

AIFUCTO ATTACKS AMBANI-BIRLA REPORT

by B. Vijaykumar and V.K. Tewari For AIFUCTO

Submitted by Ambani-Birla on 24 April, 2000, this Report has been a secret document. Initiated by the PM, this effort is undemocratic as the Parliament, Standing Committee of MPs on MHRD, teachers organisations and others have been totally ignored, eclipsed. This is unprecedented. The education system evolved over the last 5 decades has been arduously and democratically built up beginning with Dr. Radhakrishnan Commission down to NPE-1968, NPE-1986 and the Review 1992. Although there have been many snags, yet the democratic openness was never a casualty. Again, shortcomings are enormous and vast which need to be taken up through a democratic system from primary to university level, but the system has made India somewhat proud of the fact that we are the third largest producers of trained manpower in all the terms, though only about 5.8% youth are able to join the university system today. Production of knowledge would have been more varied and stronger to meet national instruction needs if we had invested more in higher education and R&D.

Guiding ethos

Ambani-Birla Report gives a secret burial to the national values and goals imbibed by the nation through a century-long anti-colonial freedom struggle or equity and social justice for all. It also ushers in neo-colonialism, thus endangering the very sovereignty and freedom of the nation. It is a brief on totally market-oriented education to be directed

through LPG-Liberalisation, Privatisation, Globalisation. Evidently, what WB-IMF combine failed to do at the UNESCO Conference Declaration (October 1998) is now intended to be manipulated in India through the backdoor unbolted by the PM's Council on Trade & Industry. This is a theatrically articulated recipe for national enslavement.

The focus of the Report on primary education is well-based, but it becomes lopsided when it recommends to "leave higher and professional education to the private sector" and that higher education could be priority only after achieving "universal primary and secondary education." We may see, so far, the successive governments have failed to fulfil the constitutional responsibility under Article 45: the NPE-1992 (Review) says that the nation needed 1.22 lakh primary schools and 2.25 lakh middle schools; the NPE-1986 noted the need of 4 million primary teachers to make one-teacher schools into 2-teachers schools. Infrastructure in schools is very poor; no quality education. Further, the proposed 83rd constitutional amendment to make Right to Education a Fundamental Right is not well conceived as it is fraught with snags. Report does not talk about these pitfalls. Base i.e. primary and secondary must be made strong but the will is lacking on the part of the government.

Higher education is to be flooded with private investments upto university level. So, legislation on establishment of private universities is suggested by the report.

SCHEDULE VIII (Vide Rule 17 /1)
Trust Reg. No. F-1594

C.R. Sagdeo & Co. Chartered Accountants
"Prabha Niwas" Jail Road, Nagpur 440 022. Phone : 524634

NAME OF THE PUBLIC TRUST : NAGPUR UNIVERSITY TEACHERS' ASSOCIATION
Place : Nagpur -- Taluka : Nagpur -- District : Nagpur
BALANCE SHEET AS AT 31ST MARCH 2001

FUNDS & LIABILITIES	Rs.	P.	Rs.	P.	PROPERTY & ASSETS	RS.	P.	RS.	P.				
1 TRUST FUND OR CORPUS					I IMMOVABLE								
Life membership fee					PROPERTIES (As per Sch.C)			110,727.60					
Balance as per Last B/S ...	1,868,017.32				Fields								
Adjustment during the year ...	1,377,858.00		3,245,875.32		Balance as per last B/S ...								
II OTHER EARMARKED FUND					Additions or deductions ...								
Depreciation Fund ...					Buildings								
legal Aid fund ...					Balance as per last B/S ...								
Sinking Fund ...					Additions or deduction Dep.								
Reserve Fund ...					Furniture and Fixtures								
any other (Silver Jubilee) Fund					Balance as per last B/S ...								
(As per Schedule 'A') ...			1,536,266.50		Addition or deductions ...								
III LOANS Secured or					Depreciation 10% ...								
unsecured					II INVESTMENTS								
From Trustees ...					As Per Shedule 'D' ...			3,322,400.00					
From Others ...					III LOANS & ADVANCES								
IV LIABILITE					A) Loans:Secured/Unsecured								
As per schedule 'B' ...			2,731.00		Loan Scholarship ...								
For expenses ...					Other Loans ...								
For advances ...					B) Advances								
For rent/ other deposits ...					To trustess ...			1,900.00					
For Sundry credit balances ...					Deposit in Post Office ...								
For Nuta Special Bulletin ...					To employees ...								
V INCOME AND					To contractors ...								
EXPENDITURE ACCOUNT					To lawyers ...								
Balance as per Last B/S ...	1,019,736.81				To Other TDS ...			24,896.64					
Less appropriation if any	99,938.60				(As per Sch 'E')								
add/less :surplus/ deficit					IV INCOME								
as per I/E Account ...			919,798.21		OUTSTANDING								
TOTAL Rs.			3,865,074.61		House Rent ...								
The above Balance sheet to the best of my belief contains a true account of the Funds and libalities and assets of the trust Trustee: S/d. S.A.Tiwari Trust Address : Nagpur Date 17.5.2001 As per Our report of even date For C.R.SAGDEO & CO Chartered Accountants					V CASH AND BANK								
					BALANCES								
					(a) Cash in hand with Shri.								
					(b) As per Schedule 'F' ...							405,150.37	
					TOTAL Rs.			3,865,074.61					

विनाअनुदानित अभियांत्रिकी महाविद्यालयामध्ये पाचव्या वेतन आयोगाच्या वेतनश्रेणीची प्रत्यक्ष अंमलबजावणी होणेबाबत

महाराष्ट्र विधानपरिषद : दुसरे अधिवेशन २००१ : शुक्रवार, दिनांक ३ ऑगस्ट २००१

रोजी सभागृहाच्या पटलावर ठेवण्यात आलेल्या सोमवार, दिनांक १६ जुलै २००१ रोजीच्या तारांकित प्रश्नोत्तराच्या यादीतील प्रश्न क्रमांक १६०९२

(९) * १६०९२ सर्वश्री सुरेश पाटील, बी.टी.देशमुख, व्ही.यू.झायगव्हाणे, प.म.पाटील, नानासाहेब बोरस्ते तारांकित प्रश्न क्रमांक १२१५८ ला दिनांक १६ मार्च २००१ रोजी दिलेल्या उत्तराच्या संदर्भात सन्माननीय उच्च व तंत्र शिक्षण मंत्री पुढील गोष्टींचा खुलासा करतील काय:-

(१) अभियांत्रिकी महाविद्यालयाची फी वाढवितांना, तसेच येथील अनिवासी भारतीयांच्या कोट्यात वाढ करतांना पाचव्या वेतन आयोगाची वेतनश्रेणी विचारात घेऊन निर्गमित करण्यात आलेल्या १८ डिसेंबर १९९९ च्या शासन निर्णयाची प्रत्यक्ष अंमलबजावणी किती महाविद्यालयांनी केली आहे;

(२) १ जून २००१ रोजी नवीन वेतनश्रेणी लागू केलेल्या व लागू न केलेल्या महाविद्यालयांची संख्या किती आहे;

(३) शासन निर्णयाची अंमलबजावणी न केलेली महाविद्यालये कोणती;

Concomitantly, the UGC is to be almost wound up through drastic reduction in its powers. "Regulatory role" government is suggested. A new system is in the offing: A free one for the big investor: foreign and local. The eye of greed is on science, information technology, management courses relevant for commercial enterprises. Corporations, business enterprises, profit motive are the corner stones of new policy.

Teachers are to be divided as the UG and PG teaching. Such divisions are foreign to the university system in India as it is holistic that way. "User pays" principle is to be applied. Higher education has to be cost-effective. Funding is to be linked to rating. So, private, self-financing educational institution will be legislated and the big loot legitimized. He who invests gets the profit, "full cost recovery" is the guideline. Soon, 250 universities and 11000 colleges besides IITs and National Laboratories etc will go in for disinvestments and thus the PM's Council will bid goodbye to the public-funded, legislatively guided Higher Education system in the country.

This Report has many contradictions. The whole thesis of the Report is misplaced. The Parliament will eventually reject this anti-national exercise.

(४) या महाविद्यालयांनी नवीन वेतनश्रेणीची अंमलबजावणी करावी म्हणून शासनाने काय उपाययोजना केलेली आहे?

श्री.दिलीप वळसे-पाटील : (१) प्रश्नात उल्लेखिलेल्या दि. १८ डिसेंबर १९९९ च्या शासननिर्णयानुसार पाचव्या वेतन आयोगाची अंमलबजावणी एकूण ११० विनाअनुदानित अभियांत्रिकी महाविद्यालयांपैकी २२ विना अनुदानित अभियांत्रिकी महाविद्यालयांनी वेगवेगळ्या तारखेपासून केली आहे.

(२) १ जून २००१ रोजी पाचव्या वेतन आयोगानुसार सुधारित वेतनश्रेणी लागू केलेल्या विनाअनुदानित अभियांत्रिकी महाविद्यालयांची संख्या खालीलप्रमाणे आहे.

दि. १८ डिसेंबर १९९९ च्या शासन निर्णयानुसार : २२ महाविद्यालये
दि. ४ ऑक्टोबर २००० च्या शासन निर्णयानुसार : ७८ महाविद्यालये
पाचवा वेतन आयोग अद्याप लागू न केलेली महाविद्यालये : १० महाविद्यालये

(३) उपरोक्त शासन निर्णयाची अंमलबजावणी न केलेल्या विना अनुदानित अभियांत्रिकी महाविद्यालयांची यादी सोबत जोडली आहे.

(४) पाचव्या वेतन आयोगानुसार सुधारित वेतन श्रेण्यांची अंमलबजावणी न केलेल्या विनाअनुदानित अभियांत्रिकी महाविद्यालयांना संचालक, तंत्र शिक्षण यांनी अनुक्रमे दि. ९ मार्च २००१ व १४ मार्च २००१ च्या पत्राच्ये लेखी सूचना दिलेल्या आहेत.

