पाटील, नानासाहेब बोरस्ते : सन्माननीय उच्च व तंत्रशिक्षण मंत्री पुढील गोष्टीचा खुलासा करतील काय :-

(१) महाराष्ट्राच्या अनेक भागांतील विद्यापीठीय व महाविद्यालयीन शिक्षकांना वेतन फरकाच्या थकबाकीची रक्कम अदा करण्यात आलेली असली तरी सहसंचालक, उच्च शिक्षण विभाग, कोल्हापूर यांच्या अधिकार क्षेत्रातील, राजाराम महाविद्यालय, कोल्हापूर हे एक शासकीय महाविद्यालय सोडले तर, कोणत्याही महाविद्यालयातील महाविद्यालयीन शिक्षकांना थकबाकीची रक्कम अदा करण्यात आलेली नाही, अशी तक्रार करणारे एक निवेदन काही लोकप्रतिनिधींनी दिनांक १ जानेवारी २००९ रोजी किंवा त्या दरम्यान शिक्षण संचालक यांना सहसंचालक, उच्च शिक्षण, कोल्हापूर यांच्यामार्फत सादर केले, हे खरे आहे काय;

(२) असल्यास, सदर प्रकरणी शासनाने काय उपाययोजना केलेली आहे;

(३) अद्याप कोणतीच उपाययोजना केलेली नसल्यास, याबाबत होणाऱ्या विलंबाची कारणे काय आहेत?

श्री.दिलीप वळसे पाटील : (१) निवेदन प्राप्त झालेले आहे.

(२) व (३) विभागीय शिक्षण सहसंचालक, उच्च शिक्षण, कोल्हापूर यांच्या अधिनस्त १०० टक्के अनुदानावर असणाऱ्या ११५ महाविद्यालयांपैकी ९८ महाविद्यालयांना थकबाकीची रक्कम वाटप केली असून १३ महाविद्यालयांना थकबाकीची रक्कम देण्याबाबत शिक्षण संचालक, उच्च शिक्षण यांनी दिनांक २७ फेब्रुवारी २००९ रोजी आदेश काढले आहेत. त्यानुसार निधी वाटप करण्याची कार्यवाही विभागीय सहसंचालकाकडून करण्यात येत आहे. उर्वरीत चार महाविद्यालयांची देयके अद्यापि प्राप्त झालेली नाहीत.

श्री.सुरेश पाटील : थकबाकी वाटप केलेली आहे असे लेखी उत्तरामध्ये म्हटलेले आहे. कोणत्या तारखेला ही थकबाकी दिलेली आहे? माझा दुसरा प्रश्न असा आहे की, ९८ महाविद्यालयातील प्राध्यापकांना थकबाकी दिलेली आहे असेही लेखी उत्तरामध्ये म्हटलेले आहे. या सर्व महाविद्यालयातील सर्व प्राध्यापकांना थकबाकी दिलेली आहे का?

श्री.दिलीप वळसे-पाटील : थकबाकी देण्याच्या बाबतीत काही महाविद्यालयांच्या संदर्भात २७.१.२००९ रोजी ऑर्डर देण्यात आलेल्या आहेत. उरलेल्यांच्या बाबतीत २६.१२.२००० रोजी ऑर्डर दिलेली आहे. आपला दुसरा प्रश्न आपण आपण खी थोडा स्पष्ट करावा.

श्री.बी.टी.देशमुख : ९८ महाविद्यालयातील सर्वांना थकबाकी वाटप केलेले आहे असे लेखी उत्तरामध्ये म्हटलेले आहे. माझी माहिती अशी आहे की, नेट सेटच्या काही लोकांच्या बाबतीत शासन निर्णयाविरुद्ध जाऊन ही थकबाकी देण्याचे रोखून धरलेले आहे, हे खरे आहे का?

श्री.दिलीप वळसे - पाटील : नेट सेटच्या बाबतीत अजून निर्णय व्हायचा असल्यामुळे त्यांना मूळ वेसिकचा फरक दिलेला आहे.

श्री.बी.टी.देशमुख : जो निर्णय व्हायचा आहे त्या बाबत मी प्रश्न विचारलेला नाही. अॅडहॉक अपाईटमेंट देणे आणि प्लेसमेंट देणे याबाबतचा निर्णय व्हायचा आहे. वेतनवाढी त्यांना देण्याबाबत या सभागृहामध्ये दोन चार वेळा चर्चा झाली. सभापती महोदय, आपल्या चॅबरमध्ये त्या वेळेचे उच्च शिक्षणमंत्री श्री.दत्ता राणे यांच्याबरोबर देखील बैठक झाली. २२ मे ९८ चा शासन निर्णय त्यानंतर काढण्यात आला. सभागृहामध्ये कबूल करण्यात आले त्याप्रमाणे शासन निर्णय काढण्यात आला. २२ मे ९८ चा शासननिर्णय माझ्याजवळ आहे. खालच्या अधिकाऱ्यांना शासन निर्णयाच्या विरोधात जाण्याचे अधिकार प्राप्त होत नाहीत, शिक्षण संचालकांनी स्वतः त्यांना कळविलेले आहे. त्यांचे पत्र २२ मे ९८ रोजीचे आहे. “२२ मे १९९८ च्या शासन निर्णयाप्रमाणे आपण कारवाई करावी आणि त्याप्रमाणे वेतन निश्चिती करावी” माझा आरोप आहे की, काही अधिकाऱ्यांनी शासन निर्णयाप्रमाणे कारवाई केलेली नाही. त्यामुळे ९८ महाविद्यालयातील नेट सेट ग्रस्त अशा या शिक्षकांना शासन निर्णयाप्रमाणे जे मिळायला हवे होते ते वेतनवाढीसह मिळालेले नाही. ही गोष्ट खरी आहे का?

श्री.दिलीप वळसे-पाटील : नेट सेट प्राध्यापकांच्या बाबतीत सध्या आपण जो निर्णय घेतलेला आहे त्याप्रमाणे .. मा.सदस्य जे सांगत आहेत त्यामध्ये काही तथ्य आहे. परंतु या संदर्भातील अंतिम निर्णय राज्य शासन घेणार आहे. नेट सेट पास नसलेल्या प्राध्यापकांना १४.२५ कोटी इतकी रक्कम शासनाने वितरीत केलेली आहे.

श्री.बी.टी.देशमुख : माझ्याजवळ वेगळी माहिती आहे. मी या बाबत आपल्याला पॉईन्ट प्रश्न विचारतो. एखाद्या माणसाला थोडे मागे मिळेल आणि एखाद्या माणसाला नंतर मिळेल तो यातला भाग नाही. २२ मे ९८ च्या शासन निर्णयाप्रमाणे या प्राध्यापकांची वेतन निश्चिती करून त्यांना ती देण्याचे आदेश दिलेले आहेत का? त्याप्रमाणे त्यांनी केलेले आहे का? “२२ मे ९८ च्या शासन निर्णयाप्रमाणे कार्यवाही करा” असे मा.उच्च शिक्षण संचालकांनी आदेश दिले आहेत. ज्या अधिकाऱ्यांनी त्यांच्या विरुद्ध कार्यवाही केली त्याचे लेखी पुरावे माझ्याकडे आहेत. तुम्ही त्यांची बदली केली येथपर्यंत ठीक आहे. मला त्याच्याही फेऱ्यात जायचे नाही. माझे म्हणणे असे आहे की, त्यांना तसा अधिकार नाही. बाकीचे जे प्रश्न इथे चर्चेसाठी आहेत ते नंतर सुटतील. त्यावर आपला निर्णय जेव्हा होईल तेव्हा होईल. पण जो शासन निर्णय काढण्याचे या ठिकाणी कबूल केले आणि काढला. तीन वर्षे अंमलात आहे. त्या २२ मे ९८ च्या शासन निर्णयाप्रमाणेच त्यांची वेतन निश्चिती करण्याचे आदेश दिलेले आहेत काय आणि ज्या शिक्षकांना दिले त्यांना याप्रमाणेच दिले हे खरे आहे काय?

श्री.दिलीप वळसे-पाटील : पूर्वीचा जो शासन निर्णय होता त्याप्रमाणेच देण्यात आलेले आहे आणि यावेळेला या नेट सेट प्राध्यापकांच्या सेवा नियमित करावयाच्या की नाही याच्या संदर्भातील प्रश्न आज राज्य सरकारपुढे प्रलंबित आहे.

सभापती : २२ मे ९८ चा जो शासन निर्णय आहे त्याप्रमाणेच या सर्वांना वेतन फरक देण्यात आलेला आहे काय?

श्री.दिलीप वळसे -पाटील : अध्यक्ष महोदय, मी सुरुवातीलाच या ठिकाणी सांगितले की, जे शिक्षक नेट सेट परीक्षा पास नाहीत त्यांना ८००० रुपये या वेसिक पगारावर आपण फरकाच्या रकमा दिलेल्या आहेत.

श्री.बी.टी.देशमुख : मग हे २२ मे १९९८ च्या शासन निर्णयाच्या विरुद्ध आहे. शासन निर्णयाच्या विरुद्ध वागण्याचा तेथील एखाद्या अधिकाऱ्याला आपण अधिकार दिलेले आहेत काय? हा शासननिर्णय या क्षणापर्यंत दुरुस्त झालेला नाही. म्हणजे आता अध्यक्ष महाराज, पुढे जाण्याची गोष्ट आली. मागच्या वेळेला या सभागृहामध्ये यासंदर्भात वाचून दाखविले होते. लाखो रुपये त्यांच्या लॉकरमध्ये मिळतात. माझे म्हणणे असे आहे की, शासन निर्णयाच्या विरुद्ध वेतन निश्चिती करण्याचे अधिकार तुम्ही त्यांना दिले आहेत काय? दिले असतील तर का दिले? शासन निर्णय दुरुस्त न करता कसे दिले?

श्री.दिलीप वळसे -पाटील : अध्यक्ष महाराज, मी वस्तुस्थिती वारंवार सभागृहाच्या समोर स्पष्ट केली आहे.नेट सेट कॅन्डीडेटच्या संदर्भात राज्य शासन नजिकच्या काळामध्ये निर्णय घेणार आहे. पण तोपर्यंत या नेट सेट पात्रता धारण केलेल्या शिक्षकांना या फरकाच्या बाकीपासून वंचित राहू नयेत म्हणून त्यांचा जो वेसिक पगार आहे त्या पगारावर त्यांना फरकाच्या रकमा दिलेल्या आहेत. शेवटी यु.जी.सी.ने सुध्दा पाचवा वेतन आयोग लागू करताना काही अटी घातलेल्या आहेत त्यामधील नेटसेटच्या अटीच्या संदर्भात काही उल्लेख आहे. म्हणून यासंदर्भात आपल्या काही डेव्हीएशन करावयाचे असेल तर त्याच्या संदर्भात यु.जी.सी.ची परवानगी आपल्याला घ्यावी लागेल.

सभापती : पुन्हा प्रश्न असा की, २२ मे ९८ चा जो शासन निर्णय आहे त्या निर्णया प्रमाणेच त्यात कोणत्याही प्रकारे कमतरता न करता कार्यवाही झाली आहे काय? एवढाच प्रश्न आहे.

श्री.दिलीप वळसे पाटील: वेसिक पगाराप्रमाणे आपण त्यांना ८००० पगार दिलेला आहे आणि त्याच्या संदर्भात बाकी काही गोष्टी रेग्युलराईज करून घ्याव्या लागणार आहेत आणि त्या नजिकच्या काळामध्ये रेग्युलराईज करून घेतल्या जातील.

श्री.सुरेश पाटील : सभापती महोदय, पॉईन्ट प्रश्न विचारलेला आहे तो असा की, जी.आर.प्रमाणे कार्यवाही झाली आहे काय? त्याचेच फक्त आम्हाला उत्तर हवे आहे. बाकीचे कोणतेही उत्तर नको. २२ मे ९८ च्या जी.आर.मध्ये आजपर्यंत कोणत्याही प्रकारचा बदल झालेला नाही. त्यामुळे त्या निर्णयाप्रमाणेच यांना थकबाकी दिली आहे काय?

श्री.बी.टी.देशमुख : अध्यक्ष महाराज,.....

सभापती : हा प्रश्न दोन-तीन वेळा आपण विचारला आहे. त्याचे जे उत्तर दिले आहे त्यामध्ये असे म्हटले आहे की, जे प्राध्यापक नेट सेट परीक्षा पास झालेले नाहीत त्यांना ८००० रुपये हा जो आधीचा वेसिक आहे

त्याप्रमाणे पेमेंट केलेले आहे. याचा अर्थ असा होतो की, २२ मे १८ च्या आदेशावरहुकूम कार्यवाही झालेली दिसत नाही. त्यामुळे तो आदेश दुरुस्त केला पाहिजे किंवा त्याची तंतोतंत अंमलबजावणी केली पाहिजे. तरी या दोन्ही पैकी नेमके काय?

श्री.बी.टी.देशमुख : महाराष्ट्राच्या काही भागामध्ये २२ मे १९९८ च्या निर्णयाप्रमाणे अंमलबजावणी होईल. काही अधिकारी शासनाच्या निर्णयाप्रमाणे वागतील. आपण काही अधिकाऱ्यांना गुप्त सूचना दिलेल्या आहेत काय? दिनांक २२ मे १९९८ च्या शासन निर्णयात स्पष्ट असे म्हटलेले आहे की "इनक्रिमेंट रोखून ठेवणे हे चूक आहे." शासन निर्णयाची अंमलबजावणी करित नाही असे शासनानेच म्हणणे ही बाब शासनाला शोभणारी तरी आहे काय? उद्या आपल्याला उद्याच्या बाबतीत काय निर्णय घ्यावयाचा आहे तो आपण उद्या घ्या. त्याप्रमाणे उद्या आदेश काढा मला त्याबद्दल काहीही म्हणावयाचे नाही. मी अत्यंत नम्रपणे विचार इच्छितो की, विद्यमान शासन निर्णयाप्रमाणे वागू नका अशा प्रकारच्या सूचना देणे बरोबर नाही. ज्यांनी कोणी अशा सूचना दिलेल्या आहेत त्या अधिकाऱ्यांच्या विरुद्ध कारवाई करण्यात आली पाहिजे. माझे पॉइन्ट प्रश्न असा आहे की दिनांक २२ मे १९९८ च्या शासन निर्णयाप्रमाणे कार्यवाही करा असे उच्च शिक्षण संचालकांनी सांगितल्यानंतर सुध्दा या आदेशाचा भंग करणाऱ्या अधिकाऱ्यांवर कारवाई करण्यात येईल काय?

श्री.दिलीप वळसे पाटील : होय.

श्री.बी.टी.देशमुख : त्याच्याविरुद्ध कारवाई करण्यात येणार आहे ही योग्य गोष्ट आहे. तेव्हा २२ मे १९९८ च्या निर्णयाप्रमाणेच कार्यवाही करा असे फॉर द सेक ऑफ युनिफॉर्मिटी म्हणून आपल्या लेव्हलवरून आदेश देण्याची गरज आहे. काही ठिकाणी त्याप्रमाणे कारवाई होईल परंतु काही ठिकाणी त्याप्रमाणे होणार नाही. वेगळा काही शासन निर्णय काढण्यात यावा अशी मी मागणी करित नाही. २२ मे १९९८ चा शासन निर्णय काढण्यात आलेला आहे. त्यात अजून अमेन्डमेंट झालेली नाही तेव्हा त्या आदेशाप्रमाणे कार्यवाही करण्याचे आदेश आपण देणार आहात काय?

श्री.दिलीप वळसे पाटील : सभापती महोदय, नेट सेटच्या शिक्षकांच्या संदर्भात या सभागृहामध्ये यापूर्वी बरीच चर्चा झालेली आहे. आपण विस्ताराने बोलता तेव्हा मला देखील थोडे विस्ताराने बोलले पाहिजे.

श्री.सुरेश पाटील : प्रश्नाशी सुसंगत उत्तर दिले गेले पाहिजे.

श्री.दिलीप वळसे पाटील : उत्तराशी विसंगत मी काहीही सांगणार नाही. तसे जर पाहिले तर आजचा विषय हा फक्त कोल्हापूर विद्यापीठापुरताच मर्यादित आहे. परंतु त्याच्या बाहेर जाऊनसुध्दा येथे प्रश्न विचारले जात आहेत. मी अतिशय स्पष्टपणे या ठिकाणी सांगितलेले आहे की, २२ मे १९९८ च्या जी. आर. च्या संदर्भात सभागृहात चर्चा सुरु आहे की नेट सेट परीक्षा पास नसलेल्या शिक्षकांला किंवा नेट सेट ही पदवी प्राप्त नसलेल्या शिक्षकांच्या संदर्भात या सर्व सवलती द्यावयाच्या किंवा नाही याबाबत सभागृहात एकदा चर्चा झाली. तसेच सभागृहाच्या बाहेर मंत्रिमंडळाच्या स्तरावर चर्चा झाली होती. त्यातूनच २२ मे १९९८ चा जी.आर. इश्यू करण्यात आला होता. हा जी.आर. इश्यू केल्यानंतर ऑडिट मधील काही अधिकाऱ्यांनी अशी भूमिका घेतली की त्या जी.आर.च्या संदर्भात काही त्रुटी आहेत. हे त्यांचे स्वतःचे मत असेल. त्यांचे हे मत चुकीचे किंवा बरोबरही असू शकेल. त्यांनी चुकीची भूमिका घेतली म्हणून त्यांना या विभागातून दुसऱ्या विभागात पाठविण्याची आपण भूमिका घेतली आहे. त्यांची बदली करण्यात आलेली आहे. त्याचबरोबर त्यांच्या विरुद्ध कारवाई करण्याची आपण भूमिका घेतली आहे. २२ मे १९९८ च्या जी.आर. संबंधी काही प्रश्न निर्माण झालेले आहेत ते प्रश्न सोडविण्याकरता राज्यशासनाने, या विभागाने त्यामध्ये रेग्युलराईज करण्यासाठी प्रस्ताव फायनान्स डिपार्टमेंटकडे पाठविलेला आहे शासनाचा निर्णय होई पर्यंत शिक्षकांना या फरकापासून वंचित रहावे लागू नये म्हणून त्यांचा जो बेसिक पगार ८ हजार रुपये आहे त्या पगारावर फरक देण्याचा प्रयत्न केलेला आहे. याबाबतीतील निर्णय घेण्याकरता राज्य शासनाला आणखी थोडासा वेळ लागेल.

श्री.बी.टी.देशमुख : मंत्रिमहोदयांनी विसंगत उत्तर दिलेले आहे. त्या अधिकाऱ्यांनी तुम्हाला चुकीचे उत्तर दिलेले आहे. हायकोर्टाने कळविलेले आहे असे अधिकाऱ्यांनी चुकीचे सांगितलेले आहे. हायकोर्टाने तसा निर्णय दिलेला नाही. त्यांनी न दिलेला निर्णय कोट करून हे जे कृत्य त्यांनी केले आहे ते अपकृत्य आहे. या बाबतीत आपण नाही म्हणा. २२ मे १९९८ च्या निर्णयाचा भंग करण्याचे आम्ही ठरविलेले आहे असे आपण सरळ सरळ म्हणा. नवीन ज्या गोष्टी द्यावयाच्या आहेत त्याबद्दल मी बोलणार नाही कारण तो विषय आजचा नाही. परंतु हा विषय आजचा नाही असे आपले म्हणणे मात्र बरोबर नाही. १८ महाविद्यालयातील लोकांना दिलेले आहे असे आपण म्हटलेले आहे. मी आपल्याला पॉइन्ट प्रश्न विचारला आहे की, दिनांक २२ मे १९९८ च्या शासन निर्णयाच्या विरोधात जाऊन काही अधिकाऱ्यांनी फिक्सेशन केले आहे. काही अधिकाऱ्यांनी बरोबर फिक्सेशन

केले आहे. याठिकाणी युनिफॉर्मिटीचा भाग आहे. २२ मे १९९८ च्या शासन निर्णयाप्रमाणेच कार्यवाही झाली पाहिजे असे आदेश देण्यामध्ये आपल्याला काय अडचण आहे? शासन निर्णयाची अंमलबजावणी करावयाची नाही असे जर आपण ठरविले तर मग आम्ही काय करावयाचे? समोर येऊन आम्ही बसावयाचे काय? ते आम्हाला शोभेल काय? आम्ही काय करावयाचे हे तरी सांगा? शासनाच्या निर्णयाची अंमलबजावणी करण्यास आपण नकार देत आहात हे बरोबर आहे काय?

सभापती : आपण मघाशी जो प्रश्न विचारला होता त्याला उत्तर देतांना माननीय मंत्रिमहोदयांनी असे सांगितले की, २२ मे १९९८ चा जो जी.आर. आहे त्या जी.आर. चे एखाद्या भागामध्ये एखाद्या अधिकाऱ्याने उल्लंघन केल्याचे आढळून आले तर त्याच्या विरुद्ध कारवाई करण्यात येईल.

श्री.बी.टी.देशमुख : मंत्रिमहोदयांनी ते उत्तर दिलेले आहे त्याबद्दल मी त्यांचा आभारी आहे परंतु या प्रमाणे कार्यवाही करू असे उत्तर ते देत नाही. शासन निर्णयाचा भंग ज्या अधिकाऱ्याने केला आहे त्याच्या विरुद्ध कारवाई करू असे ते म्हणतात परंतु महाराष्ट्राच्या काही भागात या शासन निर्णयाप्रमाणे अंमलबजावणी झालेली नाही या शासन निर्णयाचा भंग झाला आहे. नवीन आदेश काढा असे मी म्हणणार नाही. सभागृहात जी चर्चा सुरु आहे ती पुढे जेव्हा चर्चा होईल आणि आपण जो काही निर्णय घ्याल त्यावेळी जे काही द्यावयाचे असेल ते होईल. परंतु आपण जो शासन निर्णय काढलेला आहे जो अस्तित्वात आहे, दुरुस्त झालेला नाही त्याची अंमलबजावणी होत नाही ही केवढी लाजीरवाणी गोष्ट आहे.

अध्यक्ष महाराज, माझे स्पष्ट म्हणणे असे आहे की, २२ मे १९९८ च्या शासन निर्णयाची अंमलबजावणी न होणे, त्याप्रमाणे वेतनवाढ न देणे ही लाजीरवाणी गोष्ट आहे, भ्रष्टाचाराला खतपाणी घालणारी ही गोष्ट आहे, वेगवेगळ्या ठिकाणी वेगवेगळ्या वागण्यास अधिकाऱ्यांना परवानगी देणारे हे कृत्य आहे आणि त्याचे येथे समर्थन करणे ही अत्यंत लांछनास्पद बाब आहे, यापेक्षा अधिक शब्द मी तरी वापरू शकत नाही. वाटल्यास आपण २२ मे १८ च्या शासन निर्णयाची अंमलबजावणी आम्ही करू इच्छित नाही असे स्पष्ट शब्दात तरी सांगा. अध्यक्ष महाराज, या प्रश्नाच्या संदर्भात यापूर्वी मा.श्री.दत्ता राणे या विभागाचे मंत्री असताना त्यांचेबरोबर तीन वेळा चर्चा झाली आहे. त्यानंतर आपल्याही चेंबरमध्ये दोन वेळा सर्व अधिकाऱ्यांना आणि मंत्रीमहोदयांनाही आपण बोलाविले होते. तेव्हा प्रश्न हाच आहे की, २२ मे १८, च्या शासन निर्णयाची काटेकोरपणे अंमलबजावणी केली पाहिजे. उद्या तुम्ही काही बदलले तर तेव्हा काय करायचे ते पुढे पाहू.. असे आदेश आपण देणार काय?

श्री.दिलीप वळसे पाटील : अध्यक्ष महाराज, मी पुन्हा एकदा सभागृहामध्ये स्पष्ट करू इच्छितो की, नेटसेटची परीक्षा पास नसलेल्या शिक्षकांना..

श्री.बी.टी.देशमुख : अध्यक्ष महाराज, आम्ही २२ मे १९९८ च्या शासन निर्णयाची अंमलबजावणी न करण्याबद्दल विचारले आहे..

सभापती : २२ मे, १८ चा जो शासन आदेश आहे त्याची तंतोतंत अंमलबजावणी महाराष्ट्रात सर्वत्र होऊ घा..

श्री.दिलीप वळसे -पाटील : अध्यक्ष महाराज, या प्रश्नाचे नुसते 'होय' अथवा 'नाही' असे उत्तर मला येथे देता येणार नाही. मला त्याची थोडी बॅकग्राऊंड सुद्धा सांगितली पाहिजे. २२ मे १८ चा निर्णय घेतला गेला तो मुख्यमंत्री स्तरावर. पण त्याचा जी.आर. काढण्यापूर्वी प्लॅनिंग आणि फायनान्स डिपार्टमेंटची मान्यता घेतली गेलेली नव्हती. त्यामुळे अंमलबजावणी करताना एका अधिकाऱ्याने त्याबद्दल प्रश्न उपस्थित केला की.... कदाचित त्याने त्याची ड्युटी बजावली असेल... त्याने उपस्थित केलेला तो प्रश्न चुकीचा आहे की योग्य आहे हा नंतरचा प्रश्न आहे; पण त्याने आज असा प्रश्न उपस्थित केला की, या जी.आर. ला प्लॅनिंग आणि फायनान्सची मान्यता नाही तर..

श्री.बी.टी.देशमुख : अध्यक्ष महाराज, त्यावेळी ५-५ तास माननीय मुख्यमंत्री, वित्त सचिव आणि मुख्य सचिव हे या प्रश्नावर चर्चला वसले होते आणि त्यातून हा निर्णय घेतला गेला..

सभापती : एखाद्या प्रश्नावर चर्चा झाल्यानंतर त्या चर्चेतून एखादा निर्णय घेतल्यानंतर संबंधित विभागाची त्याबाबत संमती घ्यावी लागते आणि नंतरच जीआर काढला जातो हे बरोबर आहे. पण जर तसे न करता जीआर काढला गेला असेल तर ते कितपत बरोबर आहे? तसे झाले असेल तर ते मंत्री महोदय, आपल्यालाच दुरुस्त करून घ्यावे लागेल... तो अधिकार आपलाच आहे.... तसे आपण सांगू शकता.

श्री.दिलीप वळसे -पाटील : अध्यक्ष महाराज, मी तेच सांगतो आहे. मी या अगोदरही चार वेळा हेच सांगितलेले आहे वाटल्यास आपण रेकॉर्ड तपासून पहा ... की, त्या अधिकाऱ्यांनी जो प्रश्न या बाबतीत उपस्थित केला तो लक्षात घेऊन हे रेग्युलराईज करण्याबाबतचा प्रस्ताव आपण सादर केलेला आहे. तो प्रस्ताव प्लॅनिंग आणि फायनान्सला सुध्दा दिला आहे आणि त्याबद्दल निर्णय नजिकच्या काही दिवसातच घेण्यात येईल इतकेच... हे मी सांगितलेलेच आहे.

सभापती : याचा अर्थ असा की, आपण जे काही सांगत आहात त्यानुसार हा जीआर दुरुस्त करण्याचा शासनाचा मानस दिसतो आहे...

श्री.बी.टी.देशमुख : अध्यक्ष महाराज, या संबंधीचा निर्णय घेण्यासाठी त्यावेळी माननीय मुख्यमंत्री, वित्त सचिव, मुख्य सचिव हे ५-५ तास पाच दिवस बसले होते आणि त्यांनी वित्त विभागाची पूर्ण मान्यता घेऊनच हा निर्णय घेतला, शासन निर्णय काढला म्हणजे यासाठी वित्त विभागाची मान्यताही पूर्णपणे घेतली होती. त्यात नसलेली गोष्ट टाकली होती ती तुम्ही परत घेतली... म्हणून मी पुन्हा म्हणतो की, हा २२ मे, ९८ चा शासन निर्णय आहे तो माननीय मुख्यमंत्री श्री.शरद पवार साहेबांनी, वित्त सचिव, मुख्य सचिव यांनी पाच दिवस ५-५ तास एकत्र बसून चर्चा करून, ठरवून घेतलेला निर्णय आहे, त्यात जे ठरवून दिले होते त्याच्या विरोधात होता म्हणून आपण ते परत मागे घेतले ... आजही तो शासन निर्णय आहे, त्या शासन निर्णयाची अंमलबजावणी झाली पाहिजे. अध्यक्ष महाराज, या सभागृहाच्या इतिहासामध्ये हा पहिलाच दिवस आहे की ज्या दिवशी राज्याच्या एका विभागाचे मंत्री शासन निर्णयाची अंमलबजावणी करण्याचा आदेश देण्यास नकार देत आहेत... अध्यक्ष महाराज, यापूर्वी आम्ही शासन निर्णय काढण्यासाठी म्हणून अनेकदा येथे भांडलो आहोत पण निघालेल्या शासन निर्णयाची अंमलबजावणी एखादा अधिकारी करीत नाही, भ्रष्ट हेतूने, त्याला आपण संरक्षण देत आहात हे बरोबर नाही. शासन निर्णय काढल्यानंतर * * याचा अभिमान वाटण्यासारखी ही गोष्ट नाही...

श्री.दिलीप वळसे-पाटील : अध्यक्ष महाराज, सन्माननीय सदस्यांची ही लॅंग्वेज स्लॅंडरस आहे * * this is a slanderous language. अशा प्रकारची भाषा सन्माननीय सदस्यांनी येथे वापरणे योग्य नाही.. त्यांनी आपले शब्द मागे घेतले पाहिजेत.

श्री.बी.टी.देशमुख : मग काय करायचे, कशासाठी शब्द मागे घ्यायचे? तीच भाषा वापरणे योग्य आहे..... ते अधिकारी शिक्का मारतात.... तुमच्या पध्दतीने बोलण्याचा तुम्हाला अधिकार आहे ... पण आपण त्या अधिकाऱ्यांना जो शिक्का मारून दिला तो बरोबर आहे काय?...

एक सन्माननीय सदस्य : अध्यक्ष महाराज, एका प्रश्नासाठी इतका वेळदेणे बरोबर आहे का?

श्री.दत्ता मेघे : सभापती महोदय, दि.२२ मे १९९८ च्या जी.आर.ची किती जिल्ह्यात अंमलबजावणी झाली आहे आणि किती जिल्ह्यात झालेली नाही? या ठिकाणी मा.सदस्य श्री.बी.टी.देशमुख हे सिनियर सदस्य आहेत. त्यांना या विषयातील सर्व माहिती आहे. त्यांचा असा त्रागा यापूर्वी मी पाहिला नव्हता. तसेच या सभागृहाच्या काही परंपरा आहेत. त्या दृष्टीने हा प्रश्न मार्गी लावण्याची आवश्यकता आहे. या ठिकाणी या जी.आर.ची कार्यवाही करण्यामध्ये काही अडचण दिसून येत आहे. काही जिल्ह्यात या बाबतची कार्यवाही झाली नाही तर काही जिल्ह्यात झाली आहे. म्हणून या बाबत समानता आणण्याचा दृष्टीने मा.मंत्रिमहोदय काही विचार करणार आहेत काय?