जोडपत्र

दिनांक १ जून २००१ पर्यंत पाचव्या वेतन आयोगानुसार वेतनश्रेणी न दिलेल्या अभियांत्रिकी महाविद्यालयांची यादी

अ.क्र. संस्थेचे नाव :- १. सिंधुदुर्ग शिक्षण प्रसारक मंडळाचे इंजिनियरिंग कॉलेज, ओरोस, जि. सिंधुदुर्ग. २. शिवनगर विद्या प्रसारक मंडळाचे इंजिनियरिंग कॉलेज, माळेगाव, पुणे. ३. भारती विद्यापीठाचे महिला अभियांत्रिकी महाविद्यालय, पुणे. ४. भारती विद्यापीठाचे इंजिनियरिंग कॉलेज, पुणे. ५. हिंदी सेवा मंडळाचे संत गाडगेबाबा इंजिनियरिंग कॉलेज, भुसावळ. ६. सुरेशदादा जैन इंजिनियरिंग कॉलेज, जळगाव. ७. गोदावरी इंजिनियरिंग कॉलेज, जळगाव. ८. श्री. शिवाजी एज्युकेशन सोसायटीचे इंजिनियरिंग कॉलेज, अकोला. ९. सिपना इंजिनियरिंग कॉलेज, अमरावती. १०. अंजुमन कॉलेज ऑफ इंजिनियरिंग, नागपूर.

SCHEDULE IX (Vide Rule 17 /1)
Trust Reg. No. F-1594

C.R. Sagdeo & Co Chartered Accountants
"Prabha Niwas" Jail Road, Nagpur 440 022.
Phone : 524634

NAME OF THE PUBLIC TRUST : NAGPUR UNIVERSITY TEACHERS' ASSOCIATION
Place : Nagpur * Taluka : Nagpur * : District Nagpur
INCOME AND EXPENDITURE ACCOUNTS FOR THE YEAR ENDING ON 31st MARCH 2001

EXPENDITURE	RS. P.	INCOME	RS. P.
To Expenditure in respect of Properties		By House Rent Accrued/Realised ...	
Rate, taxes, cesses Income Tax		By Agriculture Income	
Repairs and maintenance		By land Rent Accrued/Realised	
Salaries		By Interst Accrued Realised	
Insurance		On Securities	44,561.00
Depreciation		On Loans	8,213.00
Other expenses		On Bank account (FDR & Savings)	
To Establishment expenses(As per.Sch 'G')	81,870.95	By Divident on Units of U.T.I	246,519.95
To Remuneration to trustees		By Donation in cash or Kind	
To Remuneration (in the case of a math) ...		By Grants	
to the head of the math including		By Income from other sources	
his house hold expenditure, if any		Interest on Income Tax refund	
To Legal expenses		By Transfers from Reserve	
To audit fee	1,575.00	(U.T.I.M.I.P. 88 Maturity	
To amount Written of		By deficit carried over to balance sheet ...	
(a) Bad debts		Total Rs	299,293.95
(b) Loan Scholarship			
(c) irrecoverable rents... ..			
(d) Other items... ..			
To Miscellaneous Expenses	6,980.00		
To Depreciation on Bldg			
To Depreciation on furn.			
To Depreciation on Computer	13,982.40		
To Depreciation on Air Conditioner			
To Expenditure on objects of the trust			
(a) Religious			
(b) Educational NUTA Bulletin Expenses ...	94,947.00		
(c) Medical Relief			
(d) Relief of Poverty			
(e) Other Charitable object	99,938.60		
Surplus Carried over to B/S			
Total Rs.	299,293.95		

As per Our report of even date
For C.R.SAGDEO & CO
Chartered Accountants
illegible/Partner

Trustee/Sd/-S.A.Tiwari
Trust Address : Nagpur
Date 17.5.2001

A G E N D A

**of the General Body Meeting of NAGPUR UNIVERSITY TEACHERS' ASSOCIATION
to be held at 12.00 noon on SUNDAY, the 11th November, 2001 at
S.P.M. Science & Gilani Arts & Commerce College,
GHATANJI.**

Agenda of the General Body Meeting of Nagpur University Teachers' Association to be held at 12.00 noon on Sunday, the 11th November, 2001 at S.P.M. Science & Gilani Arts & Commerce College, Ghatanji. is as follows :-

**ITEM NO. 293 :
CONFIRMATION OF MINUTES :**

TO CONFIRM the minutes of the General Body meeting of Nagpur University Teachers' Association held at 12.00 noon on Sunday, the 6th May, 2001 at Bhartiya Mahavidyalaya, Amravati.

Note :- 1) Copy of the minutes was Circulated on pages 54 to 56 of 2001 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 6th May, 2001, at Bhartiya Mahavidyalaya, Amravati, vide No.CIM/10 Dated 21st June 2001 published on page 56 of 2001 Nuta Bulletin. No correction is received.

**ITEM NO. 294 :
APPROVAL TO THE AUDITED
STATEMENT.**

To consider and to approve the Audited Balance Sheet and Income and Expenditure Account of the Association for the year ended on 31st March, 2001.

Notes : (i) The copy of the Audited Balance Sheet and Income and Expenditure Account of the Association for the said Financial year is circulated on page 93 & 94 of 2001 NUTA Bulletin.

(ii) The Audited Balance Sheet and Income and Expenditure Account will be placed before the General Body by Prof. S.A.Tiwari, Treasurer, on behalf of the Executive Committee.

(iii) If any honourable member has a query, regarding the Audited Balance Sheet and Income and Expenditure Account, he should make it, within a week from the date of posting of this Bulletin, to Prof. S.A.Tiwari, Treasurer, NUTA, 42, Shankar Nagar, Amravati-444 606, specifying the exact point on which he seeks information/ clarification. A copy of the query also be sent to Prof. B.T.Deshmukh, President, NUTA, 3, Subodh Colony, Near Vidarbha Mahavidyalaya, Amravati-444 604.

**ITEM NO. 295 :
STATEMENT ON FIXED
SECURITIES POSITION :**

To Note the Statement no. 12 showing the position of the Fixed Securities of the Association as on 31st March, 2001.

Note : (i) statement no.12 regarding the fixed securities of the Association as on 31st March, 2001, is circulated on page 103 of 2001 NUTA Bulletin.

(ii) The Statement showing the position of the Fixed Securities of the Association as on 31st March, 2001, will be placed before the General Body by Prof. S.A.Tiwari, Treasurer, on behalf of the Executive Committee.

विषय क्रमांक २९६ :

नेट सेट बाबतचा घटनाक्रम व सद्यस्थिती

नेट सेट बाबतचा घटनाक्रम व सद्यस्थिती विचारात घेणे.

नोट्स : 9) सदर घटनाक्रम नुटा बुलेटीन २००१ पृष्ठ क्रमांक ९० वर

प्रसूत करण्यात आलेला आहे २) कार्यकारीणीच्या वतीने सदर बाबतीत माहिती नुटाचे सहसचिव प्रा. अनिल सोमवंशी सादर करतील.

विषय क्रमांक २९७ :

नुटा बुलेटीनच्या रजत जयंती विशेषांकासाठी प्राप्त स्वेच्छाधिन सहभाग

नुटा बुलेटीनच्या रजत जयंती विशेषांकासाठी प्राप्त स्वेच्छाधिन सहभाग धारकांच्या सहकार्यांची सद्यस्थिती विचारात घेणे.

नोट्स : 9) नुटाचे कोषाध्यक्ष प्रा. एस.ए.तिवारी सदर बाबतीत सभेला माहिती देतील.

**ITEM NO. 298 :
TO REQUEST THE REGIONAL JOINT DIRECTOR
OF HIGHER EDUCATION**

Prof. B. N.Garge will move the following resolution :-

Resolved to request the Regional Joint Director of Higher Education to see that the consolidated pension of a retired teacher shall not be less than 50% of the minimum of the revised scale of pay introduced with effect from 1st January, 1996 for the post last held by the pensioner at the time of his retirement as per Finance Department Resolution for Revision of Pension, dated 15th November, 1999.

विषय क्रमांक २९९ :

खाजगी मान्यता प्राप्त वैद्यकीय महाविद्यालयात पाचव्या वेतन आयोगाच्या वेतन श्रेणीची अम्मलबजावणी

डॉ. आर. एन.देशमुख व डॉ.डी.एस.जाणे हे पुढील प्रस्ताव मांडतील. :-

पाचव्या वेतन आयोगाने विहित केलेला वेतनश्रेणीबाबतचे महाराष्ट्र शासनाचे आदेश क्रमांक Pay-1699/CR(39/99)/MS-2 दि. २७ जानेवारी २००० नुसार प्रसूत होवून १९ महिन्यांचा कालावधी संपूर्णपणे लोटून गेलेला असतानाही, डॉ. पंजाबराव देशमुख स्मृती वैद्यकीय महाविद्यालयीन प्रशासनाच्या पातळीवर आवश्यक ती कार्यवाही पूर्ण होत नाही आणि त्यामुळे ही वेतनश्रेणी प्रत्यक्ष अंमलात येण्यास विलंब लागत आहे, याबद्दल ही सभा तीव्र नापसंती व्यक्त करित आहे.

या संबन्धात तातडीने आवश्यक ती कार्यवाही डॉ. पंजाबराव देशमुख स्मृती वैद्यकीय महाविद्यालयाच्या प्रशासकीय पातळीवर पूर्ण करण्यात यावी अशी मागणी ही सभा व्यवस्थापन व प्रशासनाकडे करित आहे. तसेच पाचव्या वेतन आयोगाची तात्काळ अम्मलबजावणी करावी या मागणीसाठी ही सभा डॉ. पंजाबराव देशमुख स्मृती वैद्यकीय महाविद्यालय, अमरावती येथील कर्मचारी संघर्ष समितीला सक्रिय पाठींबा जाहीर करित आहे.

Notes : (9) "खाजगी वैद्यकीय व दंत महाविद्यालयातील शिक्षण शुल्क निश्चित करण्याबाबत" या विषयावरील महाराष्ट्र शासन : वैद्यकीय शिक्षण व औषधी द्रव्ये विभाग यांचा दिनांक २३ जानेवारी, २००१ रोजीचा शासननिर्णय क्रमांक : एमईटी-१४९९/२७०२/प्र.क्र. २६०/९९/शिक्षण-१ याच बुलेटीनच्या पृष्ठ ९७ वर प्रसूत करण्यात आलेला आहे.

(२) "ना अनुदान तत्वावर खाजगी वैद्यकीय महाविद्यालय काढण्यास अटी व शर्ती." या विषयावरील महाराष्ट्र शासन : वैद्यकीय शिक्षण व औषधी द्रव्ये विभाग यांचा दिनांक ३ जुलै १९८४ रोजीचा शासन निर्णय क्रमांक : एमईडी १६८४/९५१/एमईडी-४ याच बुलेटीनच्या पृष्ठ ९८ वर प्रसूत करण्यात आलेला आहे.