श्री.दिलीप वळसे-पाटील : सभापती महोदय, मी पुन्हा एकदा सांगतो की, आजच्या तारखेपर्यंत शासनाने २२ मे १९९८ जी.आर. मागे घेतलेला नाही. काही विभागात या जी.आर. प्रमाणे कार्यवाही होऊन रकमा अदा करण्यात आल्या आहेत. परंतु काही विभागामध्ये ऑडिट ऑफिसरने काही डाऊट घेतले आहेत. चुकीच्या पध्दतीने हे डाऊट उपस्थित करण्यात आले आहेत, म्हणून त्या अधिकाऱ्यांच्या विरुद्ध ताबडतोबीने बदली करण्यात आली आहे. त्यामुळे काही विभागातील शिक्षकांना वेतन मिळू शकले नाही. या बाबत कार्यवाही करण्याची भूमिका घेतली आहे. आता याबाबत जे डाऊट उपस्थित केले आहेत ते योग्य आहेत की अयोग्य आहे? याबाबतचे रेग्युलरायझेशन करण्यासाठी वित्त विभागाकडे हा प्रस्ताव पाठविला आहे. हे रेग्युलराईज करण्याच्या बाबत निर्णय घेतला जाईल. असे मी अनेकदा सांगितले आहे. आता याबाबत शिक्षकांची गैरसोय होऊ नये म्हणून त्यांना मुळ वेतनाप्रमाणे म्हणजे रुपये आठ हजार प्रमाणे फरकाच्या रक्कम अदा करण्यात आलेल्या आहेत.

सभापती : हा प्रश्न संपला आहे. ता.प्र.क्र. १२६७३

श्री.बी.टी.देशमुख : सभापती महोदय, शासन अस्तित्वात असलेल्या २२ मे १९९८ च्या जी.आर. ची अंमलबजावणी करीत नसल्यामुळे निषेधाईत आम्ही सभात्याग करीत आहोत.

(मा.सदस्य सर्वश्री बी.टी.देशमुख, सुरेश पाटील, व्ही.यू.डायगव्हाणे आणि प.म.पाटील यांनी सभात्याग केला)

श्री.अरुण मेहता : सभापती महोदय, माझा पॉइन्ट ऑफ प्रोप्रायटी आहे. आता या ठिकाणी जी प्रश्नोत्तरे झाली आहेत ती साजेशी नाहीत.

श्री.बी.टी.देशमुख हे ज्येष्ठ सभासद आहेत. त्यांनी या ठिकाणी काही व्यक्त्य केले आहे. ते मा.सभापती महोदयांनी तपासून त्यातील योग्य शब्द ठेवावेत, अन्यथा ते काढून टाकावेत.

सभापती : ठीक आहे.

तारांकित प्रश्न क्रमांक ११८१२ हा त्या दिवशीच्या तारांकित प्रश्नोत्तराच्या यादीमध्ये पहिल्याच क्रमांकावर होता. दुसऱ्या क्रमांकावरील १२६७३ या ता.प्र.क्र. वरील प्रश्नाची चर्चा सुरु असतांना बहिर्गमन केलेले सदस्य सभागृहात परत आलेत, त्यानंतर तारांकित प्रश्न क्रमांक ११८२५ या तिसऱ्या क्रमांकावरील प्रश्नावर पुढील प्रमाणे चर्चा झाली

नमुने व प्रपत्रे वारंवार बदलविण्यामुळे सुधारित वेतनश्रेणीची थकवाकी देण्यास होणारा विलंब

महाराष्ट्र विधानपरिषद : : पहिले अधिवेशन, २००१

शुक्रवार, दिनांक २३ मार्च २००१

(३) * ११८२५ सर्वश्री बी.टी.देशमुख, व्ही.यू.डायगव्हाणे, सुरेश पाटील, प.म.पाटील, नानासाहेब बोरस्ते, वसंत काळे : तारांकित प्रश्न क्र.१०५४ ला दिनांक ३० नोव्हेंबर २००० रोजी दिलेल्या उत्तराच्या संदर्भात सन्माननीय उच्च व तंत्रशिक्षण मंत्री पुढील गोष्टीचा खुलासा करतील काय-

(१) विद्यापीठीय व महाविद्यालयीन शिक्षकांना सुधारित वेतनश्रेणीची थकवाकी देण्यासाठी दिनांक ९ मे २००० रोजीच्या शासननिर्णयान्वये संपूर्ण अर्धसंकल्पीय तरतूद (रुपये ४०० ते ५०० कोटी) उच्च शिक्षण संचालकाकडे शासनाने सुपूर्द केल्यानंतरही वा मा.उच्च शिक्षण मंत्र्यांनी स्पष्ट आदेश दिल्यानंतरही ७ डिसेंबर २००० पूर्वी वीले सादर केलेल्या अनेक महाविद्यालयातील शेकडो शिक्षकांची थकवाकी अजूनही अदा करण्यात आलेली नाही, हे खरे आहे काय;

(२) असल्यास, याबाबत होणाऱ्या विलंबाची कारणे काय आहेत?

श्री.दिलीप वळसे-पाटील : (१) व (२) डिसेंबर २००० अखेर ४०२ महाविद्यालयांच्या थकवाकीची देयके मंजूर करण्यात आली असून, माहे फेब्रुवारी २००१ अखेर एकूण ६१६ महाविद्यालयांची रु.३३३.९३ कोटी रकमेची थकवाकीची देयके मंजूर करण्यात आलेली आहेत. तथापि काही महाविद्यालयांतील प्राध्यापकांना अद्यापही थकवाकीची रक्कम अदा झाली नसल्याची शक्यता नाकारता येत नाही. थकवाकीची रक्कम कर्मचाऱ्यांना प्रत्यक्षात मिळण्यास होत असलेल्या विलंबाची कारणे प्रामुख्याने खालीलप्रमाणे आहेत:-

(अ) विभागीय सहसंचालकाकडून शिक्षण संचालक (उ.शि.) यांच्या कार्यालयात सादर करण्यात आलेली थकवाकीची देयके तपासून मान्य झालेल्या देयकांना मंजुरी दिली जाते व त्यांचे आदेश निर्गमित केले जातात.

(ब) त्रुटी असलेली देयके संबंधीत विभागीय सहसंचालकांमार्फत पुर्ततेसाठी महाविद्यालयांना परत पाठवून त्रुटीची दुरुस्ती करून पुन्हा देयके सादर केली जातात.

(क) शिक्षण संचालकांनी मंजुरीचे आदेश दिल्यानंतर विभागीय सहसंचालकांच्या कार्यालयाकडून देयके सादर करून कोषागारात मान्यतेसाठी सादर केली जातात.

(ड) कोषागारांनी देयके पारित केल्यावर मंजूर केलेल्या रकमा विभागीय सहसंचालकांच्या स्वीय प्रपंची लेख्यात (PLA) जमा केल्या जातात.

(फ) स्थानिक महाविद्यालयांना धनादेशाद्वारे अनुदान दिले जाते. तर बाहेर गावच्या महाविद्यालयांना धनाकर्षाद्वारे अनुदान दिले जाते. यासही काही कालावधी लागतो.

(ग) महाविद्यालयांना धनादेश/धनाकर्ष प्राप्त झाल्यावर महाविद्यालयाकडून संबंधीत शिक्षकांच्या खात्यात त्या रकमा जमा केल्या जातात.

चालू आर्थिक वर्षात वित्त विभागाच्या आदेशानुसार रु.पन्नास लाखाच्या वर असणाऱ्या खर्चाच्या रकमा वितरीत करण्यापूर्वी वित्त विभागाच्या अर्थापाय शाखेची मंजुरी घेणे आवश्यक ठरल्याने ती कार्यवाही करण्यासही थोडा कालावधी लागला आहे.

श्री.बी.टी.देशमुख : सभापती महोदय, हा आश्वासनाच्या पूर्तीचा प्रश्न आहे आणि त्याबरोबरच शासन निर्णयाच्या अंमलबजावणीचा प्रश्न आहे. २२ मे १९९८ च्या शासन निर्णयाच्या अंमलबजावणीच्या बाबतीत माननीय मंत्री महोदयांनी जी भूमिका घेतली आहे त्याचा निषेध म्हणून मी याबाबतीत कोणताही उपप्रश्न विचारू इच्छित नाही.

सभापती : इतर सन्माननीय सदस्यांना प्रश्न विचारावयाचा आहे का?

(उत्तर नाही)

नेटसेट परीक्षेच्या स्वरूपाविषयी विद्यापीठ अनुदान आयोगाकडे राज्य शासनाने केलेली विचारणा

महाराष्ट्र विधानपरिषद : : पहिले अधिवेशन, २००१

शुक्रवार, दिनांक ३० मार्च २००१

(१) * ११८१४ सर्वश्री वसंत काळे, बी.टी.देशमुख, व्ही.यू.डायगव्हाणे, सुरेश पाटील, प.म.पाटील, नानासाहेब बोरस्ने : तारांकित प्रश्न क्रमांक ९३५२ ला दिनांक ३० नोव्हेंबर २००० रोजी दिलेल्या उत्तराच्या संदर्भात सन्माननीय उच्च व तंत्र शिक्षण मंत्री पुढील गोष्टीचा खुलासा करतील काय-

(१) ४ एप्रिल २००० च्या एका पत्रान्वये विद्यापीठ अनुदान आयोगाने "यूजीसी रेग्युलेशन्स २०००" सर्व विद्यापीठांना पाठविले असून त्या रेग्युलेशनच्या (क्र.एफ-३-१/२०००-पीएस) परिच्छेद २ मध्ये "नेट सेट ही पात्रता परीक्षा सेवेत भरती होताना आवश्यक असेल, परंतु त्या त्या वेळेच्या पात्रतेनुसार त्या त्या वेळेच्या निवड समित्यामार्फत ज्यांची निवड झालेली आहे अशा यापूर्वीच सेवेत असलेल्या शिक्षकांना नेट सेटची अट लागू असणार नाही" असे स्पष्टपणे नमूद केलेले असून याबाबत शासनस्तरावरून आतापावेतो कोणतीही कार्यवाही करण्यात आलेली नाही, हे खरे आहे काय;

(२) असल्यास, याबाबत होणाऱ्या विलंबाची कारणे काय आहेत?

श्री.दिलीप वळसे-पाटील : (१) व (२) बाबतची वस्तुस्थिती खालीलप्रमाणे आहे :- विद्यापीठ अनुदान आयोगाकडे दिनांक ४ एप्रिल २००० च्या विनियमातील परिच्छेद २ च्या परंतुकाच्या अनुषंगाने, राज्य शासनाकडून करण्यात आलेल्या विचारणेस विद्यापीठ अनुदान आयोगाने असा खुलासा केला आहे की, दिनांक १९ सप्टेंबर १९९१ ते २४ डिसेंबर १९९८ या कालावधीत अधिव्याख्याता पदावरील नियुक्तीकरीता नेट परीक्षा उत्तीर्ण असणे ही आवश्यक अट असल्यामुळे या कालावधीत विंगर नेट अर्हताधारकांना नियुक्ती देता येणार नाही.

श्री.बी.टी.देशमुख : सभापती महोदय, यु.जी.सी.ने जी पोजिशन नमुद केली आहे ती मान्य नसण्याचे काही कारण नाही. मुळात यु.जी.सी.ने ते वारंवार कळविले आहे. आता नव्याने कोणाला नियुक्त्या द्या असे आमचे म्हणणेच नाही. मा.नामदार श्री.दिलीप वळसे पाटील हे मंत्री झाल्यानंतर म्हणजे डिसेंबर ९९ मध्ये नेटसेट सक्तीचे करणारा हा कायदा महाराष्ट्रामध्ये झाला. तत्पूर्वी नाही. माझे असे म्हणणे आहे की, ११ जानेवारी ते १८ जानेवारी ८९ पर्यंत राज्याचे मुख्यमंत्री, मुख्य सचिव, वित्त सचिव, उच्च शिक्षण सचिव व संबंधित खात्याचे मंत्र्यांनी बसून हे अॅग्रिमेंट तयार केले. ते असे की, The Govt.of Indias suggestions on revision of pay scales for teachers in Universities and Colleges dated 17th June, 1987 as amended by subsequent agreement dated 4th and 5th Sept., 1987 and Govt. of Indias suggestions dated 22nd July 1988, would be implemented by the State Govt. with the recommended scales of pay, including the element of promotion involved therein as a composite scheme w.e.f. १.१.१९८६. हे शासनाच्या हायस्ट लेव्हलवर अॅग्रिमेंट झाले आहे. केंद्र सरकारने २२ जुलै १९८८ या तारखेचे पत्र पाठविले त्यामध्ये त्यांनी २९ अटी घातल्या आहेत त्याबद्दल मी काही म्हणणार नाही. त्याच्याशी मी सहमत आहे. माझा स्पेसिफिक प्रश्न असा आहे की, २२ डिसेंबर ९५ च्या शासन निर्णयामध्ये "तदर्थ स्वरूपाच्या नेमणुका देणे, वार्षिक वेतनवाढ देण्यात न येणे, त्यांची सेवा वरिष्ठ व निवडश्रेणीसाठी विचारात न घेणे, सेवा ज्येष्ठता न देणे, वरिष्ठ, निवड श्रेणी न देणे या २२ डिसेंबर १९९५ च्या शासन निर्णयातील अटी संपूर्णपणे समझोत्याच्या व विद्यापीठ अनुदान आयोगाच्या व केंद्र शासनाच्या सूचनांच्या विरुद्ध आहेत" या ज्या अटी टाकल्या आहेत त्या केंद्रीय सूचनांच्या पूर्णपणे विरोधात आहेत. याबाबत 'असे करा' म्हणून विद्यापीठ अनुदान आयोगाने किंवा केंद्र शासनाने आजतागायत कोणतीही सूचना दिलेली नाही. तेव्हा केंद्र सरकारच्या इंस्ट्रक्शन्सची अंमलबजावणी करण्याचे ठरल्यानंतर त्यांनी आपल्याला या अटी कळविल्या काय? नसतील तर २२ डिसेंबर १९९५ च्या शासन निर्णयातील त्या अटी परत घेणार काय? असा प्रश्न आहे.

श्री.दिलीप वळसे पाटील : या संदर्भात राज्य शासनाने आतापर्यंत जे जे

निर्णय घेतले आहेत त्याबाबत यु.जी.सी. ने दिलेल्या गाईडलाईन्सप्रमाणे घेतले आहेत. यु.जी.सी. ने घातलेल्या सर्व अटींची शासन निश्चितपणे अंमलबजावणी करील.

श्री.बी.टी.देशमुख : यु.जी.सी. ने अटी घातल्या असतील तर त्याबाबत आमची काहीही तक्रार नाही. त्यांनी न घातलेल्या तुम्ही टाकल्या आहेत. प्रश्न असा आहे की, २२ डिसेंबर ९५ च्या शासन निर्णयामध्ये ज्या ३-४ अटी आपण म्हणजे शासनाने घातल्या आहेत त्या प्रामुख्याने "तदर्थ स्वरूपाच्या नेमणुका देणे, वार्षिक वेतनवाढ देण्यात न येणे, त्यांची सेवा वरिष्ठ व निवडश्रेणीसाठी विचारात न घेणे, सेवा ज्येष्ठता न देणे, वरिष्ठ निवड श्रेणी न देणे, या २२ डिसेंबर १९९५ च्या शासन निर्णयातील अटी संपूर्णपणे समझोत्याच्या व विद्यापीठ अनुदान आयोगाच्या व केंद्र शासनाच्या सूचनांच्या विरुद्ध आहेत या अटी यु.जी.सी.ने घातल्या आहेत कां? असतील तर मी तक्रार करणार नाही, आणि नसतील तर २२ डिसेंबर १९९५ च्या शासन निर्णयातील त्या अटी मागे घेतल्या पाहिजेत. त्या आपण घ्याल कां?

श्री.दिलीप वळसे पाटील : सभापती महोदय, तपासून घेण्यात येईल आणि जर त्या निर्णयात यु.जी.सी. च्या अटी नसतील तर त्याबाबत पुनर्विचार करण्यात येईल.

श्री.बी.टी.देशमुख : सभापती महोदय, पुनर्विचार करण्याची बाब नाही. यु.जी.सी.च्या किंवा केंद्राच्या सूचनांमध्ये अटी नसतील तर त्या रद्द करू असे आपण सांगा. आपण लॉजिकली तपासून घेवू असे म्हणालात त्याला माझी ना नाही. खरे म्हणजे आतापावेतो तपासायला हवे होते. मी आपणाला पुन्हा सांगतो "तदर्थ स्वरूपाच्या नेमणुका देणे, वार्षिक वेतनवाढ देण्यात न येणे, त्यांची सेवा वरिष्ठ व निवडश्रेणीसाठी विचारात न घेणे, सेवा ज्येष्ठता न देणे, वरिष्ठ व निवड श्रेणी न देणे या २२ डिसेंबर १९९५ च्या शासन निर्णयातील अटी संपूर्णपणे समझोत्याच्या व विद्यापीठ अनुदान आयोगाच्या व केंद्र शासनाच्या सूचनांच्या विरुद्ध आहेत" या अटी केंद्र शासनाच्या पत्रामध्ये असतील तर आमची बिलकुल तक्रार नाही. परंतु जर नसतील तर त्या आपण रद्द करणार का?

श्री.दिलीप वळसे-पाटील : सभापती महोदय, त्यादृष्टीने विचार करण्यात येईल. माझी सन्माननीय सदस्यांना विनंती आहे की, आपण ज्या शब्दामध्ये उत्तर मागल त्या शब्दामध्ये मला उत्तर देता येणार नाही. या प्रश्नाच्या बाबतीत राज्य शासनाची भूमिका अतिशय स्पष्ट आहे. या सर्व उमेदवारांच्या बाबतीत सहानुभूतीचा दृष्टीकोन आहे. परंतु यु.जी.सी.ने जे पॅकेज दिलेले आहे, ज्या गाईडलाईन्स दिलेल्या आहेत त्याची अंमलबजावणी आम्ही करू आणि याबाबतीत आपण ज्या सूचना केलेल्या आहेत त्या सर्व तपासून येत्या दोन महिन्यांच्या आत याबाबतचा निर्णय घेऊ.

श्री.बी.टी.देशमुख : सभापती महोदय, मागच्या वेळेला तीन महिन्यात निर्णय घेऊ असे म्हटले होते, पण त्याला आता चार महिने झालेले आहेत.

श्री.दिलीप वळसे-पाटील : सभापती महोदय, मागच्या वेळेला असे म्हटले होते की, या प्रश्नाच्या बाबतीत युनिव्हर्सिटी ग्रॅंट कमिशनकडे ही बाब रेफर करू आणि त्यांच्याकडून उत्तर आल्यानंतर याबाबतीत निर्णय घेऊ. त्याप्रमाणे त्यांच्याकडून उत्तर आलेले आहे आणि हे उत्तर मार्च महिन्यामध्ये आलेले आहे. त्यामुळे यासाठी आणखी दोन महिन्यांचा कालावधी लागेल आणि मग याबाबतीत निर्णय घेऊ.

श्री.बी.टी.देशमुख : सभापती महोदय, युनिव्हर्सिटी ग्रॅंट कमिशनकडून जे उत्तर आलेले आहे त्याची प्रत माझ्याकडे आहे. ते गेली दहा वर्षे हेच लिहीत आहेत की, आम्ही असे केलेले आहे आणि ते तुम्ही म्हणजे राज्य शासनाने कम्पलसरी करावे. नेटसेटची परीक्षा रिक्तमेंट लेव्हलला सक्तीची झाली पाहिजे याबद्दल दुमत नाही. हे उद्या करू नका तर आज करा असे मी अनेक वर्षे अनेक वेळा बोललो आहे. बोलतो आहे. मागच्या वेळेला "तीन महिन्यामध्ये निर्णय घेऊ" असे आपण सांगितले होते. त्याला आता चार महिने झालेले

आहेत. माननीय मंत्री महोदयांनी दि.१४ डिसेंबर २००० रोजी सभागृहामध्ये स्पष्ट आश्वासन दिले होते की, “या सर्व प्राध्यापकांना नेटसेटच्या अटीमधून वगळण्यासंबंधी मी अतिशय सुस्पष्ट अशी भूमिका या सभागृहामध्ये मांडलेली आहे. काही बाबींच्या संदर्भामध्ये वित्त विभाग आणि बाकीच्या विभागांचा खुलासा घ्यावा लागेल. तो घेतल्यानंतर ३ महिन्यांच्या कालावधीमध्ये या प्रश्नाची सोडवणूक करण्याचे अभिवचन मी याठिकाणी दिलेले आहे.” तसेच पुढे असेही म्हटलेले आहे की, “परंतु ज्या ज्या कर्मचारी आणि शिक्षकांवर अन्याय झालेला आहे त्या शिक्षकांवरील अन्याय दूर करण्याची भूमिका राज्य शासनाची राहिल आणि या संदर्भामध्ये विचार विनिमय करून निश्चित वेळेमध्ये या प्रश्नाच्या सोडवणुकीच्या संदर्भामध्ये मी या ठिकाणी वचनबद्ध आहे.”

सभापती : त्यावेळेला तीन महिन्यांचा कालावधी दिलेला आहे.

श्री.बी.टी.देशमुख : होय, सभापती महोदय, आता माननीय मंत्री महोदय दोन महिन्यांचा कालावधी लागेल असे सांगत आहेत. त्यालाही माझी ना नाही. माझे ठाम म्हणणे असे आहे की, यु.जी.सी. ने व केंद्र शासनाने या अटी घातलेल्या नाहीत. तसे म्हणाल तर मग आणखी काही प्रश्न विचारून मला राज्य शासनाची चूकीची भूमिका रेकॉर्डवर घ्यावी लागेल. या सर्व अटी यु.जी.सी. ने व केंद्र शासनाने घातलेल्या नाहीत, जर घातल्या असतील तर त्याला माझी ना नाही. पण तदर्थ स्वरूपाच्या नेमणूका देणे, वार्षिक वेतनवाढ देण्यात न येणे, त्यांची सेवा वरिष्ठ व निवडश्रेणीसाठी विचारात न घेणे, सेवा ज्येष्ठता न देणे इ. अटी यु.जी.सी. ने व केंद्र शासनाने घातलेल्या असतील तर माझी तक्रार नाही पण जर यु.जी.सी.ने व केंद्र शासनाने या अटी

घातल्या असतील तर त्या रद्द करू असे स्पष्टपणे सांगा. नाही तर मग मला यावर आणखी प्रश्न विचारावे लागतील. माननीय मुख्यमंत्र्यांच्या लेव्हलवर अॅग्रीमेंट झालेले आहे. मुख्य सचिव, वित्त सचिव, हजर होते आणि त्या कार्यवृत्तावर उच्च शिक्षणसचिवांची सही आहे. तेव्हा या वरील अटी रद्द करणार आहात काय ते सांगा.

श्री.दिलीप वळसे-पाटील : सभापती महोदय, होय.

डॉ.अशोक मोडक : सभापती महोदय, आता हा प्रश्न मिटलेला आहे पण मला वेगळ्या प्रकारची विनंती करावयाची आहे. गेली चार-पाच वर्षे हा वारंवार प्रश्न येथे चर्चेसाठी येत आहे. आमच्या सर्वांचे इम्पेशन असे झाले आहे की, नकार निःसंदिग्ध आणि होकार संदिग्ध स्वरूपाचा असतो आणि हे क्लेशकारक आहे. एखादी गोष्ट करावयाची नाही, प्राध्यापकांना पगार द्यावयाचा नाही हे ठामपणे, निःसंदिग्धपणे सांगितले जाते आणि ज्याठिकाणी ठामपणे होकार सांगावयाचा असतो तेव्हा संदिग्ध स्वरूपामध्ये सांगता. अशा वेळेला एक चांगल्या प्रकारचा पायंडा पाडण्याच्या दृष्टीने माझी विनंती अशी आहे की, अशा प्रकारे कृपा करून गुळगुळीत उत्तर देऊ नका. माननीय मंत्री महोदय दोन महिन्यांमध्ये कार्यवाही करणार आहेत याबद्दल मला पूर्ण विश्वास आहे. माझी विनंती आहे की, याबाबतीत आपण पूर्ण श्रेय घ्यावे, अंशतः श्रेय का घेत आहात?

श्री.दिलीप वळसे-पाटील : सभापती महोदय, विनंतीचा स्विकार केला आहे.

NO FURTHER ORDER IS REQUIRED
- HIGH COURT

रिट पिटीशन क्रमांक ३४९५/१९९८ या प्रकरणी सन्माननीय मुंबई उच्च न्यायालयाने दिलेल्या आदेशानुसार विभागीय वरिष्ठ लेखापरीक्षक, पुणे यांनी कार्यवाही केल्याचे दिसते. - शासन

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3495 OF 1998
District Pune

Forum for Fairness in Education & Anr

....Petitioners

Versus

State of Maharashtra & Ors Respondents
Mr. Sanjay Kshirsagar for petitioners Mr. P.C. Kansara,
Assistant Government pleader, for Respondents

Coram : M.B.Shah, C.J.& S. Radhakrishnan, J.

Date : 31st August, 1998

Heard the learned Counsel for the parties.

The learned Assistant Government pleader appearing on behalf of the Respondents states that the State Government would insist on compliance with the circular dated 20th February, 1996 by all the Non-Agricultural Universities and affiliated Colleges. The said Circular provides that all Non-Agricultural Universities should henceforth, see that no non-eligible and non-qualified candidates should be appointed to the posts of lecturers and Teachers. With regard to the persons who were appointed prior to passing of the said Circular, it mentioned that the instructions would follow the decision taken by the Government on 22nd December, 1995.

The said decision also clarifies that those candidates who have passed the Post-Graduate Degree with 55% marks and whose educational report/performance is good. i.e. whose academic record is good, and who had passed the M.Phil on or before 31st December, 1993 and who had submitted their thesis for Ph.D. Examination, are exempted from appearing and/or passing the N.E.T. or S.E.T. examination and their appointments should be regularised accordingly.

Hence, no further order is required to be passed in the Writ petition and the same stands disposed of accordingly.

शासन निर्णयाच्या विरोधात वरिष्ठ लेखापरीक्षकांनी आदेश पारित करणे.

महाराष्ट्र विधानपरिषद : : पहिले अधिवेशन, २००१
शुक्रवार, दिनांक १६ मार्च २००१

(१) * ११८३२. सर्वश्री प.म.पाटील, बी.टी.देशमुख, व्ही.यू.डायगव्हाणे, सुरेश पाटील, नानासाहेब बोरस्ते, वसंत काळे : सन्माननीय उच्च व तंत्रशिक्षण मंत्री पुढील गोष्टींचा खुलासा करतील काय:-

(१) सेवा भरतीच्या अस्तित्वात असलेल्या नियमानुसार नेटसेटची परीक्षा सक्तीची नसतानांच्या काळात सेवेत प्रवेशित झालेल्या महाविद्यालयीन शिक्षकांच्या रोखून ठेवलेल्या वेतनवाढी २२ मे, १९९८ च्या शासन निर्णयाने पुनःस्थापित केलेल्या असल्या, तरी त्या शासन निर्णयाचा भंग करून पुणे विभागाच्या वरिष्ठ लेखापरीक्षकांनी नवीन वेतनश्रेणी वेतन निश्चिती करताना शेकडो प्रकरणी या वेतनवाढी अनधिकाराने कापून घेतल्याची तक्रार करणारे एक निवेदन “महाराष्ट्र फेडरेशन ऑफ युनिव्हर्सिटी अँड कॉलेज टिचर्स ऑर्गनायझेशन” या संघटनेच्या अध्यक्षांनी दिनांक २२ डिसेंबर २००० रोजी किंवा त्या दरम्यान संचालक, उच्च शिक्षण यांचेकडे सादर केले आहे, हे खरे आहे काय;

(२) असल्यास, अनधिकाराने लेखापरीक्षकांनी पारित केल्याच्या आदेशांच्या प्रती नमुना म्हणून तक्रारकर्त्यांनी निवेदनासोबत जोडलेल्या आहेत, हेही खरे आहे काय;

(३) असल्यास, उक्त तक्रारीच्या निवारणार्थ शासनाने काय उपाययोजना केलेली आहे;

(४) उपाययोजना केलेली नसल्यास, याबाबत होणाऱ्या विलंबाची कारणे काय आहेत?

श्री.दिलीप वळसे-पाटील : (१) होय.

(२) होय.

(३) रिट पिटीशन क्रमांक ३४९५/१९९८ या प्रकरणी सन्माननीय मुंबई उच्च न्यायालयाने दिलेल्या आदेशानुसार विभागीय वरिष्ठ लेखापरीक्षक, पुणे यांनी कार्यवाही केल्याचे दिसते. तथापि ही बाब शासन स्तरावर पुन्हा तपासण्यात येत आहे.

(४) प्रश्न उद्भवत नाही.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2058 OF 2000**

Kanshiram S. Waghmode **Petitioner VS** Parle Tilak Vidyalaya Association & Others ... **Respondents**

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2061 OF 2000**

Suryakant E. Jaware **Petitioner VS** Parle Tilak Vidyalaya Association & Others **Respondents**

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2092 OF 2000**

Manohar V. Lokhande **Petitioner VS** Parle Tilak Vidyalaya Association & Others Respondents

I, Smt. Kumud Bansal, age 54 years, Principal Secretary to the Government of Maharashtra, Higher and Technical Education Department, Mantralaya Annexe, Mumbai-400 032, do-hereby state on solemn affirmation as under:-

1. I say and submit that pursuant to the Order passed by Hon'ble High Court on 9th March, 2001, I am filling the present Affidavit.

2. The Government of India, Ministry of Human Resource Development, Department of Education, vide its letter dated 17th June 1987 issued guidelines regarding the revision of pay-scales of teachers in Universities and Colleges and other measures for maintenance of standards in higher education. As per clause 8 and 9 of the appendix of the said letter, the minimum qualifications required for appointment to the posts of Lecturers, Readers and Professors would be those prescribed by the UGC from time to time. As per clause 9 of the the said appendix, candidates who besides fulfilling the minimum academic qualifications prescribed for the post of lecturer had qualified in a comprehensive test to be especially conducted for the

purpose would be eligible for appointment as lecturers. The detailed scheme for Conducting the test, including its design contents, administration would be worked out and communicated by the UGC.

3. After careful consideration of the Govt. of India's Package Scheme in the guidelines dated 17th June, 1987 for maintenance of standards in higher education **and after an Agreement with the Maharashtra Federation of University & College Teachers' Organisation**, the State Govt. implemented the package scheme which included the revised pay scales and terms and conditions of service of the University and College teachers vide Govt. Resolution No. NGC 1286/1224/UNI.4, dated 27th February, 1989. As per the said G.R. Govt issued minimum qualifications for appointment to the posts of Lecturers, Readers, Professors, Librarian and Physical Education staff. As per clause 8 of the said G.R., the minimum qualifications required for appointment to the posts of Lecturers, Readers, Professors, Librarians and Physical Education staff in the existing pay scale of Rs.700-1600 would be those prescribed by the UGC from time to time. Gener-

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL
JURISDICTION : WRIT PETITION NO. 2058 OF 2000**

Shri. Keshiram S. Waghmode Petitioner
Versus

Parle Tilak Vidyalaya Association & others Respondents.