(3) **JUDGMENT**, Dated : 3rd July, 2001, by the High Court of Judicature of Bombay Bench, at Aurangabad Appellate side civil Jurisdiction, in Writ Petition No. 364 of 1999 (coram : B.H. Marlapalle and N.V.Dabholkar, JJ) is circulated on page 96 of 2001 NUTA Bulletin.

(Agenda continued on page 103)

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY BENCH AT AURANGABAD
APPELLATE SIDE CIVIL JURIDICITION**

WRIT PETITION NO. 364 OF 1999

(01) Teachers Association for Non Aided, Polytechnic, Registered Association of Teachers of Non-Aided Polytechnics, Through its Bhusawal Unit president, Shri. A.V. Anilkumar. (02) Shri. A.V. Anilkumar, Lecturer in Mechanical Engineering and H.O.D. (03) Jayant Gajanan Joshi, Lecturer in Electronics. (04) Vikas H. Choudhary, Lecturer in Mechanical (05) Satish Ramesh Rajankar, Lecturer in Mechanical Engineering. (06) Durgadas Motiram Choudhary, Lecturer in Chemistry. (07) Sureshkumar Dubey, Lecturer in Physics, (08) Rajeshkar K. Patil, Lecturer in Mathematics (09) Santosh Ajaldas Gurwani, Lecturer in Industrial Electronics. (10) Sanjeev Anil Shukla, Lecturer in Industrial Electronics, (11) Abhaykumar R. Barbade Lecturer in Civil Engineering. (12) Pramod R. Kharche, Lecturer in Mechanical Engineering, (13) Sachin A. Deshmukh, Lecturer in Mechanical Engineering. (14) Sachin Paralhadd Bhombhe, Lecturer in Civil Engineering. (15) Ajay Pandurang Shelorkar, Lecturer in Civil Engineering (16) Anant M. Joshi, Lecturer in Industrial Electronics, (17) Anilkumar Vishvakarma, Lecturer in Industrial Electronics. (18) Vilas Surash Bhangale, Instructor in Workshop. (19) Pralhad Hari Bholankar, Instructor in Carpentry (20) Faiyaz Amed Khan Dalmir Khan, Instructor in Mechanical Engineering. (21) Subhas Totaram Sutar, Instructor in Carpentry. (22) Maruti Shraavan Bhivsane, Instructor in Blacksmithy. (23) Janardhan R. Fegade, Instructor Machine shop. (24) Anand Krishana Kelkar, Instructor Machine shop. (25) Yuvraj Sitaram Patil, Instructor in Moulder (26) Hamraj Manohar Nemade, Sheet Metal Instructor. (27) Dinkar Rupa Mahajan Instructor in pavar (28) Bhiram D. Mahajan, Computer Lab Assistant. (29) Ganesh Gopal Mahajan, Lab Assistant in Industrial Electronics. (30) Ashish Anantrao Kavi Mondan, Librarian (31) Devendra Sudhakar Lule, Librarian Clerk Ali Major, R/o Near Z.T.C Bhusawal, District : Jalgaon**Petitioners**

VERSUS

(01) Hindi Seva Mandal, Bhusawal Through its President, C/o Shastri Vidya Nagar, Shivaji Nagar, Bhusawal, District : Jalgaon. (02) Shri. Sant Gagde Baba Polytechnic, Near Z.T.C. Bhusawal, District Jalgaon, Through its Principal. (03) Board of Technical Examination, Maharashtra State, 49, Kherwadi, Ali Yawar Jung Marg, Bandra (East), Mumbai-51. (04) Director of Technical Education, Maharashtra State, 3, Post Box No. 1967, Mumbai-1 (05) State of Maharashtra. (06) All India Council of Technical Education, I.G.Sports Complex, I.G. Estate, New Delhi 110202, Through its Adviser (Ext.) **Respondents.**

Shri. S.C. Bora, Advocate for the Petitioner.

Shri. V.D.Sapkal, Additional Government pleader for Respondent Nos. 3 to 5.

Shri. N.H.Patil, Advocate with Shri. S.A.Kulkarni,

Advocate for Respondent Nos. 1 and 2

Shri. Vivek Dhage, Advocate for Respondent No.6.

CORAM : B.H. MARLAPALLE AND N.V.DABHOLKAR, JJ

DATED : 3RD JULY, 2001.

ORAL JUDGMENT : (PER MARLAPALLE, J)

1. At the outset we have no hesitation to observe that we fell in error in not setting out the reasoning in support to our order dated 23rd of April, 1999 which was quashed and set aside by the apex court and this petition is taken up on its restoration.,

2. Petitioner No. 1 is an association of teachers of non-aided polytechnics whereas petitioner Nos. 2 to 31 are the members of teaching and non teaching staff of Shri. Sant Gagde Baba polytechnic, Bhusawal which is run by the Hindi seva mandal, Bhusawal (Respondent No. 1). They came to be employed under the said polytechnic (Respondent No. 2) from time to time between 1984 to 1997 on consolidated salary. They claim that the Directorate of Technical Education, Government of Maharashtra issued communication dated 29th of September, 1995, addressed to all the principals of the private un-aided technical Colleges, Polytechnics institutions calling upon them to pay the salaries and allowances, bonus, provident fund, gratuity, medical facilities and leave travel facilities etc. as per the rules framed from time to time. It was made clear in the second communication that it was obligatory on the part of the institutions to comply with these directives in view of the conditions set out while granting permission to start such institutions and failure to comply with these instructions would entail necessary action. The petitioner No. 1 submitted a representation on 3rd November, 1998 and requested the Respondent No. 2 to pay the salary and other allowances as per the circular issued by the Directorate of Technical Education on 29th September, 1995. As there was no response from Respondent Nos. 1 and 2, a representation was submitted to Respondent No. 4 on 10th September, 1998 and finally the petitioner approached this court in the instant petition filed on 15th December, 1998. The substantial prayer in the petition reads, as under :

"(c) Writ of mandamus or writ in the nature of mandamus or appropriate writ, Direction or order under article 226 of the constitution of India may be issued directing the Respondents Nos. 1 and 2 to pay to the teaching and non teaching staff including the petitioners Nos. 2 to 31 pay and allowances, and other service benefits such as bonus, travelling allowances, medical facilities, provident fund, Gratuity and leave benefits as per the instructions issued in the circular letter dated 29th September, 1995 issued by the Directorate of Technical Education, Maharashtra State, Mumbai including the arrears of pay and allowances since the dates of their initial appointments."

We disposed of the petition by the following order dated 23rd April, 1999.

"College states that it is not in position to pay the salaries of teachers as per the pay scales prescribed by the Government. It is contended that college is a non-aided college. However, college is recognised. Hence **we direct college to pay salary, including D.A. as per pay scale prescribed by the Government**, particularly in view of the fact that at the time of obtaining recognition the college has given undertaking to comply with all conditions including payment as per the scale prescribed by the Government."

3. As this order was not implemented by the Respondent Nos. 1 and 2 the Petitioners approached us in writ Petition No. 3208 of 1999 and by order dated 5th July, 1999 a Division Bench of this court had directed the Director of Technical Education to hold inquiry and the management was directed not to undertake any new admissions to engineering colleges and technical schools in the academic year 1999-2000. This direction was given in view of the statement made in the petition that it was not in a position to pay salaries of the staff

as per the pay scales prescribed by the Government. The petitioners then moved contempt Petition No. 132 of 1999 which came to be admitted by order dated 6th July, 1999. The order dated 23rd April, 1999 passed by us (Kapadia and Marlapalle, JJ.) came to be challenged in S.L.P. (C) No. 9783 of 1999 and the order passed in writ Petition No. 3208 of 1999 by another Division Bench (Barde and Mhase, JJ.) on 5th July, 1999 came to be challenged in S.L.P. (C) No. 10603 of 1999. By order dated 10th August, 1999 interim stay to our order was passed by the Apex Court and S.L.P. No. 10603 of 1999 came to be dismissed as not pressed as per the order dated 10th of May, 2000. Whereas, by order dated 28th of March, 2001 the Civil Appeal No. 6225 of 2000, arising out of S.L.P. No. 9783 of 1999 has been disposed of, Portion of the said order, which is relevant for deciding the instant petition is quoted, as under,

".....The Directorate of Technical Education issued a letter dated 29th September, 1995 addressed to the Management of

unaided Engineering, Technical, Pharmacy, Architecture, Catering, Computer Sciences, Management Educational Programmes informing that they are bound to pay the salary, allowances, bonus, travelling allowances, medical facilities, insurance, death or retirement gratuity as per the directions issued by the Government from time to time. This Condition is part of the conditions imposed at the time of permitting the institutions to start their courses, which is disputed by the management. Two questions would crop up for consideration as to whether such a direction could be issued without any statutory authority, and whether such a direction could be enforceable for issuance of a mandamus under Article 226 of the constitution. This would necessarily mean that the source of the power conferring the authority to issue the letter has to be looked into, and further whether in fact an undertaking had been given, and if so, what would be the effect for non-compliance of the undertaking as well as whether the undertaking in question could be enforced so far as the

**खाजगी वैद्यकीय व दंत महाविद्यालयातील शिक्षण शुल्क निश्चित करण्याबाबत
महाराष्ट्र शासन : वैद्यकीय शिक्षण व औषधी द्रव्ये विभाग**

शासननिर्णय क्रमांक : एमईटी-१४९९/२७०२/प्र.क्र. २६०/९९/शिक्षण -१

मंत्रालय, मुंबई ४०० ०३२, दिनांक २३ जानेवारी, २००१

वाचा :- १) शासन निर्णय वैद्यकीय शिक्षण व औषधी द्रव्ये विभाग क्रमांक एडीएम-१३९७/सीआर-५३/शिक्षण-१, दिनांक १७ जुलै, १९९७.

२) शासन निर्णय वैद्यकीय शिक्षण व औषधी द्रव्ये विभाग क्रमांक : एडीएम-१३९७/सीआर-५३/शिक्षण-१, दिनांक २४ ऑक्टोबर १९९७

३) शासन निर्णय वैद्यकीय शिक्षण व औषधी द्रव्ये विभाग क्रमांक : एमईटी-१४९९/२७०२/प्र.क्र. २६०/९९/शिक्षण-२, दिनांक ५ जानेवारी २००१

४) आरोग्य व कुटुंब कल्याण मंत्रालय, केंद्र शासन यांचे पत्र क्रमांक U.12011/4/99-ME(P) Date 18th December 2000

प्रस्तावना : मा. सर्वोच्च न्यायालयाच्या निदेशानुसार खाजगी वैद्यकीय व दंत महाविद्यालयातील मुक्त व मुल्याभारित जागेवर प्रवेश घेणाऱ्या विद्यार्थ्यांकडून आकारावयाचे शैक्षणिक शुल्क सन १९९३-९४ पासून वेळोवेळी ठरविण्यात येत आहे. शैक्षणिक शुल्काच्या दराचे दर तीन वर्षांनी पुनर्विलोकन करण्यात यावे. त्यासाठी केंद्र शासनाने शैक्षणिक शुल्काची उच्चतम मर्यादा ठरवावी, असेही न्यायालयाचे निदेश आहेत. त्यानुसार या अगोदर केंद्र शासनाने घालून दिलेल्या उच्चतम मर्यादेच्या आधीन राहून सन १९९७-९८ पासून ३ वर्षासाठी खाजगी वैद्यकीय व दंत महाविद्यालयातील मुक्त जागा व मुल्याभारित जागावरील शैक्षणिक शुल्काचे दर संदर्भाधीन क्रमांक (१) येथील दिनांक १७ जुलै, १९९७ च्या शासन निर्णयाद्वारे निर्धारित करण्यात आले होते. सन १९९३-९४ पासून खाजगी वैद्यकीय आणि दंत महाविद्यालयामध्ये आकारण्यात येणाऱ्या शैक्षणिक शुल्काच्या संबंधात स्पष्टता करणारे आदेश शासनाचे संदर्भाधीन क्रमांक (२) मधील दिनांक २४ ऑक्टोबर १९९७ च्या शासन निर्णयाने निर्गमित केले आहेत. सन १९९७-९८, १९९८-९९, १९९९-२००० ही ३ वर्षे संपल्यानंतर सन २०००-२००१ या वर्षापासून खाजगी वैद्यकीय आणि दंत महाविद्यालयातील मुक्त जागा मुल्याभारित जागांसाठीचे शैक्षणिक शुल्क नव्याने निश्चित करण्याचा प्रश्न शासनाच्या विचाराधीन होता. त्यासाठी क्रमांक : एमईटी-१४९९/प्र.क्र.९३/९९/शिक्षण-१, दि. १२ मे, १९९९ च्या शासननिर्णयाद्वारे कुलगुरू, महाराष्ट्र आरोग्य विज्ञान विद्यापीठ, नाशिक यांच्या अध्यक्षतेखाली समिती गठीत झाली होती. समितीचा अहवाल प्राप्त झाल्यानंतर खाजगी वैद्यकीय दंत महाविद्यालयांकडून त्यांना येणाऱ्या खर्चाची माहिती प्राप्त झाल्यानंतर त्याबाबतचा राज्य शासनाचा प्रस्ताव केंद्र शासनाला पाठविण्यात आला. केंद्र शासनाने खाजगी वैद्यकीय/दंत महाविद्यालयांनी आकारावयाच्या शुल्काची उच्चतम मर्यादा उक्त संदर्भाधीन क्रमांक (४) मधील दिनांक १८.१२.२००० च्या पत्राद्वारे राज्य शासनास कळविली. त्या अगोदर, समितीच्या शिफारसी विचारात घेवून शासनाने राज्यातील शासकीय वैद्यकीय, दंत, आयुर्वेद शासन अनुदानित आयुर्वेद व युनानी, खाजगी आयुर्वेद युनानी, होमिओपॅथी, भौतिकोपचार/व्यवसायोपचार आणि डी.एम.एल.टी. अभ्यासक्रमासाठीच्या मुक्त व मुल्याभारित जागांवर आकारावयाच्या शैक्षणिक शुल्काचे दर शासनाने संदर्भाधीन क्रमांक (३) येथील दिनांक ५ जानेवारी २००१ च्या शासन निर्णयाद्वारे निश्चित केले आहेत. केवळ खाजगी वैद्यकीय/ दंत महाविद्यालयासाठी मुक्त मुल्याभारित जागांवर आकारावयाच्या शैक्षणिक

शुल्काबाबत उच्चतम मर्यादा केंद्र शासनाने कळविली नव्हती म्हणून त्याबाबत निर्णय घेणे बाकी होते. आता त्याबाबत केंद्र शासनाचा निर्णय प्राप्त झाल्याने त्यासंबंधाने शासनाने आता पुढील प्रमाणे निर्णय घेतला आहे. :-

शासन निर्णय : केंद्र शासनाने उक्त संदर्भाधीन क्रमांक (४) येथील दिनांक १८.१२.२००० च्या पत्राद्वारे खाजगी वैद्यकीय आणि दंत महाविद्यालयातील मुक्त व मुल्याभारित जागेवरील शैक्षणिक शुल्काच्या दरासंबंधीची उच्चतम मर्यादा सन २०००-२००१ पासून तीन वर्षासाठी अगोदरच्या उच्चतम मर्यादेपेक्षा १५ टक्के अधिक केल्याचे कळविले आहे. ती विचारात घेवून खाजगी वैद्यकीय व दंत महाविद्यालयातील मुक्त आणि मुल्याभारित जागांवर अभ्यासक्रम पूर्ण करणाऱ्या विद्यार्थ्यांकडून प्रतिवर्षी खालील प्रमाणे शैक्षणिक शुल्क आकारण्यास शासन मान्यता देत आहे.

अ.क्र.	विद्याशाखा	शैक्षणिक मूल्य	मुक्त जागा	मुल्याभारित जागा
१)	वैद्यकीय	१४,९५०	१,२६,५००	
२)	दंत	९,२००	८६,२५०	

२. वर उल्लेखित शैक्षणिक शुल्काचे दर हे सन २०००-२००१ या वर्षापासून ३ वर्षासाठी म्हणजेच सन २०००-२००१, २००१-२००२ व २००२-२००३ या वर्षासाठी महाविद्यालयात शिक्षण घेत असलेल्या सर्व विद्यार्थ्यांना लागू राहतील.

३. खाजगी वैद्यकीय महाविद्यालय चालविणाऱ्या ज्या खाजगी संस्थांचे स्वतःचे रुग्णालय नसेल त्यांनी मुल्याभारित जागेवर प्रवेश दिलेल्या प्रत्येक विद्यार्थ्यांमागे रु. २३,०००/- व जर संस्था दुसऱ्या रुग्णालयाचा अंशतः वापर करित असेल तर त्या संस्थेने मुल्याभारित जागेवर प्रवेश दिलेल्या प्रत्येक विद्यार्थ्यांमागे प्रतिवर्षी रु. ८,०५० एवढी रक्कम रुग्णालय चालविणाऱ्या प्राधिकरणास/शासनास अदा केली पाहिजे.

तसेच ज्या खाजगी दंत महाविद्यालयाचे स्वतःचे रुग्णालय नसेल त्यांनी मुल्याभारित जागेवर प्रवेश दिलेल्या प्रत्येक विद्यार्थ्यांमागे रु. ११,५००/- ज्या संस्थेचे रुग्णालय वापरात असतील त्या संस्थेच्या प्राधिकरणास/शासनास अदा करावे.

४. सर्व खाजगी वैद्यकीय व दंत महाविद्यालयांना असे कळविण्यात येते की, त्यांनी शासनाने विहित केलेल्या दरानुसारच शैक्षणिक शुल्क आकारावे. याबाबीचा भंग केल्यास सदरच्या संस्थेवर कायदेशीर कारवाई करणे भाग पडेल.

संचालक, वैद्यकीय शिक्षण व संशोधन, मुंबई आणि प्राचार्य सर्व खाजगी वैद्यकीय आणि दंत महाविद्यालये यांनी सदर आदेशाची प्रत त्यांच्या सूचना फलकावर लावावी.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

(टी.सी.बॅंजामिन)

सचिव, महाराष्ट्र शासन

payment of salary is concerned, all have to be examined. The impugned judgment, on the face of it, shows that the High Court has not considered all these aspects. Under these circumstances, we think it appropriate to quash the impugned order of the High Court and remit the matter to the High Court for re-consideration and re-disposal of the Writ Petitions after considering the submissions made by the rival parties, namely, the management, the employees as well as the State Government, and also AICTE, as the institution appears to be polytechnic Institution.... "

4. The Respondent No. 1 had filed an affidavit in reply on 23rd March, 1999 opposing the petition and it had contended that (a) the petition was not maintainable as the Respondent Nos. 1 and 2 were not amenable to the writ jurisdiction under Article 226 of the Constitution, (b) the petitioners had accepted the terms and conditions of the appointment orders at the time of joining and, therefore, they were estopped from claiming salary over and above what was stated in the appointment orders; (c) the circular dated 29th September, 1995 could not be treated as binding and such circulars are issued by the Government under its administrative power, and not as sovereign and constitutional power, (d) no directions could be given by this Court for implementing the circular dated 29th September, 1995 issued by the Respondent no. 4, (e) the financial capacity of the institution did not permit it to implement the directions given in the circular dated 29th September, 1995 and if such directions, are given the

Respondent No. 2 college would be forced to close down; (f) none of the petitioner Nos. 2 to 31 are having the requisite qualifications and, therefore, they could not claim the pay scales and other allowances as prescribed by the A.I.C.T.E. or the Government of Maharashtra, and (g) in any case the Respondent management was paying the basic pay scales and dearness allowance at 40% of the rates as prescribed even though initially the appointment orders stated that the petitioners were appointed on consolidated salary.

5. The Respondent Nos. 1 and 2 have filed an additional affidavit in reply and raised additional grounds to oppose the petition. It has been submitted that the Government instructions regarding revision of pay are not binding on the management and the Central Government vide letter dated 16th August, 1996 had informed the institutions that all regular employees should be given a minimum of 2/3rd of the payment which the Government offers to their employees and the said approach requires to be followed in the case of private unaided polytechnics. The management reiterated that it has not given any undertaking to implement the pay scales prescribed by the Government for the teaching and non-teaching employees working in polytechnics. In his arguments, the learned counsel for the management has also taken up an additional ground viz. the belated approach of the petitioners to this Court.

6. Assistant Director, Technical Education has filed return

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महाराष्ट्र शासन : वैद्यकीय शिक्षण व औषधी द्रव्ये विभाग

शासन निर्णय क्रमांक : एमईडी १६८४/९५१/एमईडी-४

मंत्रालय, मुंबई ४०० ०३२, दिनांक ३ जुलै १९८४.