AFFIDAVIT IN REPLY

I, Smt. Kumud Bansal, aged 54 years, Principal Secretary to the Government of Maharashtra, Higher & Technical Education Department, Mantralaya, Mumbai-400 032, do hereby state on solemn affirmation as under. :

1. I Submit that I have considered the order passed by the Hon'ble High Court dated 14th February, 2001. I am filling this affidavit to clarify the issues involved.

2. As per the UGC Notification of 19.9.1991 passing NET/SET for appointment to the post of Lecturer in a college has been made compulsory.

(i) Based on this, the State Government has issued Government Resolutions dated 23.10.1992 and 27.11.1992 prescribing these qualifications for appointment to the post of lecturers in the College.

(ii) Subsequently, Government has issued Government Resolution dated 28.4.1994, instructing that services of Non NET/SET qualified Lecturers be continued upto 31.3.1996 and if they do not acquire these qualification in this period, the Services of such Lecturers should be terminated.

(iii) In the Government Resolution dated 22.12.1995 the Government has instructed to treat the appointment of non NET/SET qualified Lecturers as ad hoc appointment and conditions of passing of the NET/SET in the stipulated period upto 31.3.1996.

(iv) In the Government Resolution dated 20.2.1996, Government directed all the Universities to ensure that no non NET/SET qualified Lecturers are appointed and that they should also suitably amend their Statutes.

(v) In Government Resolution dt. 22nd May, 1998 the increments of such non SET/NET qualified ad hoc Lecturers were released from 1.4.1998.

(V) In Government Resolution dt. 11.12.1999 the state Government implemented the UGC's recommendations regarding revision of pay scales for College Teachers in this also, the NET/SET has been reiterated as an essential qualification for the appointment to the post of Lecturer in a College.

(vii) In Government Resolution dt. 13.6.2000, UGC Regulations dated 4.4.2000 were circulated certain clarifications were given and in para 7, it was stated that U.G.C. Regulations regarding qualifications including NET/SET should be strictly adhered to.

3) I say and submit that the Hon'ble High Court, Bombay noted in writ Petition No. 3495 of 1998 filed by forum for fairness Education and Apr. Vs. State of Maharashtra on 31.8.1998. the decision of Government Resolution dated 22.12.1995 and therefore disposed of the writ Petition.

4) I say and submit that as per the aforesaid Government Resolutions passing in NET/SET examination is compulsory requirement for appointment as Lecturer.

Solemnly affirmed at Bombay **Dated this 28th day of February 2001.**

Before me,
Associate / Asstt. Master, High Court, Bombay.
Government pleader, High Court, original side,
Mumbai.

ally, the minimum qualification for appointment to the posts of lecturers in the pay scale of Rs. 2200-4000 was Master's degree in the relevant subject with at least 55% marks or its equivalent grade and good academic record. Clause 9 of the said G.R. prescribed that only those candidates who besides fulfilling the minimum qualifications prescribed for the posts of Lecturers, Readers, Professors, Librarians and Physical Education staff have qualified in a comprehensive test to be conducted for the purpose will be eligible for appointment.

4. I say and submit that the UGC, Bahadurshah Zafar Marg, New Delhi-110 002, vide its notification dated 19th September, 1991 issued Regulations regarding minimum qualifications for the posts of Lecturers, Readers, Professors in clause 3(A)(a) of Schedule I attached to the said notification prescribed the qualification to the post of lecturer of Arts, Science, Social Sciences, Commerce, Education Physical Education, Foreign Languages and Law as under-

"Good academic record with at least 55% marks or equivalent grade at Master's degree level in the relevant subject from an Indian University or an equivalent degree from the Foreign University.

Candidates besides fulfilling the above qualifications should have acquired the eligibility test for lecturers conducted by UGC-CSIR or similar tests accredited by the UGC."

5. After careful consideration of the said notification, Govt. had issued G.R. dated 23rd October, 1992 and 27th November, 1992 stating that the regulations framed by the UGC under the notification dated 19.9.1991 given in appendix 'A' accompanying to the regulations should be made applicable for appointment to the teaching staff in all the non-agricultural universities and the institutions affiliated to it in the State of Maharashtra with immediate effect.

6. Subsequently Govt. had issued G.R. dated 28.4.1994, instructing that services of non-NET/SET qualified lecturers be continued upto 31st March, 1996 and if they do not acquire these qualifications during this period, the services of such lecturers should be terminated.

7. I say and submit that Govt. decided by the Resolu-

tion dated 25th December, 1995.

a) that those lecturers who have passed the postgraduate examination by obtaining 55% or more marks and have passed M.Phil. examination upto 31st December, 1993 and/or who have submitted the thesis of Ph.D. before 31st December 1993 and whose appointments have been made through the competent committee of the University were granted exemption from passing NET/SET examination.

b) the condition to pass the NET/SET examination before 31.3.96 was removed;

c) the lecturers who had entered the service on or after 19.9.91 but had not passed NET/SET examination or had not passed M.Phil examination before 31st December, 1993 or had not submitted the thesis for Ph.D. before 31st December 1993 would have to pass NET/SET examination.

d) if the candidate possessing the prescribed educational qualifications was not available and the candidate possessing aforesaid qualifications had been appointed or will be appointed, all such appointments should be treated as ad-hoc appointments.

e) Even though such appointments were made on ad-hoc basis, such lecturers should not be terminated from service merely on the ground of not having passed NET/SET examination. But such lecturers should not be granted annual increment herein after till they pass NET/SET examination. However, they would not be entitled for arrears. Similarly, the services of lecturers appointed on ad-hoc basis should not be taken into consideration for senior scale or selection grade scale. Their services would be counted for senior or selection grade scale only from the date they would pass NET/SET examination. Similarly, the lecturers who passed NET/SET examination would be treated senior to appointees.

8. The Govt. vide its Circular dated 20th February, 1996 issued that as it had come to the notice of the Government that even when NET/SET qualified candidates were available, appointments of non NET/SET were being made, therefore it directed all concerned to ensure that no non-NET/SET qualified lecturers are appointed and that the Statutes should be suitably amended.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION : WRIT PETITION NO. 2092 OF 2000

Manohar V. Lokhande Petitioner VS Parle Tilak Vidyalaya Association & Others Respondents

PRAYER CLAUSE

It is therefore, prayed that....

(a) Rule nisi be issued and records and proceedings be called for.

(b) By a suitable writ, order or direction this Hon'ble Court be pleased to hold and declare that the Petitioner was/is entitled to be continued in service in the post of lecturer in chemistry in Respondent No. 2 college without any break in service, and accordingly this Hon'ble court be pleased to direct the Respondent No. 2 to continue services of petitioner uninterruptedly and without giving any break in service.

(c) By a suitable writ, order of direction this Hon'ble Court be pleased to direct the Respondents to treat the service rendered by Petitioner as Lecturer in Chemistry in Respondent No. 2 college as continuous service by ignoring the breaks given by the Respondent No. 2 and accordingly the Respondent No. 2 be directed to pay salary to the Petitioner for the period of break in service.

(d) Pending the hearing and final disposal for this writ Petition, the Respondents be restrained by an order of injunction of this Hon'ble Court from terminating/discontinuing the services of petitioner in the post of Lecturer in chemistry in Respondent No. 2 college.

(e) By a suitable writ, order or direction this Hon'ble Court may be pleased to hold and declare that although the petitioner has not passed NET/SET exam. his services in the post of Lecturer in Chemistry in Respondent No. 2 college cannot be discontinued by Respondents on that ground and accordingly the Respondents be directed to continue the services of petitioner without break in service and by giving him all consequential service benefits.

(f) Costs of this petition be provided for.

(g) Any other order necessary in the interest of justice may kindly be passed.

And for this act of kindness as in dutybound the petitioner shall ever pray.

(Manohar Vajjanathrao Lokhande)
Petitioner

Mumbai
Date 25.9.2000
(Narendra V. Bandiwadekar)
Advocate for Petitioner

9. Meanwhile, the Forum for Fairness in Education, Mumbai filed W.P. No. 3345/98 before the Hon'ble High Court of Judicature at Bombay, Civil Appellate Jurisdiction, Distt: Pune, with a prayer to quash and set aside the G.R. bearing No. NGC 1795/7945/UNI.4, dated 22.12.95 and directed the Respondent No.3 i.e. the UGC to initiate enquiry against all those universities and educational Institutions which are not complying with the recommendations of the UGC (qualifications required by a person to be appointed as lecturer of university or educational Institution affiliated to it). The Petitioner also prayed that Govt. should direct the Respondents to make a provision to appoint only those candidates who are possessing qualifications as per UGC regulations and to direct the Govt. of Maharashtra to make a provision not to appoint permanently and/or to grant continuation to unqualified candidates to the posts of lecturers throughout the State of Maharashtra.

10. I say and submit that Hon'ble High Court, Mumbai, had noted in the aforesaid W.P. dated 31.8.98 the decision of G.R. dated 22.12.95 and disposed off the writ Petition.

11. I further say and submit that the Govt. vide its letter dated 5th February, 1999 informed the decision of the Hon'ble High Court passed in W.P. No. 3495/98 dated 31.8.98 to all the Registrars of the **Universities, with a request to bring the** contention of the above order of the Hon'ble Court to the notice of all the affiliated colleges and implement the decision of the Hon'ble High Court, failing which the concerned institution/college will be held responsible for non-compliance of the orders of the Hon'ble Court.

12. By its G.R. dated 22nd May, 1998 the Government allowed the increments from 1.4.1998 to such non-NET/SET qualified ad hoc lecturers. It also stated that the release of annual increment did not mean that their appointments had been regularised. Their Status remained as ad hoc appointees.

13. I say and submit that the UGC issued notification dated 24.12.98 regarding revision of pay scales, minimum qualifications for appointment of teachers in universities and colleges and measures for the maintenance of standards in higher education. The UGC prescribed the qualifications and other service conditions in this notification. Clause 3.3.0 of the said notification reiterated the minimum requirements of good academic record, 55% of the marks at master's level and qualifying in the NET and or accredited test (SET) for appointment of lecturers. This notification dated 24th December, 1998 of the UGC was circulated to all the vice-Chancellors of the non-agricultural Universities by the UGC. The UGC in its covering letter to this Notification clearly states that the payment of central assistance for implementation of the scheme is subject to the condition that the entire scheme of Revision of pay scales together with all the conditions attached to it would be implemented by the State Govt. as a composite scheme without any modification except the date of implementation and the scales of pay as indicated in Govt. of India's Notification No. F.1022/97-U1, dated 27th July 1998, 22nd September, 1998 and 6th October, 1998. the UGC suggested that it shall be necessary for the universities and the managements of colleges to make necessary changes in their

statutes, ordinances, regulations, etc. to incorporate the provisions of this scheme as follows:-

“(4) The payment of Central assistance for implementation of the Scheme is also subject to the condition that the entire Scheme of revision of pay scales, together with all the conditions to be laid down in this regard by the UGC by way of Regulations, is implemented by the State Governments as a composite scheme without any modification except to the date of implementation and scales of pay as indicated above.

(5) It shall be necessary for the Universities and Man-

agements of Colleges to make necessary changes in their statutes, ordinances, rules, regulations, etc., to incorporate the provisions of this scheme.”

14. After careful consideration of the Govt. of India's Composite Scheme, 1996 for revision of pay and maintenance of standards in higher education and after an Agreement with MFUCTO, the State Govt. implemented this scheme vide G.R. dated 11th December, 1999. In this G.R. also, NET/SET passing qualifications have been reiterated as an essential qualification for the appointment to the post of lecturer in a college. The State Government with the agreement of MFUCTO had agreed to implement the entire composite scheme as given by UGC, the State therefore, has been able to get the Central Assistance to the tune of 80% i.e. Rs. 261.94 crores on account of revision of pay.

15. I say submit that UGC issued Regulations on 4th April, 2000 on minimum qualifications for appointment and for career advancement of lecturers, readers and professors in the universities and colleges. As per these Regulations of the UGC, NET or accredited test (SET) shall remain the compulsory requirement for appointment as a lecturer even for candidates having Ph.D. degree. However, the candidates who have completed M.Phil. degree or had submitted Ph.D. thesis were exempted from appearing for the NET examination.

16. I further say and submit that the Govt., vide its G.R. dated 13.6.2000 circulated the UGC regulations dated 4.4.2000 with certain qualifications. The Govt. also directed that the UGC regulations regarding qualifications should be strictly adhered to

17. With reference to the 4, April 2000 Regulations, the Chairman U.G.C. vide his D.O. letter No. F.1-11/97(PS), dated 19.2.2001 has further clarified that no lecturer could be appointed without NET qualification between 19th September, 1991 and 24th December, 1998 which is the date of UGC Notification in which the university was given an option to exempt Ph.D. holder from passing NET examination. However, the candidates who were appointed between 24th December, 1998 and 4th April, 2000 based on the exemption granted to the Ph.D. holders from the NET examination are valid provided the selection was made between 24th December, 1998 and 4th April, 2000 and the appointment letter was issued prior to 4th April, 2000.

18. I say and submit that as per UGC Notification, dated 19th September, 1991 proviso in clause 2, and UGC Notification of 4.4.2000 first proviso of clause 2 any relaxation to the appointment made of non-qualified candidates can be made only with the prior approval of the UGC.

19. In view of the facts stated above, it is clear that for improvement of standards in higher education UGC has prescribed that any relaxation to the qualifications can be made only by the University Grants Commission. Therefore, the Universities will have to apply to the UGC for any relaxation in qualifications for its Departments or affiliated colleges. The regulations framed by UGC have the force of law and are mandatory in nature.

Solemnly affirmed at Bombay Dated this day of March, 2001 BEFORE ME, Associate/Asstt. Master, High Court, Bombay.

Government Pleader,
High Court, Original Side, Mumbai.

HIGH COURT : O.O.C.J.
WRIT PETITIONER NO. 2058 OF 2000
Kanshiram S. Waghmode...Petitioner
Vs.

Parle Tilak Vidyalaya Association & Ors. Respondents

Affidavit of Smt. Kumud Bansal Principal Secretary, Higher & Technical Education Department Mantralaya, as per the Court's direction.

Dated this day of March 2001.
Government Pleader, High Court, Original Side, Mumbai.

AIR 1995 SUPREME COURT 336

A.M. AHMADI AND S.P. BHARUCHA, JJ.

Civil Appeal No. 1819 of 1994, D/-8-9-1994.

University of Delhi, Appellant v. Raj Singh and others, Respondents.

University Grants Commission Act (3 of 1956), S.12A(2), S.26(1)(c) - University Grants Commission (Qualifications required of a person to be appointed to the teaching staff of a University and institutions affiliated to it) Regulations (1991), Regn.2, Regn.3 - Scope - **Regulations are valid** - They do not entrench upon University's autonomy and power to select teachers - Rationale of test prescribed under Regulations falls squarely within Entry 66 of List I and U.G.C. Act.

Constitution of India, Sch.7, List I, Entry 66.

University Grants Commission - Regulations relating to eligibility of teaching staff of University and affiliated colleges - Validity.

Education - University teachers - Appointment of - Regulations framed by U.G.C. - Binding nature.