शासन निर्णय : महाराष्ट्रात गेल्या काही वर्षांत वैद्यकीय शिक्षणाच्या सुविधा जास्त प्रमाणात उपलब्ध व्हाव्यात अशी मागणी सतत वाढत आहे. तसेच वैद्यकीय शिक्षण घेण्यासाठी या राज्यातील विद्यार्थी पुढे येत आहेत. शासनाने अशासकीय तांत्रिक व अभियांत्रिकी महाविद्यालये, तंत्र निकेतने “विना अनुदान तत्त्वावर” काढण्यात परवानगी दिल्यामुळे वैद्यकीय महाविद्यालयेही “ना अनुदान तत्त्वावर” काढण्याच्या मागणीचा जोर वाढला. या सर्व गोष्टी विचारात घेता काही अंशी गरज भागविण्यासाठी म्हणून “ना अनुदान तत्त्वावर” वैद्यकीय महाविद्यालय काढण्याचा प्रश्न शासनाच्या विचाराधीन होता.

२. शासनाने या शैक्षणिक वर्षापासून (१९८४-८५) खालील नमूद केलेल्या तीन खाजगी संस्थांना “ना अनुदान तत्त्वावर” वैद्यकीय महाविद्यालय स्थापन करण्यास रीतसर परवानगी देण्याचे ठरविले आहे.

१) कृष्णा चॅरीटेबल ट्रस्ट, कृष्णा हॉस्पिटल अँड मेडिकल सेंटर, कराड.

२) प्रवरा मेडिकल ट्रस्ट लोणी (प्रवरा नगर) तालुका श्रीरामपूर जि. अहमदनगर.

३) श्री. शिवाजी शिक्षण संस्था, शिवाजी नगर, अमरावती.

३. वरील वैद्यकीय महाविद्यालयांसाठी खालील अटी व शर्ती बंधनकारक राहतील :-

१. वैद्यकीय महाविद्यालयांची प्रवेश संख्या १०० पर्यंत असावी.

२. वार्षिक शैक्षणिक फी रु. ३०,००० पैसा जास्त आकारण्यात येऊ नये.

३. मागासवर्गीय विद्यार्थ्यांसाठी जागा राखीव ठेवण्याबाबत कोणताही निर्बंध असणार नाही.

४. प्रवेश संख्येपैकी ८० टक्के जागा संस्थेने भराव्यात. उरलेल्या २० टक्के जागा शासन भरील.

५. प्रवेश संख्येपैकी २० टक्के व्यवस्थापनाच्या मर्जीनुसार भरण्याची मुभा असावी व या जागांसाठी किमान ५० टक्के गुणांची आवश्यकता राहिल. संस्थेने भरावयाच्या इतर जागा व तसेच शासनाने भरावयाच्या जागा गुणवत्तेनुसारच भरल्या जातील.

६. सर्वसाधारणपणे वैद्यकीय महाविद्यालयांच्या प्रवेशासंबंधी शासनाचे जे नियम आहेत त्याच धर्तीवर खाजगी संस्थांना सुयोग्य ठरतील अशा तऱ्हेने विहित केले जातील.

७. विद्यार्थ्यांची निवड करण्यासाठी संस्थेने एक निवड समिती नेमावी. व त्यात शासनाचा एक प्रतिनिधी असावा.

८. वैद्यकीय महाविद्यालयातील शिक्षणाचा दर्जा हा मेडिकल कौन्सिल ऑफ इंडिया, केंद्र शासन व राज्य शासन यांच्या मानदंडकाप्रमाणे असणे अत्यंत आवश्यक आहे. त्यासाठी म्हणून संबंधित संस्थावर खालील गोष्टी बंधनकारक राहतील.

अ) एका विद्यार्थ्याला ७ खाटा या प्रमाणानुसार वैद्यकीय महाविद्यालयाशी संलग्न असणारे जे रुग्णालय आहे त्यात ७०० खाटांची यथायोग्य व कायम स्वरूपाची व्यवस्था केली पाहिजे.

ब) शासनाची एक उच्चस्तरीय समिती या वैद्यकीय महाविद्यालयातून शिक्षणाचा दर्जा व प्रगती योग्य रीतीने होत आहे किंवा नाही या गोष्टींवर लक्ष ठेवून शासनास योग्य त्या शिफारसी करील.

क) वैद्यकीय शिक्षणासंबंधी अस्तित्वात असलेले व पुढे अस्तित्वात येणारे जे काही नियम असतील ते पाळणे संस्थेवर बंधनकारक राहिल.

९. भविष्य काळात महाविद्यालये व रुग्णालये चालविण्यासाठी ज्या काही निर्धींची व तरतुदींची आवश्यकता लागेल त्यासंबंधी संस्थांनी खात्रीशीर व बळकट व्यवस्था केली पाहिजे.

१०. या महाविद्यालयांचा प्रशासनावर व कार्यशीलतेसंबंधी शासनाचे वरिष्ठ नियंत्रण असण्यासाठी शासनाचा एक प्रतिनिधी (संचालक, वैद्यकीय शिक्षण आणि संशोधन) संस्थेच्या कार्यकारी मंडळावर राहिल.

११. आवर्ती त्याचप्रमाणे अनावर्ती खर्चासाठी अनुदानाची मागणी या संस्था शासनाकडे करणार नाहीत असे लेखी अभिवचन त्यांनी शासनास दिले पाहिजे.

१२. ज्यांच्याकडे स्वतंत्र रुग्णालय नाही अशा खाजगी संस्थांना शासकीय रुग्णालयातून खाटा उपलब्ध करून देण्याबाबत प्रत्येक संस्थेच्या मागणीच्या गुणवत्तेनुसार विचार केला जाईल.

४. वरील अटी व शर्ती मान्य असल्याबाबत संबंधित शिक्षणसंस्थेने शासनाला लेखी लिहून देणे आवश्यक राहिल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने

(गो.तू. चंद्रमोरे)

on behalf of the Respondent State Authorities. It is stated that vide Government Resolution dated 21st May, 1983 all technical colleges, including polytechnics run by any agency, **either aided or un-aided, were required to abide by the rules and regulations issued by the Government of Maharashtra or by the Director of Technical Education for time to time.** The Respondent No. 1 was granted permission to open a polytechnic during the academic year 1983-84 vide order dated 22nd July, 1983 and subsequently the Government of India enacted the All India Council for Technical Education Act, 1987. Pursuant to the said Act the A.I.C.T.E. grants permission to technical colleges with the concurrence of the concerned State Government under section 10 of the said Act and it is responsible for prescribing the specific norms and standards, including pay scales and services conditions of the teaching staff so as to maintain the qualitative standard of education all over the country. It is stated that the Respondent No.4 derives his authority to issue directions to such institutions under section 4 of the Maharashtra Employees of Private Schools (Conditions of Service Regulations) Act, 1977 (M.E.P.S. Act, for short) and **it is not permissible in law for a private un-aided technical or non-technical institute to contend that it was not liable to pay salaries as per the pay scales prescribed by the Government in view of the judgement of the Supreme Court in the case of "K. Krishnamacharyulu and other vs. Shri Venkateshwara College of Engineering and others"** (AIR 1998 S.C.295). The private educational institutes like the polytechnics come within the ambit of the M.E.P.S. Act and the Rules framed thereunder and, therefore, the Respondent Nos. 3 and 4 have the authority to issue instructions/directions to such institutes to pay the salaries as per the prescribed rates. In short, it is contended that the Respondent Nos. 1 and 2 are required to pay the salaries and other allowances as prescribed by the Government of Maharashtra or the A.I.C.T.E., to the petitioners.

7. So far as the point of belated approach to this Court is

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महाराष्ट्र शासन

वैद्यकीय शिक्षण व औषधी द्रव्ये विभाग,

शुद्धीपत्र क्रमांक : एमईडी/१०८७/१९२७/एमईडी ४ अ

मंत्रालय, मुंबई ४०० ०३२, दिनांक ९ जुन, १९८७

वाचा : महाराष्ट्र शासन वै.शि.व. औ.द्र. विभाग क्रमांक एमईडी १६८४/९५१/एमईडी-४ दिनांक ३ जुलै १९८४.

शुद्धीपत्र :-

वैद्यकीय शिक्षण व औषधी द्रव्ये विभाग, शासन निर्णय क्रमांक एमईडी १६८४/९५१/एमईडी-४ दिनांक ३ जुलै, १९८४ अन्वये “ना अनुदान तत्वावर” खाजगी वैद्यकीय महाविद्यालय काढण्यात शासनाने ज्या अटी दिल्या होत्या त्या अटी व शर्तीच्या आधीन राहून परवानगी दिली होती.

२. उपरोक्त शासन निर्णयातील अट क्रमांक ११ मध्ये पुढील वाक्य जोडण्यात यावे.

“उपरोक्त संस्थेद्वारे विना अनुदान तत्वावर खाजगी वैद्यकीय महाविद्यालय काढण्यापूर्वी त्या संस्थेद्वारे जी रुग्णालये किंवा हॉस्पिटल्स इत्यादींना सार्वजनिक आरोग्य विभागाद्वारे किंवा इतर विभागाद्वारे अनुदान (आवर्ती तसेच अनावर्ती) मिळत असेल तर त्या संस्था, रुग्णालयासाठी किंवा हॉस्पिटलसाठी आवर्ती तसेच अनावर्ती अनुदान मिळण्यास पात्र ठरतील. ग्रामिण विभागातील जी रुग्णालये असतील ती रुग्णालयेही शासनाच्या प्रचलित नियमाप्रमाणे आवर्ती तसेच अनावर्ती खर्चासाठी नियमानुसार मिळणाऱ्या अनुदानासाठी पात्र असतील. असे अनुदान ज्या नियमाप्रमाणे किंवा अटीनुसार मिळत होते त्याप्रमाणेच मिळेल. परंतु अशा संस्थांना वैद्यकीय महाविद्यालय चालविण्यासाठी शासनाद्वारे कोणतेही अनुदान मिळणार नाही.

३. हे शुद्धीपत्र सार्वजनिक आरोग्य विभाग व विधी व न्याय विभागाच्या सहमतीने व त्या विभागाच्या अनौपचारिक संदर्भ क्रमांक २३९५/ए/६९०, दिनांक २९.५.१९८७ अन्वये निर्गमित करण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने

(म.प्र. टांकसाळे)

उपसचिव, महाराष्ट्र शासन,

concerned, we note that the said ground is unsustainable as the petitioners have sought directions to implement the instructions given by the Government of Maharashtra vide circular dated 29th September, 1995 and, thereafter, representations have been made to the management as well as to the Respondent No. 4 in 1998. As there was no response from either of them, the petitioners approached this Court.

8. Regarding the qualifications of the petitioners it has been contended by the management that in addition to the first class graduation degree in engineering the petitioners must have passed the All India Examination such as GATE or equivalent and none of the petitioners fulfill these qualifications. The letter dated 30th December, 1999 issued by the All India Council for Technical Education is placed before us and along with it there is a notification issued by the A.I.C.T.E. regarding revised pay scales and service conditions for the teaching and non-teaching employees in polytechnics. The minimum qualifications requirement for appointment to the post of Lecturer, as per the said notification, is first class Bachelor's degree in appropriate branch of engineering/technology or first class Master's degree in appropriate branch for teaching posts in humanities and sciences. In Addition there is no requirement of formal teaching experience. The petitioners have also invited our attention to an advertisement released by the Respondent No.1 in the Marathi Newspaper “Lokmat” dated 21st August, 1999 for the post of Lecturers and other staff and we have noted that there is no requirement of passing a qualifying All India Examination like the GATE.

9. The Respondent Nos. 2 and 3 themselves admitted that, after the enactment of the A.I.C.T.E. Act, 1987 it is the A.I.C.T.E. which grants recognition and such a recognition

**NAGPUR UNIVERSITY TEACHERS' ASSOCIATION
MEETING NOTICE : 2**

Date : 15. 09. 2001

From

Dr. E.H.Kathale,
Secretary, NUTA,

N-162, Reshim Bagh, Nagpur-440 009.

To,

All the members

of the Nagpur University Teachers' Association

Dear members,

I have the honour to inform you that in exercise of the powers conferred on it by Article VIII of the Constitution of NUTA, the Executive Committee has decided to have the meeting of General Body at **12.00 Noon** on the date and at the place mentioned below.

2. Agenda of the General Body meeting is printed in this NUTA Bulletin. If you propose to suggest any amendments to any of the proposals/Resolutions included in the Agenda, you may send it to me within a period of one week from the date of the posting of this Bulletin. It will not be possible for the amendments received after the due date to be included in the additional agenda. Please send one copy of your amendment to Prof. B.T.Deshmukh, President, NUTA, 3, Subodh Colony, Near Vidarbha Mahavidyalaya, Amravati-444 604.

3. Rules for proposing amendments to the proposals/resolutions are printed on page 97 of 1977 NUTA Bulletin. You are requested to kindly make it convenient to attend the meeting.

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

Date and Place of the meeting

Sunday, the 11 November, 2001

at 12.00 Noon at,

**S.P.M. Science & Gilani Arts &
Commerce College, Ghatanji.**

has been granted to Respondent No. 2 on year to year basis. One such order dated 16th of August, 1999, granting recognition for the academic years 1999-2001 has been brought on record. When the A.I.C.T.E., a body created by an Act of Parliament, has granted recognition in favour of Respondent No.2 an inference will have to be drawn that the said body had examined the qualifications of the teaching and non-teaching staff as well as availability of the infrastructure before the order of recognition was passed and such an order of recognition would be a conclusive proof that the Respondent No. 2 had employed qualified teachers and other non-teaching staff. The defence that the petitioners though being not qualified for the posts they were appointed is, thus, without any basis.

10. The financial capacity of the private institutes to pay the salaries and other allowances to their employees has been considered by the Apex Court in the case of the "*The Chandigar Administration and others V/s Mrs. Rajni Vali and others*" [JT 2000(1) SC 159.] On referring to its earlier decisions in the case of "Haryana State Adhyapak Sangh and others etc. V/s State of Haryana and others etc." [AIR 1988 SC 1663]. "Haryana State Adhyapak Sangh and others V/s State of Haryana and others" (AIR 1990 S.C.968] and "State of Haryana and another V/s Ram Chander and another" [JT 1997 (5) SC 217], **the Supreme Court held that the difficulty of additional financial burden faced by the management cannot be a reason to deny the parity in salary.** The learned Counsel for the Petitioners, on this issue, has rightly relied upon our decision in the case of "*Raskar Vidya Damodhar Mrs. Bhujbal Vidya V/s Maharashtra Arogyamandal and others*" [2000 (4) Mh.L.J. 129] and "*Sundanda Pandharinath Adhav and others V/s State of Maharashtra and others*" (2001 (1) Mh.L.J. 167) On this point, we must also note the clarifications given by the State Government in its return. Though the State Government had initially directed the implementation of Fifth pay commission recommendations with effect from 1st January, 1996 vide Government resolution dated 18th of December, 1999, by a subsequent government Resolution dated 4th of October, 2000 the government directed that the scheme of revision of pay scales, declared vide Government resolution dated 18th December, 1999 should be made applicable to the teachers, librarians and instructors of physical education in the unaided engineering colleges and other equivalent institutions of technical education, including Architecture and Pharmacy at degree's and equivalent level with effect from 1st August, 2000. As the financial burden on the unaided private managements was drastically hiked due to the implementation of the Fifth Pay Commission Recommendations, the Government of Maharashtra revised the fees payable to such colleges for the academic year 2000-2001 onwards and while working out the fees structure, the committee constituted by the Government has considered each and every financial liability of such private managements. In fact, the rate of fees so fixed by the State Government is already under challenge by the students and the petitions are pending. Be that as it may, the fact remains that the

Government of Maharashtra being alive to the increased financial burden on such unaided private managements, has taken necessary steps to hike the fees payable by the students so as to ensure that the financial resources at the disposal of these managements do meet the requirements of the financial liabilities. Alongwith the return filed by the Assistant Director, the letter dated 2nd June, 2000 issued by Respondent No.4 has been brought on record which indicates the revised rates of fees as applicable to the polytechnics. We are, therefore, of the considered view that the Respondent management cannot take a shelter of financial incapacity.

11. Regarding the preliminary objection about the maintainability of the petition, we may usefully refer to the judgment of the Supreme Court in the case of "**Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust and others V/s V.R. Rudani and others**" [1989 2 SCC 691] wherein the Supreme Court, in para 22, held thus :

"22. Here again we may point out that mandamus cannot be denied on the ground that the duty to be enforced is not imposed by the statute. Commenting on the development of this law, Professor de Smith states: "To be enforceable by mandamus a public duty does not necessarily have to be one imposed by statute. It may be sufficient for the duty to have been imposed by charter, common law, custom or even contract." We share this view. The judicial control over the fast expanding maze of bodies affecting the rights of the people should not be put into watertight compartment. It should remain flexible to meet the requirements of variable circumstances. Mandamus is a very wide remedy which must be easily available to reach injustice wherever it is found. Technicalities should not come in the way of granting that relief under Article 226. We, therefore, reject the contention urged for the appellants on the maintainability of the writ petition."

12. This issue was also answered in the subsequent judgment of the Apex Court which has been relied upon by the petitioners i.e. "K. Krishnamacharyulu and others" (supra) we, therefore, over rule the preliminary objection regarding the maintainability of the petition.

13. We now come to decide the two factors, as set out in the order passed by the Apex Court viz. whether a direction could be issued by the Respondent No. 4 vide communication dated 29th September, 1995 without any statutory authority and whether such a direction could be enforceable for issuance of a mandamus under Article 226 of the Constitution. To decide these issues, we are required to examine the source of the power conferring the authority in Respondent No.4 to issue the letter dated 29th September, 1995 and further, whether an undertaking was given by the Respondent No. 1 and if so what would be the effect for non-compliance of the undertaking as well as whether the undertaking in question could be enforced so far as the payment of salary is concerned.

14. The petitioners had stated the source of authority

MAHARASHTRA FEDERATION OF UNIVERSITY AND COLLEGE TEACHERS' ORGANISATIONS

**para 2.3 of the 'Report of the MFUCTO General Secretary' for the Union year 2000
Adopted by the Executive Committee and the GENERAL COUNCIL
of MFUCTO in its MEETING
Held at Shikshak Bhavan, Amravati ON Sunday, the 26th Aug. 2001**

2.3 Equally shocking is the fact that for the first time in Independent India, the Government of India has allowed Education Policy to be dictated by the big industrial houses. In fact, the government has constituted what is called the special subject Group on policy framework for private Investment in Education, Health and Rural Development also called the Prime Minister's Council on trade and Industry, which is required to submit policy framework for Reforms in Education. This Special Group consists of Mukesh Ambani as convener and Kumaramangalam Birla. While in the past all policy formulations were left to be decided by Education Commissions headed by eminent academicians and philosophers, such as, Dr. Sarvapalli Radhakrishnan, Dr. Kothari, and so on, the government has now hand picked two business tycoons in substitution of educational philosophers. The purpose of this exercise is to privatise education and hand over educational Institutions to categories of people as shikshan samrat in our own state, whose commitment to education is only money-minting by fleecing the parents, cheating the students and exploiting the teaching and non-teaching staff.

behind the circular dated 29th September 1995 firstly by relying upon the decision of the Supreme Court in the case of "K. Krishnamacharyulu" (supra) and secondly on the basis of the directions given by this court in Writ Petition No. 5264 of 1996 in the case of "Smt. Premlata Chavan Polytechnic, Karad". By an interim order dated 22nd October, 1996 this court had directed the management in that petition to pay salaries in accordance with the pay scales prescribed by the State Government and this order came to be challenged in S.L.P. (Civil) No. 22752 of 1996. The S.L.P. was dismissed by the Apex Court on 2nd December, 1996.

15. The Government of Maharashtra enacted the M.E.P.S. Act and under section 16 of the said Act, the M.E.P.S. Rules, 1981 have been framed. Section 2 (5) defines the term "Deputy Director" and it means the Deputy Director of Education, the Deputy Director of Technical Education, the Deputy Director of Vocational Education and Training or as the case may be, the Deputy Director of Art appointed as such by the State Government for the respective region or area. Clause (6) of section 2 defines the term Director and it means the director of Education or the Director of Technical Education or the Director of vocational Education and Training or the Director of Art as the case may be appointed as such by the State Government. Section 2 (12) defines the term management " and in relation to a school it means (a)... (b)... and (c) in any other case, the person or body of persons whether incorporated or not and by whatever name called, administering such school. The term "Private school" has been defined in section 2 (20) and it means a recognised school established or administered by a management other than the Government or a local authority. The term "School" as defined, initially did not include in its sweep the technical or vocational institutions/ colleges and, therefore, this court in writ petition No. 2719 of 1984 in the case of "Shri P.D.Prabhudesai V/s Principal, M.T.E. Society's walchand College of Engineering, Vishrambaug at Sangli had held that a polytechnic did not fall within the definition of school. The Government of Maharashtra, therefore, amended the definition of the term "School" by Maharashtra 32 of 1990 and the said term, as defined now in section 2 (24) reads, thus "School means a Primary school, secondary school, higher secondary school, junior college of education or any other institution by whatever name called, including technical, vocation or Art institution, or part of any such school, college or institution, which imparts general, technical, vocation, Art or as the case may be special education or training in any faculty or discipline or subject below the degree level.