The University Grants Commission (Qualifications required of a person to be appointed to the teaching staff of a University and institutions affiliated to it) **Regulations (1991), notified on 19th September, 1991, by the University Grants Commission are valid.** A University may appoint as a lecturer in itself and its affiliated colleges one who has cleared the test prescribed by the said Regulations; or it may seek prior approval for the relaxation of this requirement in a specific case; or it may appoint as lecturer one who does not meet this requirement without having first obtained the UGC's approval, in which event it would, if it failed to show cause for its failure to abide by the said Regulations to the satisfaction of the U.G.C., forfeit its grant from the U.G.C. If, however, it did show cause to the satisfaction of the U.G.C., **it not only would not forfeit its grant but the appointment made without obtaining the U.G.C.'s prior approval would stand regularised.** (Paras 1, 24)

The Delhi University Act was on the statute book when the U.G.C. Act was enacted by Parliament under Entry 66 of List I. It must be assumed that Parliament was aware of the provisions of the Delhi University Act when it enacted the U.G.C. Act, particularly because the power to enact legislation concerning the Delhi University lay with Parliament under Entry 63 of List I. The Delhi University and other Universities covered by Entry 63 were consciously made subject to the regulation of the U.G.C. in so far as co-ordination and determination of standards were concerned. This was made explicit by the definition of University in S.2(f) of the U.G.C. Act. To take any other view would be to make otiose, qua the Universities covered by Entry 63, not only the U.G.C Act but Entry 66 itself. It (@page-SC337) cannot be said that S. 2(f) of the U.G.C. Act defining University had to be read not with reference to the U.G.C. Act as a whole but only with reference to such provisions of the U.G.C. Act as deal with funding. If it be said that Entry 66 operated only vis-a-vis institution other than those mentioned in Entry 63, the U.G.C. Act in its entirety would not apply to the Delhi University and the Delhi University would, consequently, not be entitled to receive any grant thereunder. (Para 19)

The U.G.C. Act is enacted under the provisions of Entry 66 to carry out the objective thereof. Its short title, in fact, reproduces the word of Entry 66. The powers conferred upon U.G.C. under S. 12 would comprehend the power to require those who possess the educational qualifications required for holding the post of lecturer in Universities and colleges to appear for a written test, the pass-

ing of which would establish that they possess the minimal proficiency for holding such post. The need for such test is demonstrated by the reports of the commissions and committees of educationists which take note of the disparities in the standards of education in the various Universities in the country. It is patent that the holder of a post-graduate degree from one University is not necessarily of the same standard as the holder of the same post-graduate degree from another University. That is the rationale of the test prescribed by the said Regulations. It falls squarely within the scope of Entry 66 and the U.G.C. Act inasmuch as it is intended to co-ordinate standards and the U.G.C. Act is armed with the power to take all such steps as it may think fit in this behalf. (Para 20)

The Regulations, are made applicable to a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, every institution, including a constituent or an affiliated college recognised by the U.G.C. in consultation with the University concerned, and every institution deemed to be a University. The said Regulations are thus intended to have the widest possible application, as indeed they must have if they are to serve the purpose intended, **namely, to ensure that all applicants for the post of lecturer, from whichever University they may have procured the minimum qualificatory degree, must establish that they possess the proficiency required for lecturers in all Universities in the country.** This is what clause 2 of the said Regulations mandates. **The provisions of clause 2 of the Regulations are recommendatory in character.** It would be open to a University to comply with the provisions of clause 2 by employing as lecturers only such persons as fulfil the requirements as to qualifications for the appropriate subject provided in the schedule to the said Regulations. It would also be open, in specific cases, for the University to seek the prior approval of the U.G.C. to relax these requirements. **Yet again, it would be open to the University not to comply with the provisions of clause 2, in which case in the event that it failed to satisfy the U.G.C. that it had done so for good cause, it would lose its grant from the U.G.C.** The said Regulations do not impinge upon the power of the University to select its teachers. **The University may still select its lecturers by written test and interview or either.** Successful candidates at the basic eligibility test prescribed by the said Regulations are awarded no marks or ranks and, therefore, all who have cleared it stand at the same level. There is, therefore, no element of selection in the process. The University's autonomy is not entrenched upon by the said Regulations. (Para 21)

Cases Referred :	Chronological Paras
AIR 1990 SC 1075 : (1990) 2 SCR 273	16
(1990) 2 SCR 463	16
AIR 1987 SC 400 : (1987) 1 SCR 661	16
AIR 1987 SC 2034 : (1987) 3 SCR 947	14
AIR 1981 SC 1777 : (1982) 1 SCR 320 : 1981 Lab IC 1515	16
AIR 1971 SC 2560 : (1971) 3 SCR 699	16
AIR 1970 SC 1099 : 1970 Serv LR 55 : 1970 Lab IC 870	18
AIR 1963 SC 703 : 1963 Supp (1) SCR 112 (@page-SC338)	13

M.P.P. Rao, Mr. V. P. Chowdhary and Mr. Jitendra Sharma, Sr. Advocates, Mr. P. Gaur, Ms. G. Dara and Mr. R. Sasiprabhu, Advocates with them, for Appellant; Ms. Kumud L. Das, Mr. S.B. Upadhyay and Mr. R. D.

Upadhyay, Advocates, for the Intervenor - Applicants Nos. 2-8 and 10 in I.A. No. 15; Mr. B. K. Pal, Advocate, for Intervenor - in I. A. No. 14; Mr. M. P. Jha, M. Ajit Kumar Sinha, Advocates, for Intervenor - in I. A. Nos. 12 and 13; Mr. Milan K. Banerjee, Attorney-General and Mr. Gaurab Banerjee, Mr. Rathin Das, Advocates with him, for U.G.C.; Mr. A. Sharan, Advocate, for Intervenor - C.S.I. R.; Mr. A. K. Ganguli, Sr. Advocate and Mr. A. D. N. Rao, Advocate with him, for D.U.R.A.; Mr. A. K. Ganguli, Sr. Advocate and Mr. Navin Prakash, Advocate with him, for Respondent No. 1.

* C.W.P. No. 3570 of 1992, D/- 15-10-1993 (Del.)

JUDGEMENT

BHARUCHA, J. :- Upon a writ petition filed by Raj Singh (the first respondent in this appeal) the Delhi High Court held that the University Grants Commission (Qualifications required of a person to be appointed to the teaching staff of a University and institutions affiliated to it) Regulations, 1991, notified on 19th September, 1991, by the University Grants Commission (the second respondent in this appeal) were valid and mandatory and the Delhi University (the appellant) was obliged under law to comply therewith. The Delhi University was directed to select lecturers for appointment in itself and in its affiliated colleges strictly in accordance with the said Regulations. This appeal by special leave is filed by the Delhi University.

2. The writ petition was filed because Raj Singh had applied for the post of lecturer in Commerce in three colleges affiliated to the Delhi University but had not been called for an interview. He averred that the advertisement for applications in this behalf did not lay down that candidates should have passed the test prescribed by the said Regulations and that candidates who had not passed that test would not be called for interview. The writ petition was contested by the Delhi University. It was the case of the Delhi University that the said Regulations were beyond the competence of the University Grants Commission (U.G.C) and that, in any event, they were directory and not mandatory. The Delhi University, it was submitted, was an autonomous body and no condition of eligibility could be imposed upon it. The case of the Delhi University was not accepted by the High Court.

3. The Delhi University was established under the Delhi University Act, 1922. Section 2(g) thereof defines 'teachers' to include "Professors, Readers, Lectures and other persons imparting instruction in the University or in any college or Hall". Section 2(h) defines 'teachers of the University' to mean "persons appointed or recognised by the University for the purpose of imparting instruction in the University or in any college". "College" is defined in clause (a) thus:

"College", means an institution maintained or admitted to its privileges by the University, and includes an Affiliated College and a Constituent College".

By reason of S. 20 the Court is "the supreme authority of the University". Section 21 states that the Executive Council would be the executive body of the University. Section 23 states that the Academic Council would be the academic body of the University and would, subject to the provisions of the Act, the Statutes and the Ordinances, "have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination within the University, and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes. It shall have the right to advise the Executive Council on all academic matters....." Section 29 deals with the Statutes of the University, No Statute dealing with, inter alia, "the conditions on the fulfilment of which the teachers of colleges and institutions may be recognised as teachers of the University" may be made, amended or repealed by the Executive Council except with the prior concurrence of the Academic Council. Statute 6, so far as is relevant, reads thus:

(1) The Executive Council shall, subject to the control of the Court, have the manage- @page-SC339 ment and administRation of the revenue and property of the Univer-

sity and the conduct of all administrative affairs of the University not otherwise provided for.

(2) Subject to the provisions of the Act, the Statutes and the Ordinances, the Executive Council shall in addition to all other powers vested in it, have the following powers, namely:

(i) to appoint, from time to time, the Registrar, Librarian, Principals of Colleges and Institutions established by the University and such Professors, Readers, Lecturers and other members of the teaching staff as may be necessary on the recommendations of Selection Committees constituted for the purpose".

Ordinance XXIV sets out the qualifications requisite for the post of Lecturer in the Delhi University thus:

"(a) A Doctorate's degree or research work of an equally high standard; and

(b) Good academic record with at least second class (C in the seven point scale) Master's degree in a relevant subject from an Indian University or an equivalent degree from a foreign University.

Having regard to the need for developing inter-disciplinary programmes, the degree in (a) and (b) above may be in relevant subjects.

Provided that if the Selection Committee is of the view that the research work of a candidate as evident either from his thesis or from his published work is of very high standard, it may relax the requirement of "at least second class in Master's degree examination in terms of level achieved at the said examination as prescribed in (b) above.

Provided further that if a candidate possessing a Doctor's degree or equivalent research work is not available or is not considered suitable, a person possessing a good academic record, (weightage being given to M.Phil. or equivalent degree of reasearch work of quality may be appointed on the condition that he will have to obtain Doctor's / M.Phil. degree or give evidence of research of high standard within ten years of his appointment, failing which he will not be able to earn future increments until he fulfils these requirements.

Explanation :

1. For determining 'good academic record' the following criteria shall be adopted:

(i) A candidate holding a Ph.D./M.Phil. degree should possess at least a second class Master's degree; or

(ii) A candidate without a Ph.D./M.Phil. degree should possess a high second class Master's degree and second class in the Bachelor's degree; or

(iii) A candidate not possessing Ph.D. M. Phil. Degree but possessing second class Master's degree should have obtained first class in the Bachelor's degree.

2. Persons having secured at least 55 % or more marks shall be deemed to have passed the examination in the high second class."

4. The Delhi University Act is "existing law" for the purposes of the Constitution of India, having been enacted before the Constitution came into force. Entry 63 of List I of the Seventh Schedule to the Constitution reads:

"The institutions known at the commencement of this Constitution as the Banaras Hindu University, the Aligarh Muslim University and the Delhi University; the University established in pursuance of Article 371-E; any other institution declared by Parliament by law to be an institution of national importance."

Therefore, it is Parliament which is invested with the power to legislate concerning the Delhi University.

5. The University Grants Commission Act, 1956, (the U.G.C. Act) is enacted under the provisions of Entry 66 of List I of the Seventh Schedule to the Constitution. It entitles Parliament to legislate in respect of "co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions."

@page-SC340

6. The short title of the U.G.C. Act repeats the words of Entry 66, thus :

“An Act to make provision for the co-ordination and determination of standards in Universities and for that purpose, to establish a University Grants Commission.”

Section 2 of the U.G.C. Act is the definition section and clause (f) thereof defines a University to mean “a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognised by the Commission in accordance with the regulations made in this behalf under this Act”. Section 12 sets out the functions of the U.G.C. It says, so far as is relevant for our purposes:

“It shall be the general duty of the Commission to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in Universities, and for the purpose of performing its functions under this Act, the Commission may-

xxx xxx xxx

(d) recommend to any University the measures necessary for the improvement of University education and advise the University upon the action to be taken for the purpose of implementing such recommendation;

xxx xxx xxx

(j) perform such other functions as may be prescribed or as may be deemed necessary by the Commission for advancing the cause of higher education in India or as may be incidental or conducive to the discharge of the above functions.

Section 12 A enables the U.G.C. to regulate fees and it prohibits donations in certain cases. Sub-section (1) of S. 12 A sets out certain definitions expressly for the purpose of S. 12A. Clause (d) thereof defines qualification to mean “a degree or any other qualification awarded by a University”. Section 14 reads thus:

“If any University grants affiliation in respect of any course of study to any college referred to in sub-sec. (5) of Sec. 12A in, contravention of the provisions of that subsection or fails within a reasonable time to comply with any recommendation made by the Commission under Sec. 12 or Sec. 13, or contravenes the provision of any rule made under clause (f) or clause (g) of sub-sec. (2) of Sec. 25 or of any regulation made under clause (e) or clause (f) or clause (g) of Sec. 26, the Commission, after taking into consideration the cause, if any, shown by the University for such failure or contravention, may withhold from the University the grants proposed to be made out of the Fund of the Commission.”

Section 20 reads thus:

“(1) In the discharge of its functions under this Act, the Commission shall be guided by such directions on questions of policy relating to national purposes as may be given to it by the Central Government.

(2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to national purposes, the decision of the Central Government shall be final.”

Section 25 empowers the Central Government to make rules for the carrying out of the purposes of the U.G.C. Act. Section 26 entitles the U.G.C., by notification in the Official Gazette, to make regulations consistent with the Act and the rules made thereunder for:

(e) defining the qualifications that should ordinarily be required of any person to be appointed to the teaching staff of the University, having regard to the branch of education in which he is expected to give instruction.

(g) regulating the maintenance of standards and the co-

ordination of work or facilities in Universities.”

7. The said Regulation, that is to say, the @page-SC341 University Grants Commission (Qualifications required of a person to be appointed to the teaching staff of a University and institutions affiliated to it) Regulations 1991, were made in exercise of the powers conferred by S.26(1)(e) reading with S.14 of the U.G.C. Act and were notified on 19th September 1991 in the Gazette of India. They apply, by reason of cl. 1(ii) thereof, “to every University established or incorporated by or under a Central Act, Provincial Act or a State Act, every institution including a constituent or an affiliated college recognised by the Commission in consultation with the University concerned under clause (f) of Sec. 2 of the University Grants Commission Act, 1956 and every institution deemed to be a University under S.3 of the said Act.” Clause 2 prescribes the qualifications and clause 3 the consequences of the failure of Universities to abide therewith. They need to be reproduced in extenso:

“2. Qualifications - No person shall be appointed to a teaching post in the University or in any of institutions including constituent or affiliated colleges recognised under C1. (f) of S.2 of the University Grants Commission Act, 1956 or in an institution deemed to be a University under S.3 of the said Act in a subject if he does not fulfil the requirements as to the qualifications for the appropriate subject as provided in the Schedule 1:

Provided that any relaxation in the prescribed qualifications can only be made by a University in regard to the posts under it or any of the institutions including constituent or affiliated colleges recognised under clause (f) of S. 2 of the aforesaid Act or by any institution deemed to be a University under S.3 of the said Act with the prior approval of the University Grants Commission.