16. It is, thus, clear that all the educational institutions which are running courses below the degree level are included within the term "School" as defined under the M.E.P.S. Act. section 3 (1) of the said M.E.P.S. Act states that its provisions shall apply to all private schools in the State of Maharashtra, whether receiving any grant in aid from the State Government or not. In the case of "*Shailaja Ashokrao Walse V/s State of Maharashtra and others*" [1999 1 Mh.L.J. 291] we had an occasion to interpret the said provision and we held that there cannot be a distinction between private aided and unaided schools when it comes to the applicability of the M.E.P.S. Act and the Rules framed thereunder, including the Government instructions issued from time to time. The S.L.P. challenging the same order was dismissed. Section 4 of the M.E.P.S. Act sets out the terms and conditions of service of employees of private schools and it would be desirable to reproduce subsections (1), (3) and (4) as under :

"4. Terms and conditions of service of employees of private schools : (1) Subject to the provisions of this section, the State Government may make rules providing for the minimum qualifications for recruitment (including its procedure), duties, pay, allowances, post-retirement and other benefits, and other conditions of service of employees of private schools and for reservation of adequate number of posts for members of the backward classes :

Provided that, neither the pay nor the rights in respect of leave of absence, age of retirement and post-retirement benefits and other monetary benefits of an employee in the employment of an existing private school on the appointed date shall be varied to the disadvantage of such employee by any such rules.

(2)

(3) If the scales of pay and allowances, post-retirement and other benefits of the employees of any private school are less favourable than those provided by the rules made under sub-section (1), the Director shall direct in writing the management of such school to bring the same up to the level provided by the said rules, within such period or extended period as may be specified by him.

(4) Failure to comply with any direction given by the Director in pursuance of sub-section (3) may result in the recognition of the school concerned being withdrawn, provided that the recognition shall not be withdrawn unless the management of the school concerned has been given a reasonable opportunity of being heard.

17. Section 16 of the Act provides the rule making power and accordingly M.E.P.S. Rules, 1981 have been framed by the State Government. Rule 7 deals with scales of pay and allowances and it states that the pay scales for full time as well as part time staff in the schools shall be as specified in Schedule-C. There is no doubt that in Schedule-C the pay scales as applicable to the teaching and non-teaching employees in polytechnics have not been set out, and for obvious reasons.

As observed earlier, the Polytechnics were not within the ambit of the M.E.P.S. Act till 1990 and the State Government did not think it appropriate to amend Schedule-C thereafter for the simple reasons that on the enactment of the A.I.C.T.E. Act, 1987 it was the A.I.C.T.E who was responsible to prescribe the pay scales and other service conditions of the teaching as well as non-teaching staff in technical institutions like the Polytechnics and degree colleges. On 20th September, 1989 the A.I.C.T.E. issued circular prescribing the revised qualifications as well as pay scales for teachers of technical institutions including those of polytechnics. The Government of Maharashtra consequently issued Government Resolution dated 26th of May, 1992 adopting the recommendations made by the A.I.C.T.E. regarding the qualifications and pay scales. The condition of qualifying in an All India Examination such as GATE or equivalent does appear in the circular dated 20th September, 1989 issued by the A.I.C.T.E. and the Government Resolution dated 26th May, 1992 issued by the Government of Maharashtra. However in the subsequent circular dated 30th of December, 1999 the said additional condition of qualification has been deleted by the A.I.C.T.E. The Government of Maharashtra issued another Government Resolution on 22nd November, 1989 for revision of pay scales of the employees in Polytechnics and further clarifications have been set out in the circular dated 23rd March, 1995 issued by Respondent No.4.

18. If regards be had to the provisions of section 4(1) it is clear that the State Government has the powers of making rules providing for the minimum qualifications for recruitment, duties, pay, allowances, post-retirement and the other benefits and other conditions of service of employees of private school and for reservation of adequate number of posts for members of the backward classes. Subsection (3) of Section 4 further states that if the scales of pay and allowances, post-retirement and other benefits of the employees of any private school are less than the provided by the said Rule made under subsection (1) the Director shall direct in writing the management of such school to bring the same up to the level provided by the said rules, within such period or extended period as may be specified by him. As per subsection (4) failure to comply with any directions given by the Director in pursuance of subsection (3) may result the recognition of the school being withdrawn provided that the recognition shall not be withdrawn unless the management of the school concerned has been given a reasonable opportunity of being heard. It is under the provisions of section 4 (3) of the M.E.P.S. Act that the Respondent No. 4 is vested with the authority to issue directions in writing to the management of all private schools to bring the pay scales, allowances, post-retirement and other benefits of the employees on par with the rates prescribed. The A.I.C.T.E. has already prescribed the pay scales in respect of the employees under the Polytechnics and, therefore, the Respondent No.4 has the authority to issue directions to such polytechnics to implement the pay scales prescribed by the A.I.C.T.E. Even, otherwise, the Respondent management in its return has admitted the role of A.I.C.T.E. in the following words :

".... It is submitted that the actual control in academic as well as in administration of the college of the technical institutions, vest with All India Council for Technical Education (hereinafter referred to as "the Council") and the said council is established under the provisions of All India Council for Technical Education Act of 1987. In view of the provisions of the Act, norms and standards of the technical institutions are set up by the said council. In exercise of its power, the council has framed norms and standards for polytechnic colleges (diploma courses). According to the said standards the technical institution running diploma courses in various engineering branches, has to follow the norms in running the Polytechnic. It is submitted that in the said norms, requirements of running the Polytechnic, payment of salaries etc. to staff working in the said Polytechnic or institutions are clearly stated."

19. The Council being a body created under an Act of the Parliament, is required to carry out statutory functions and it is nodal agency so far as the technical education is concerned. The respondent No. 4 being responsible for the technical education at the State Level derives his authority to issue directions/instructions to the private managements, whether aided or unaided, in view of the provisions of section 4(3) read with section 3 (1) of the M.E.P.S. Act and by issuing such directions he would be performing a statutory function. **The petitioners are, therefore, entitled to seek directions or a writ of mandamus against their employer for implementing such directions regarding pay scales and other benefits.** The circular dated 29th of September, 1995 is required to be held to have been issued by exercising the powers under section 4(3) of the M.E.P.S. Act and there is no doubt that the Respondent No. 2 is governed by the provisions of the said Act.

20. The Government of Maharashtra granted permission to the Respondent No. 1 to open the Respondent No. 2 Polytechnic for the academic year 1983-84, vide order dated 22nd July, 1983 on certain terms and conditions and conditions (A) and (C) as set out therein are reproduced as under :

"अ) शासन निर्णय, शिक्षण व सेवायोजन विभाग क्र. टिईएम-३३८२/१११३६(१९०)तांशि-१अ, दिनांक २५ मे १९८३ अन्वये अशा संस्थांना परवानगी देण्यासाठी शासनाने विहित केलेल्या अटी व शर्ती आपणास मान्य असतील (सदर शासन निर्णयाची प्रत सोबत जोडली आहे.)

क) वरील (अ) व (ब) मध्ये अंतर्भूत असणारी कागदपत्रे व औपचारिक बाबी या संस्थेद्वारे तंत्र शिक्षण संचालकाच्या सहमतीने, समाधानकारकरित्या पूर्ण करण्यात येतील व त्यानंतरच अभ्यासक्रम सुरु करण्यासाठी अंतिम परवानगी तंत्र शिक्षण संचालक, महाराष्ट्र राज्य मुंबई यांच्याकडून देण्यात येईल."

21. In condition (A) itself it is clearly stipulated that the **management agrees to be bound by the terms and conditions as prescribed by the State Government** while granting such permission. As per clause (C) the management was called upon to fulfil the formalities before starting the institution and pursuant to the said requirement the Respondent No.1.

Submitted an undertaking on 21st July, 1995 as a part of the application for recognition. The undertaking is in the following words :-

" The management hereby agrees that it is willing to and shall abide by the orders and rules laid down by the department or that will be laid down hereinafter regarding recognition, grant-in aid, conduct of the institution etc."

This undertaking amply makes it clear that the Respondent No. 1 management was bound by the directions/orders issued by the Respondent No. 4 from time to time for the conduct of the Respondent No. 2 Polytechnic and the term "conduct of institution" would include the implementation of pay scales and other service conditions in respect of its employees.

22. In column 12 of the application for recognition, as submitted by the Respondent No. 1 on 31st July, 1983, it has been stated as under :-

"Hindi Sewa Mandal was established in the year 1953 and it is conducting classes from 1st standard to 12th standard. Total students strength for the year 1983-84 is 4500. Society is in possession of 20 Acres of land having an estimated cost of Rs.5 Lakhs. Society has its own newly constructed building to accommodate Diploma courses, market value of it is nearly

Rs.4 Lakhs. Till the completion of new Polytechnics building the proposed college will be housed in the presently old building. In Bhusawal there are 16 schools, science colleges and technical high schools and one Government I.T.I. and 7 large scale industries having laboratories and workshops. Laboratories and workshops will be made available on payment basis. At present many prominent institutions are anxious to extend cooperation and help. Hind Sewa Mandal Society or its management keeps no ray of expectation of any type of grant from Government, recurring or non-recurring."