Provided further that these regulations shall not be applicable to such cases **where selections through duly constituted selection committees for making appointments to the teaching posts have been made prior to the enforcement of these regulations.**

3. Consequences of failure of Universities to comply with recommendations of the Commission, as per provisions of S. 14 of the University Grants Commission Act, 1956 :

If any University grants affiliation in respect of any course of study to any college referred to in sub-sec. (5) of Sec. 12A in contravention of the provisions of that subsection or fails within a reasonable time to comply with any recommendation made by the Commission under Sec.12 or Sec. 13, or contravenes the provision(s) of any rule made under clause (f) or clause (g) of sub-sec.(2) of Sec.25 of any regulation made under clause(e) or clause(f) or clause(g) of Sec. 26, the Commission; after taking into consideration the cause, if any, shown by the University **for such failure of contravention, may withhold from the University the grants proposed to be made out of the Fund of the Commission.**”

8. The genesis of the said Regulations is to be found in recommendations made by expert bodies of educationists from time to time. In the Report of the National Commission on Teachers-II, dated 23rd March, 1985, it was noted under the sub-title “evaluating academic achievements” that categorical statements had been made by various earlier committees and commissions that examination results were neither reliable nor valid and comparable. It was recognised that the standards of performance varied from University, to University and that Universities which were a little more exacting were less generous with their scores. A way had to be found to ensure not only that justice was done but also that it appeared to be done. Thereafter, in considering an All India Merit Test, the Report said that it had to be ensured that every citizen aspiring to be a teacher at the tertiary level, that is, a lecturer, qualified in terms of a national yardstick. Since the first appointment pre-supposed doctoral work and since the UGC as well as the Council of Scientific and Industrial Research (C.S.I.R.) held an All-India test for fellowships at this stage, the grade secured by a candidate in this test could be utilised for drawing up a list of candidates eligible for lectureships in

colleges and Universities of the country. If this proposal were to be implemented in such a manner that the test became reliable, valid @page-SC342 and comparable from the academic and the technical points of view, the problem of regulating the induction of persons with high calibre into the Universities and colleges of the country would be largely taken care of and the dream of having a national cadre of academics with high Inter-regional mobility would have been realised. The Report, therefore, recommended that the U.G.C. should incorporate the passing of one of the national tests at least in grade B+ on a seven-point scale in its Regulation laying down the minimum qualifications of teachers and that this should come into force within two years". Under the sub-title "Professional excellence", the Report reiterated that it was extremely important to make a rigorous merit-based selection for the entry level into the teaching profession, and this view corresponded with that of the vast majority of teachers.

9. In 1986 the U.G.C. appointed a committee of eminent men in the field of education under the chairmanship of Prof. R.C. Mehrotra to examine the structure of emoluments and conditions of service of University and college teachers and to make recommendations in this behalf "having regard to necessity of attracting and retaining talented persons in the teaching profession and providing advancement and opportunities to teachers of Universities and colleges. "The Mehrotra Committee noted what the Sen Committee and the Review Committee of the U.G.C. 1977, had said in regard to the need for improved qualifications of teachers and observed that whereas high standards of M.Phil and Ph.D. continued to be maintained in a number of Universities the standards appeared to have been diluted at several places because of unplanned growth, inadequate faculty and lack of infrastructural facilities. It was underlined that one very serious consequence of dilution of minimum standards for initial recruitment had been that already existing disparities in the standards of teaching between rural colleges, urban colleges, State Universities and Central Universities had tended to get further aggravated. The Mehrotra Committee recommended that the minimum qualification for eligibility to a lecturer's position should be a good M.A., M. Sc., M.Com., or equivalent degree. While making this recommendation the committee expressed its full consciousness of the importance of research experience and capability as an essential input for efficiency and quality of teaching in most disciplines at the tertiary (lecturer's) level. It, therefore, strongly recommended the creation of much better research facilities for Universities and colleges, particularly those dealing with post-graduate education to start with. This would enable brilliant lecturers recruited without an M. Phil or Ph. D. degree to pursue course and research work in their own institutions which could be followed for the completion of their dissertation by more specialised research for a limited period in a more advanced centre of learning or research. In order to ensure the quality of new entrants to the teaching profession, the Mehrotra Committee recommended that all aspirants for the post of lecturer in a University or college should have passed a national qualifying examination. This recommendation, it said, was in line with the recommendation of the National Commission on Teachers-II. Such a test would have the merit of removing disparities in standards of examination at the Master's level between different Universities. The Mehrotra Committee hoped that by this step local influence would be minimised and the eligibility zone for recruitment would become wider. The proposed examination was to be a qualifying one in the sense that it determined only eligibility and not selection. The Mehrotra Committee recommended the following minimum qualification for the post of lecturer:

(i) Qualifying at the National Test conducted for the purpose by the UGC or any other agency approved by the UGC.

(ii) Master's degree with at least fifty five per cent marks or its equivalent grade and good academic record.

The minimum qualification mentioned above should not be relaxed even for candidates possessing M. Phil, Ph.D. qualification at the time recruitment."

10. A Conference of Vice-Chancellors was held under the auspices of the U.G.C. in @page-SC343 1989. Among the major recommendations made by the conference was one that related to the "implementation of qualifying test for recruitment of lecturers." The recommendation read thus:

"The National level test to determine the eligibility for lecturers be conducted. When the State Government conducts such tests, while accrediting them caution be exercised. It was also suggested that the test in regional languages be also conducted."

11. Following up on the Mehrotra Committee report the Department of Education, Ministry of Human Resources Development, Government of India wrote to the U.G.C. on 17th June, 1987 on the subject of revision of pay -scales in Universities and colleges and other measures for the maintenance of standards in higher education. The letter stated that the Government of India had, after taking into consideration the recommendations of the U.G.C. (based upon the Mehrotra Committee report) decided to revise the pay-scales of teachers of the Central Universities. To enable the same to be done in the States, separate letters had been addressed. A scheme for the revision of pay-scales was appended to the letter, which would be applicable to teachers in all the Central Universities, the colleges in Delhi and the institutions deemed to be Universities whose maintenance expenditure was met by the U.G.C. The implementation of the scheme would be subject to acceptance of all the conditions attached to the scheme. The letter stated that the Universities should be advised to amend their Statutes and Ordinances before the revised scales became operational. For our purposes, the relevant portion of the scheme reads thus:

"Only those candidates who, besides fulfilling the minimum academic qualifications prescribed for the post of Lecturer, have qualified in comprehensive test, to be specially conducted for the purpose, will be eligible for appointment as Lecturers. The detailed schemes for conducting the test including its design, content and administration will be worked out and communicated by the UGC."

12. Before we proceed to consider the submissions of learned counsel, reference may be made with advantage to two decisions of this Court which consider entry 66 of List I of the Seventh Schedule to the Constitution.

13. In the Gujarat University, Ahmedabad v. Krishna Ranganath Mudholkar, 1963 Supp (1) SCR 112: (AIR1963 SC 703), the central question was whether the Gujarat University could impose Gujarati or Hindi as the exclusive media of instruction and examination and whether State legislation authorising the Gujarat University to impose such media was constitutionally valid in view of entry 66. As it then read, entry 11 of List II empowered the States to legislate in respect of education, including Universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and (Item) 25 of List III. Entry 63 of List I, as it then read, invested Parliament with the power to enact legislation with respect to the institutions known at the commencement of the Constitution as the Benaras Hindu University, the Aligarh Muslim University and the Delhi University and other institutions declared by Parliament by law to be institutions of national importance. By reason of entry 66, Parliament was invested with the power to legislate on "co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions." Item 25 of List III conferred power upon Parliament and the State Legislatures to enact legislation with respect to "vocational and technical training on labour." A six -judge Bench of this Court observed that the validity of State legislation on the subjects of University education and education in technical and scientific institutions falling outside entry 64 of List I as it then read (that is to say, institutions for scientific or technical education other than those financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance) had to be judged having regard to whether it impinged on the field reserved for the Union under entry 66. In other words, the validity of the State legislation depended upon whether it prejudicially affected the co-ordination and determination of standards.

It did not depend (@page-SC344) upon the actual existence of Union legislation in respect of co-ordination and determination of standards which had, in any event, paramount importance by virtue of the first part of Article 254(1). Even if power under entry 66 was not exercised by Parliament, the relevant legislative entries being in the exclusive Union List a State law entrenching upon the Union field would be invalid. Counsel for the Gujarat University submitted that the power conferred by entry 66 was merely a power to co-ordinate and to determine standards; that is, it was a power merely to evaluate and fix the standards of education, because the expression "co-ordination" meant evaluation and "determination", meant fixation. Parliament had, therefore, power to legislate only for the purpose of evaluation and fixation of standards in the institutions referred to in entry 66. In the course of the arguments, however, it was admitted that steps to remove disparities which had actually resulted from adoption of regional media and the falling of standards might be undertaken and legislation for equalising standards in higher education might be enacted by Parliament. The Court was unable to agree with the argument. It held that entry 66 was a legislative head and in interpreting it, unless it was expressly or of necessity found conditioned by words used therein, a narrow or restricted interpretation could not be put upon the generality of its words. Power to legislate on a subject was normal to be held to extend to all ancillary or subsidiary matters which could fairly and reasonably be said to be comprehended in that subject. Again, there was nothing either in entry 66 or elsewhere in the Constitution which supported the submission that the expression "co-ordination" meant, in the context in which it was used, merely evaluation. Co-ordination in its normal connotation meant harmonising or bringing into proper relation, in which all the things co-ordinated participated in a common pattern of action. The power to co-ordinate, therefore, was not merely a power to evaluate. It was a power to harmonise or secure relationship for concerted action. There was nothing in entry 66 which indicated that the power to legislate on co-ordination of standards in institution of higher education did not include the power to legislate for preventing the occurrence of or for removal of disparities in standards. By express pronouncement of the Constitution makers it was a power to co-ordinate and, of necessity, implied therein was the power to prevent what would make co-ordination impossible or difficult. The power was absolute and unconditional and in the absence of any controlling reasons it had to be given full effect according to its plain and expressed intention.

14. In *Osmania University Teachers Association v. State of Andhra Pradesh*, (1987) 3 SCR 949 : (AIR 1987 SC 2034), the validity of the Andhra Pradesh Commissionerate of Higher Education Act, 1986, was in question. It was enacted to provide for the constitution of a Commissionerate to advise the State Government in matters relating to higher education and to oversee its development and perform all functions necessary for the furtherance and maintenance of excellence in the standards of higher education. The legislation was upheld by the High Court. This Court on appeal held to the contrary. It observed that Entry 66 of List I gave power to the Union to see that the required standard of higher education in the country was maintained. It was the exclusive responsibility of the Central Government to co-ordinate and determine the standards of higher education. That power included the power to evaluate, harmonise and secure proper relationship to any project of national importance. Such co-ordinate action in higher education with proper standards was of paramount importance to national progress. Parliament had exclusive power to legislate with regard to the matters included in List I and the State had no power at all in regard to such matters. If the State legislated on a subject falling within List I, the State legislation was void. The Court went on to say, : "The Constitution of India vests Parliament with exclusive authority in regard to co-ordination and determination of standards in institutions for higher education. The Parliament has enacted the UGC Act for that purpose. The University Grants Commission has, therefore, a greater role to play in shaping the academic life of the (@page-SC345) country. It shall not falter or fail in its duty to

maintain a high standard in the Universities. Democracy depends for its very life on high standards of general, vocational and professional education. Dissemination of learning with search for new knowledge with discipline all round must be maintained at all costs. It is hoped that University Grants Commission will duly discharge its responsibility to the Nation and play an increasing role to bring about the needed transformation in the academic life of the Universities."

15. Mr. P.P. Rao, learned counsel for the Delhi University, submitted that the said Regulations were recommendatory or advisory in nature and not mandatory. They could not override the provisions of the Delhi University Act and its Statutes and Ordinances. If the said Regulations were regarded as binding on all Universities, they would be ultra vires the U.G.C. Act itself because sec. 12(d) thereof only provided for recommendation and advice. The term "qualifications" in section 26(1) (e) of the U.G.C. Act meant educational qualifications obtained from recognised Universities. The test prescribed by the said Regulations did not fall within the term "qualifications" used in sec. 26(1)(e). The definition of qualification given in section 12A(1) (d) applied to Sec. 26(1) (e) as well because Sections 12, 12A and 26 were interconnected. Section 12 outlined the powers and functions of the U.G.C. It was incorporated by reference in Section 12A(2). The said Regulations were made under S. 26(1)(e) for giving effect to Sec. 12(d) The word "defining" used in Sec. 26(1)(e) meant describing the nature of or stating precisely or specifying. The power to define qualifications did not include the power to create a new qualification, which was what the said Regulations purported to do. In defining, the U.G.C. could only specify some from among existing recognised qualifications awarded by Universities. The test prescribed by the said Regulations was in the nature of a test for screening candidates possessing educational qualifications obtained from different Universities by way of preliminary selection or a first step in the process of selection. Such a screening test formed part of the process of Selection. The U.G.C. Act did not confer upon the U.G.C. the power of selection of teachers or the power to conduct a test for such selection. The power to appoint included the power to select and the power to select included the power to choose the method and manner of selection. The power to appoint teachers was with the Universities. Only the Universities could select teachers and for that purpose only they could conduct a written test. The U.G.C. had no such power. The power of co-ordination and determination of standards had nothing to do with the selection of teachers. It was for each University to decide whether it would select teachers by a interview. The said Regulations had been made in consultation with the Department of Education, Ministry of Human Resources Development, Government of India. This was in contravention of the provisions of Sec. 12 read with Sec. 26(1)(e) and eroded the autonomy of every University. The power to relax qualifications was an inherent power of the appointing authority and was necessarily implied in the power to make appointments. While recognising the power of a University to relax qualifications, clause (2) of the said Regulations shifted the power from the Universities to the U.G.C. through the requirement of its prior approval. This was assumption of a part of the power of appointment and was in contravention of the U.G.C. Act. The clause in the said Regulations which required Universities to seek prior approval of the U.G.C. for the relaxation of qualifications was ultra vires Sec. 14 of the U.G.C. Act inasmuch as, while the action contemplated by Sec. 14 was post facto, that is, subsequent to the appointment of a teacher in relaxation of the qualifications, the clause altered the course of action and prohibited the relaxation of qualifications without prior approval. It was not open to the U.G.C. to prescribe consequences different from those mentioned in S. 14 for breach of regulations made under S. 26 or change the sequence of steps to be taken for securing enforcement thereof Regulations made under S. 26(1)(e). did not override the Delhi University Act and its Statutes and Ordinances relating to qualifications (@page-SC346) for the appointment of teachers. Only regulations made under S. 12A of the U.G.C. Act were given overriding effect by reason of sub-sec (7) thereof. The word "ordinarily" used in Sec. 26(1)(e) meant

“not invariably”. Therefore, the qualifications that were required to be defined by S. 26(1)(e) of the U.G.C. Act were in the nature only of recommendations. A written test was inappropriate and irrational in the case of appointments of persons belonging to a mature age group like lecturers in a University. **On a reasonable interpretation of the said Regulations the test prescribed thereby operated only qua candidates possessing the minimum qualification prescribed by the U.G.C. and not qua candidates who possessed higher qualifications like M.Phil. and Ph.D. It operated also qua fresh entrants to the post of lecturer and not qua those who were already lecturers in other Universities or colleges.** Any other interpretation of the said Regulations would be tantamount to treating unequals as equals and, therefore, violative of Arts. 14 and 16(1). The test prescribed by the said Regulations could not be a substitute for higher qualifications, much less a preferential qualification. Entries 63 and 66 of List I had to be construed harmoniously. Entry 66 operated vis-a-vis institutions of higher education other than those mentioned in Entry 63. Section 2(f) of the U.G.C. Act had to be construed accordingly. So read, only some of the provisions of the U.G.C. Act like S.13, relating to the funding of Universities would apply to Central Universities and institutions mentioned in Entry 63. The other provisions of the U.G.C. Act dealing with co-ordination and determination of standards would not apply to Central Universities and other institutions mentioned in Entry 63. These provisions applied only to Universities and institutions other than those mentioned in Entry 63. The definition of ‘University’ given in Sec.2(f) had to be understood in the context of each provision in the U.G.C. Act and could not be read mechanically into each and every provision thereof. By reason of Entry 63, the Ordinances of the Delhi University which prescribed qualifications had to be treated as laid down by Parliament itself. The process of co-ordination by the U.G.C. could, therefore, only mean that the standards of

other Universities had to be raised to the level of the standards of the Central Universities.

16. In support of his submission that only the University could select candidates and for that purpose conduct a written examination, Mr. Rao relied upon this Court’s judgment in A. P. Public Service Commission, Hyderabad v. B. Sarat Chandra, 1990(2)SCR 463. This was a case where the concerned rule provided that no person would be eligible for appointment to the post in question by direct recruitment unless he had completed the age of 21 years and not completed the age of 26 years on the first day of July of the year in which the selection was made. The State Administrative Tribunal took the view that the selection could be said to have been made only when the list had been prepared and the eligibility of the candidate as to age had to be determined at this stage. This Court observed that if the word ‘selection’ was understood as meaning only the final act of selecting candidates and preparation of the list for appointment then the conclusion of the Tribunal was not unjustified. Before accepting that meaning, its consequences, anomalies and uncertainties had to be seen. Having regard thereto, the Court came to the conclusion that the date to attain the minimum or maximum age had to be specific and determinate for candidates to apply and for the recruiting agency to scrutinise applications. It was, therefore, unreasonable to construe the word “selection” to mean only the factum of preparation of the select list for that date could vary. It is difficult to see how this authority can support the proposition for which it was intended. In support of his submission that it was for each University to decide whether it would select through a written test and interview, or only an interview, Mr. Rao cited this Court’s judgment in State of Andhra Pradesh v. Lavu Narendranath, (1971) 3 SCR 699: (AIR 1971 SC 2560). This was a case on altogether different issues. This Court held that the Government which ran the colleges in question had the

**The University Grants Commission (Qualifications required of a person to be appointed to the teaching staff of a University and institutions affiliated to it)
Regulations 1991**

Notified on 19th September, 1991, by the University Grants Commission

REGULATIONS ANALYSED

1) **REGULATIONS ARE VALID** : Regulations (1991), notified on 19th September, 1991, by the University Grants Commission are **valid**.

2) **RECOMMENDATORY** : The provisions of clause 2 of the said Regulations are, therefore, **recommendatory** in character.

3) **APPLICATION PROSPECTIVE** : The second proviso to clause 2 makes the application of the said Regulations **prospective**.

4) **RELATES TO ALL APPLICANTS i.e. CANDIDATES** : The said Regulations are thus intended to ensure that **all applicants** for the post of lecturer, from whichever University they may have procured the minimum qualificatory degree, must establish that they possess the proficiency required for lecturers in all Universities in the country.

5) **APPLICABILITY** : They are made **applicable** to a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, every institution including a constituent or an affiliated college recognised by the U.G.C. in consultation with the University concerned, and every institution deemed to be a University.

6) **ORDINARILY AND NOT INVARIABLY REQUIRED** : Regulations, made under the provisions of S. 26(1) (e), define the qualifications that are **ordinarily and not invariably required** of a lecturer.

7) **RELAXATION** : The first proviso to Cl.2 permits **relaxation** in the prescribed qualifications by a University provided it is made with the prior approval of the U.G.C.

8) **CONSEQUENCE OF THE FAILURE** : Clause 3 of the said Regulations provides for the **consequence of the failure** of a University to comply with the recommendation made in clause 2 in the same terms as are set out in Sec. 14 of the U.G.C. Act.

9) **LOSE OF GRANT** : It would be open to the University not to comply with the provisions of clause 2, in which case, in the event that it failed to satisfy the U.G.C. that it had done so for good cause, it would lose its grant from the U.G.C.

10) **WOULD NOT FORFEIT ITS GRANT** : If, however, it did show cause to the satisfaction of the U.G.C., it not only would not forfeit its grant but the appointment made without obtaining the U.G.C.’s prior approval would stand regularised.

11) **POWER OF THE UNIVERSITY** : The said Regulations do not impinge upon the power of the University to select its teachers.

12) **WRITTEN TEST AND INTERVIEW OR EITHER** : The University may still select its lecturers by written test and interview or either.

right to select out of the large number of applicants (@page-SC347) for seats and for this purpose it could prescribe a test of its own. Merely because the Government tried to supplement the eligibility rule by a written test in subjects with which the candidates were already familiar, its action could not be impeached. That the University had made regulations regarding the admission of students to its degree courses did not mean that anyone who had passed the qualifying examination, such as the P.U.C. or H.S.C. was ipso facto entitled to admission to such courses. Mr. Rao sought to rely upon the judgment of this Court in *Lila Dhar v. State of Rajasthan*, (1982) 1 SCR 320: (AIR 1981 SC 1777), to support the argument that a written test was unfair and irrational in the case of appointments of candidates belonging to a major age group. We shall assume that this decision so holds, but it is, in the facts and circumstances of the present case, of little assistance. It is very evident that large numbers of educationists themselves have over the years strongly recommended the imposition of a written test for candidates holding degrees from Universities all over the country because of the lack of a uniform standard and is it not for this Court to say that they were wrong. Again, the judgments in *Sanatan Gauda v. Berhampur University*, (1990) 2SCR 273 : (AIR 1990 SC 1075) and *Dr. Ambesh Kumar v. Principal, L.L.R.M. Medical College, Meerut*, (1987) 1 SCR 661 : (AIR 1987 SC 400), were cited by Mr. Rao in support of the proposition that the test prescribed by the said Regulations treated unequals as equals, the unequals being those who possessed higher qualifications like M.Phil. and Ph.D. and those who were already lecturers in other Universities and colleges. **As we see it, all applicants for the post of lecturer are equally placed and must be similarly treated.**

17. The learned Attorney General, appearing for the UGC, referred us to the various reports of committees and commissions of educationists aforementioned. He drew our attention to the judgments in the cases of the Gujarat University and the Osmania University, to which we have made reference. He took us through the provisions of the U.G.C. Act and he stressed the meaning of the word 'qualification' as given in various dictionaries and law lexicons. It is enough to cite the Concise Oxford Dictionary which defines 'qualification' to mean inter alia, "the condition that must be fulfilled before right can be acquired or office held" and Black's Law Dictionary which defines 'qualification' to mean "the possession by an individual of the qualities, properties, or circumstances, natural or adventitious, which are inherently or legally necessary to render him eligible to fill an office". Upon this basis, the learned Attorney General submitted that qualification included eligibility. The written test prescribed by the said Regulations, he submitted, was only a condition of eligibility and did not entrench upon the University's right to select, particularly since no marks or ranks were awarded to successful candidates. The learned Attorney General drew our attention to the provisions of S.20 of the U.G.C. Act (which we have extracted above) and to the letter dated 17th June, 1987, written by the Department of Education, Ministry of Human Resources Development of the Government of India to the U.G.C. making the implementation of the scheme annexed thereto a condition for the revision of pay-scales as recommended by the Mehrotra Committee. He pointed out that the scheme required that only those candidates who besides fulfilling the minimum academic qualifications prescribed for the post of lecturer, had qualified in a comprehensive test to be specially conducted for the purpose would be eligible for appointment as lecturers. The Attorney General submitted that this letter was a directive by the Central Government to the U.G.C. on a question of policy relating to national purposes and was, therefore, in any event, binding upon the U.G.C. and the said Regulations had been made consequential thereon.

18. Mr Ganguli, learned counsel for Raj Singh (the first respondent and original writ petitioner), adopted the arguments of the learned Attorney General. He argued that there was no conflict between the areas of operation of Entries 63 and 66 of List I and that the concept of the autonomy of a University could not be so construed as to make Entry 66 otiose qua Universities that (@page-SC348) fell under

Entry 63. In regard to the meaning of the word qualification Mr. Ganguli drew our attention to the judgment of this court in *state of Rajasthan v. Fateh Chand*, (1970) 4 Serv LR 55: (AIR 1970 SC 1099), where the view that the word qualifications meant only academic qualifications was disapproved.

19. The Delhi University Act was on the statute book when the U.G.C. Act was enacted by Parliament under Entry 66 of List I. It must be assumed that Parliament was aware of the provisions of the Delhi University Act when it enacted the U.G.C. Act, particularly because the power to enact legislation concerning the Delhi University lay with Parliament under Entry 63 of List I. The Delhi University and other Universities covered by Entry 63 were consciously made subject to the regulation of the U.G.C. in so far as coordination and determination of standards were concerned. This was made explicit by the definition of University in S.2(f) of the U.G.C. Act. To take any other view would be to make otiose, qua the Universities covered by Entry 63, not only the U.G.C. Act but Entry 66 itself. The argument that S.2(f) of the U.G.C. Act defining 'University' had to be read not with reference to the U.G.C. Act as a whole but only with reference to such provisions of the U.G.C. Act as deal with funding must be rejected. If there were merit in the argument that Entry 66 operated only vis-a-vis institutions other than those mentioned in Entry 63, the U.G.C. Act in its entirety would not apply to the Delhi University and the Delhi University would, consequently, not be entitled to receive any grant thereunder. It is for this reason, to avail the grant but shed the obligation under the U.G.C. Act, that the argument had been so cautiously advanced.

20. The ambit of Entry 66 has already been the subject of the decisions of this Court in the cases of the Gujarat University and the Osmania University. The U.G.C. Act is enacted under the provisions of Entry 66 to carry out the objective thereof. Its short title, in fact, reproduces the words of Entry 66. The principal function of the U.G.C. is set out in the opening words of S.12, thus "it shall be the general duty of the Commission to take.... all such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in Universities"

It is very important to note that a duty is cast upon the Commission to take "all such steps as it may think fit for the determination and maintenance of standards of teaching". These are very wide ranging powers. Such powers, in our view, would comprehend the power to require those who possess the educational qualifications required for holding the post of lecturer in Universities and colleges to appear for a written test, the passing of which would establish that they possess the minimal proficiency for holding such post. The need for such test is demonstrated by the reports of the commissions and committees of educationists referred to above which take note of the disparities in the standards of education in the various Universities in the country. It is patent that the holder of a post-graduate degree from one University is not necessarily of the same standard as the holder of the same postgraduate degree from another University. That is the rationale of the test prescribed by the said Regulations. It falls squarely within the scope of Entry 66 and the U.G.C. Act inasmuch as it is intended to co-ordinate standards and the U.G.C. Act is armed with the power to take all such steps as it may think fit in this behalf. For performing its general duty and its other functions under the U.G.C. Act, the U.G.C. is invested with the powers specified in the various clauses of S.12. These include the power to recommend to a University the measures necessary for the improvement of University education and to advise in respect of the action to be taken for the purpose of implementing such recommendation (clause (d)). The U.G.C. is also invested with the power to perform such other functions as may be prescribed or as may be deemed necessary by it for advancing the cause of higher education in India or as may be incidental or conducive to the discharge of such functions (clause (j)). These two clauses are also wide enough to empower the U.G.C. to frame the said Regulations. By reason of (@page-SC349) S.14, the U.G.C. is authorised to withhold from a University its grant

if the University fails within a reasonable time to comply with its recommendation, but it is required to do so only after taking into consideration the cause, if any, shown by the University for such failure. Section 26 authorises the U.G.C. to make regulations consistent with the U.G.C. Act and the rules made thereunder, inter alia, defining the qualifications that should ordinarily be required for any person to be appointed to the teaching staff of a University, having regard to the branch of education in which he is expected to give instruction (clause (e) of sub-sec. (1)); and regulating the maintenance of standards and the co-ordination of work or facilities in Universities (cl. (g)). We have no doubt that the word 'defining' means setting out precisely or specifically. The word 'qualifications' as used in clause (e), is of wide amplitude and would include the requirement of passing a basic eligibility test prescribed by the U.G.C. The word 'qualifications' in clause (e) is certainly wider than the word 'qualification' defined in S.12A(2)(d), which in expressly stated terms is a definition that applies only to the provisions of S 12A. Were this definition of qualification, as meaning a degree or any other qualification awarded by a University, to have been intended to apply throughout the Act, it would have found place in definition section, namely, S.2.

21. We now turn to analyse the said Regulations, They are made applicable to a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, every institution including a constituent or an affiliated college recognised by the U.G.C. in consultation with the University concerned, and every institution deemed to be a University. **The said Regulations are thus intended to have the widest possible application, as indeed they must have if they are to serve the purpose intended, namely, to ensure that all applicants for the post of lecturer, from whichever University they may have procured the minimum qualificatory degree, must establish that they possess the proficiency required for lecturers in all Universities in the country.** This is what clause 2 of the said Regulations mandates, thus: "no person shall be appointed to teaching post in a University in subject if he does not fulfil the requirements as to the qualifications for the appropriate subject as provided in the Schedule I". The first proviso to Cl.2 permits relaxation in the prescribed qualifications by a University provided it is made with the prior approval of the U.G.C. This is because the said Regulations, made under the provisions of S. 26(1) (e), define the qualifications that are ordinarily and not invariably required of a lecturer. The second proviso to clause 2 makes the application of the said Regulations prospective. Clause 3 of the said Regulations provides for the consequence of the failure of a University to comply with the recommendation made in clause 2 in the same terms as are set out in Sec. 14 of the U.G.C. Act. The provisions of clause 2 of the said Regulations are, therefore, recommendatory in character. It would be open to a University to comply with the provisions of clause 2 by employing as lecturers only such persons as fulfil the requirements as to qualifications for the appropriate subject provided in the schedule to the said Regulations. It would also be open, in specific cases, for the University to seek the prior approval of the U.G.C. to relax these requirements. Yet again, it would be open to the University not to comply with the provisions of clause 2, in which case, in the event that it failed to satisfy the U.G.C. that it had 'done so for

good cause, it would lose its grant from the U.G.C. The said Regulations do not impinge upon the power of the University to select its teachers. The University may still select its lecturers by written test and interview or either. Successful candidates at the basic eligibility test prescribed by the said Regulations are awarded no marks or ranks and, therefore, all who have cleared it stand at the same level. There is, therefore, no element of selection in the process. The University's autonomy is not entrenched upon by the said Regulations.

22. Mr. Rao was at pains to tell us that there were men and women in the field of education who possessed far higher qualifications than the minimum prescribed for lecturers who were willing to join the Delhi (@page-SC350) University as lecturers but would be deterred from doing so by reason of the test prescribed by the said Regulations. We have no doubt that there must be highly qualified men and women in the country who, to serve their chosen field, would be willing to become lecturers. We have no doubt that they would appreciate the sound objective of the said Regulations and would, therefore, not consider it infra dig to appear at and clear the test prescribed thereby. We have also no doubt that in the case of eminently qualified men and women the U.G.C. would not hesitate to grant prior approval to the relaxation of the requirement of clearing the test.

23. In the view that we take, it is, we think, not necessary to consider whether or not the letter dated 17th June, 1987, addressed by the Department of Education, Ministry of Human Resources Development, Government of India to the U.G.C. can be said to be a directive under S. 20 of the U.G.C. Act concerning a question of policy relating to national purposes. It is enough to say that the facts do not bear out the submission of Mr. Rao that the said Regulations were made at the behest of the Government of India.

24. It is now appropriate to clarify the direction that the Delhi High Court issued in allowing the writ petition. It held that the notification dated 19th September, 1991, by which the said Regulations were published, was valid and mandatory and the Delhi University was obliged under law to comply therewith. The Delhi University was directed to select lecturers for itself and its affiliated and subordinate colleges strictly in accordance with the notification. Put shortly, the Delhi University is mandated to comply with the said Regulations. As analysed above, therefore, the Delhi University may appoint as a lecturer in itself and its affiliated colleges one who has cleared the test prescribed by the said Regulations; or it may seek prior approval for the relaxation of this requirement in a specific case; or it may appoint as lecturer one who does not meet this requirement without having first obtained the UGC's approval, in which event it would, if it failed to show cause for its failure to abide by the said Regulations to the satisfaction of the U.G.C. forfeit its grant from the U.G.C. If, however, it did show cause to the satisfaction of the U.G.C., it not only would not forfeit its grant but the appointment made without obtaining the U.G.C.'s prior approval would stand regularised.

25. The appeal is dismissed. There shall be no order as to costs.

Appeal dismissed.

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