The above declaration made by the Respondent No. 1 itself indicates about the infrastructure available with it, the potential for running the proposed Polytechnic and the determination of the management to run it without any financial assistance from the State Government. **The management was fully aware of its responsibility towards the salary payment and other benefits to its employees as per the pay scales prescribed by the Government** or the A.I.C.T.E. from time to time and more so when the council had granted recognition on year to year basis, it presupposes that its record was examined by the said Council before such orders were issued. **It is not disputed that in the academic year 2000-2001 the Respondent No. 1 is running a number of educational institutions wherein about 8000 students are enrolled with about 350 teaching and non-teaching employees.** It celebrated its golden jubilee in the academic year 2000-2001. It is an institution with a sound base in all respects and **it cannot contend before us that it has discharged its obligation by paying the basic salary as prescribed by the A.I.C.T.E. plus 40% dearness allowance and 10% House Rent Allowance and other statutory benefits.**

23. In the additional affidavit filed by the Respondent No. 1 it has been also contended that the Respondent No. 2 institution has been closed for the academic year 2000-2001 onwards. We have seen from the record that such an approach seems to have been made by the said management to the Respondent No.4. However, the factum of closure and permission thereof may be governed as per the rules. The services of its employees will be subject to such orders to be passed either by the Deputy Director or Director of Technical Education or as per the provisions of the M.E.P.S. Act and the Rules framed thereunder. We need not dwell upon those issues. The Petitioners would be entitled to receive the benefits so long as they continue to be in service. Shri Patil, the learned counsel for the respondent management also submitted that the petitioners had given consent to work on the consolidated salary as set out in their appointment letters and, therefore, they are estopped from raising the dispute for payment of higher financial benefits. It is well settled that there is no estoppel against the statutory provisions and specially when the service conditions of the employees are governed by the provisions of the M.E.P.S. Act and the Rules thereunder as well as the norms laid down by the A.I.C.T.E. which have been subsequently followed by the State Government and directions have been issued to the management by the Respondent No. 4 under section 4 (3) of the said Act. In any case, we are not inclined to consider the Petitioners prayers for the period prior to September, 1995.

24. In the premises, we allow the petition partly and direct the Respondent Nos. 1 and 2 to implement the circular dated 29th September, 1995 issued by the Respondent No.4. Rule made absolute to the extent only.

25. This is a fit case to award costs and we, therefore, direct the Respondent Nos. 1 and 2 to pay an amount of Rs. 5,000/- (Rupees five thousand only) to the Petitioner No. 1 by way of costs. This amount shall be deposited with the Registry of this Court within a period of two weeks from today.

Dt. : 3.7.2001

ans / wp 364-99

True Copy
sd/
Section Officer
High Court of Bombay
at Aurangabad.

A G E N D A

of the General Body Meeting of NAGPUR UNIVERSITY TEACHERS' ASSOCIATION to be held at 12.00 noon on SUNDAY, the 11th November, 2001 at S.P.M. Science & Gilani Arts & Commerce College, GHATANJJI.

(Agenda continued from page 95)

STATEMENT REGARDING THE FIXED SECURITIES OF THE ASSOCIATION AS ON 31ST MARCH, 2001. STATEMENT NO.12

A) LIFE MEMBERS

1.	No.Of Members as on the day of Constitution amendment (9th May, 1976 i.e. to put membership fee in fixed deposits.) ...	...	214
2.	Total No. of Members as on the Date (9th Oct. 1988) of increasing the L.M.fees from Rs. 151 to 501) ...	...	2846
3.	No. of Members from 9th May 1976 to 9th Oct. 1988 (2-1) = (2846-214) =	...	2632
4.	Total No. of Members as on the date (30th April 1991) of increasing the LM fees (from Rs. 501 to 2001)	...	3279
5.	No. of Members from 9th Oct. 1988 to 30th April 1991 (4-2)=(3279-2846)= ...	...	433
6.	Total No. of members as on 31st March, 2001	...	4366
7.	No. of Members from 1st May, 1991 to 31st March, 2001 ...	...	1087

B) TEACHERS WHO MADE PART PAYMENT OF L.M.FEES

8.	No of Teachers who have paid 501/500	...	76
9.	A.No.of Teachers who have paid 1001/1000	...	482
	B.No.of Teachers who have paid 1501/1500	...	03

C) AMOUNT OF LM FEES RECEIVED. Rupees

10.	Amount Received from Members mentioned at Sr.No.1 above Rs.	...	00-00
11.	Amount Received from members at Sr.No.3 above (2632 x 151)	...	3,97,432-00
12.	Amount Received from members mentioned at Sr.No.5 above (433 x 501)	...	2,16,933-00
13.	Amount Received from members mentioned at Sr. No. 7 above.	...	21,74,000-00
14.	Amount Received from members mentioned at Sr. No.8 and 9 above	...	5,25,061-00
15.	Total amount of L.M.Fund received from all the members mentioned at Sr.No. 10+11+12 +13+14 above. and hence expected to have been invested in fixed Securities	...	33,13,426-00

D) TOTAL AMOUNT IN FIXED SECURTIES.

16.	Total amount invested in fixed securities (Details as per Appendix A & B) (19,29,360.00 + 13,50,000) =	...	32,79,360.00
17.	Total Balance in life membership Ac. (A/c.19893) Dr	...	32,755.61
18.	Total amount in fixed Securities and cash in the Bank (16+17)	...	33,12,115.61
19.	Amount of cheques under Realisation since they are deposited recently .....	...	1500.00
20.	Total of 18 and 19 above	...	33,13,615.61
21.	Surplus of 20 over 15	...	189.61

APPENDIX 'A'

Statement regarding the Fixed Securities of the Association as on 31st March, 2001 (See Item at Serial No.16 in the statement).

UNITS OF UNIT TRUST OF INDIA-MISG SCHEMES

Sr. No.	Unit Certificate No.	No. of Units	Face Value of Each Unit	Amount of	Date of Investment	Period of	Rate of Dividend
1	2	3	4	5	6	7	8
1.	100951600044327	10400	10	1,04,000	30.05.95	7 Years	9%
2.	1121660022511	11900	10	1,19,000	29.03.96	5 Years	9.50%
3.	1121690033190	4400	10	44,000	05.08.96	5 Years	9.25%
4.	112971720068574	7000	10	70,000	27.11.96	5 Years	9.25%
5.	112971720052898	1700	10	17,000	01.12.96	5 Years	9.25%
6.	1121760007408	9936	10	99,360	01.05.97	5 Years	9.25%
7.	1121760104356	7500	10	75,000	05.06.97	5 Years	14%
8.	1121830054366	20000	10	2,00,000	07.03.98	5 Years	14%
9.	1121870067257	15500	10	1,55,000	12.05.98	5 Years	12.5%
10.	1121890082085	25000	10	2,50,000	18.08.98	5 Years	12%
11.	1121900031912	39000	10	3,90,000	15.10.98	5 Years	12.5%
12.	1121150055042	11300	10	1,13,000	1.6.99	5 Years	10.75%
13.	1121240004679	14000	10	1,40,000	1.10.99	5 Years	10.50%
14.	1121260018514	12100	10	1,21,000	31.1.2000	5 Years	10.25%
15.	112971720068875	3200	10	32,000	27.8.2000	5 years	10.75%
Total				19,29,360			

APPENDIX 'B'

Statement regarding the Fixed Securities of the Association as on 31st March, 2001 (See Item at Serial No.16 in the statement).

BANK OF MAHARASHTRA, MIDS SCHEMES

Sr. No.	MIDS Certificate	Amount of Investment	Date of Investment	period of Investment	Rate of interest
1	620708/1	5,00,000	17.06.2000	39 Months	10%
2.	620740/1	8,50,000	08.02.2001	39 Months	10.50%
Total		13,50,000			

Date : 26.05.2001

S.A.TIWARI, Treasurer.

Note : Statement No.11 was printed on page 88 of 2000 NUTA Bulletin.

विषय क्रमांक ३००

शासननिर्णयाची अंमलबजावणी न करणाऱ्या महाविद्यालयांवर कारवाई :

प्रा. अशोक शा. राहाटे हे पुढील ठराव मांडतील :-

“ज्या विनाअनुदानित अभियांत्रिकी महाविद्यालयांनी ५ व्या वेतन आयोगाची अंमलबजावणी आजपर्यंत केली नाही त्या महाविद्यालयांना ५ व्या वेतन आयोगाची अंमलबजावणी त्वरीत करण्याची सक्ती महाराष्ट्र शासनाने करावी तसेच ५ व्या वेतन आयोगाची अंमलबजावणी करण्याचे टाळणाऱ्या अभियांत्रिकी महाविद्यालयांवर कडक कार्यवाही करावी अशी विनंती ही सभा महाराष्ट्र शासनास करते.”

विषय क्रमांक ३०१

५ वे वेतन आयोग लावल्याचा आभास :

प्रा. शंकर न. दंडारे हे आमसभेसमोर पुढील प्रस्ताव मांडतील :-

“महाराष्ट्र शासनाने विनाअनुदानित अभियांत्रिकी महाविद्यालयांना ५ व्या वेतन आयोगाची अंमलबजावणी नियमानुसार करण्याची सक्ती करावी तसेच नियमांचे उल्लंघन करून ५ वे वेतन आयोग लावल्याचा आभास निर्माण करणाऱ्या अभियांत्रिकी महाविद्यालयांवर कडक कार्यवाही करावी अशी विनंती ही सभा महाराष्ट्र शासनास करते.”

विषय क्रमांक ३०२

५५ महिने विलंबाने वेतनश्रेणी लागू करणारी भेदभावपूर्ण वागणूक :

प्रा. मा. गो.लोमटे हे पुढील प्रस्ताव मांडतील :-

“महाराष्ट्र शासनाने दि. ४ ऑक्टोबर २००० रोजी निर्गमित केलेला शासन निर्णय क्र.आरपीएस-२०००/५३/टीई-६ त्वरीत रद्द करून अभियांत्रिकी शिक्षकांना ५ व्या वेतन आयोगाची ५५ महिन्यांची (दि. ०१.०१.१९९६ ते ३१.०७.२०००) थकवाकी देण्याचे आदेश विनाअनुदानित अभियांत्रिकी महाविद्यालयांना द्यावेत अशी विनंती ही सभा महाराष्ट्र शासनास करते.”

विषय क्रमांक ३०३

अभियांत्रिकी महाविद्यालयातील गैरप्रकार :

प्रा.वी.वी.वानखडे हे पुढील ठराव मांडतील :-

“वॉक-इन-इंटरव्ह्यूज द्वारे नेमणूका, एकत्रित पगार, जास्तीचे शैक्षणिक कार्य इ. माध्यमातून अभियांत्रिकी शिक्षकांची वर्षानुवर्षा पासून सर्रास केली जाणारी पिळवणूक त्वरीत बंद करून संबंधित शिक्षकांच्या सेवा विद्यापीठांमार्फत नियमित करून घेण्याचे आदेश निर्गमित करावेत तसेच अभियांत्रिकी शिक्षकांची या ना त्या माध्यमातून पिळवणूक करणाऱ्या अभियांत्रिकी महाविद्यालयांवर कडक कार्यवाही केली जावी अशी ही सभा शासनास विनंती करते.”

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

(A STATUTORY BODY OF THE GOVERNMENT OF INDIA)

CORRIGENDUM

F.NO. 1-65/CD/NEC/98-99 Dated 17th Aug 2001

To,

The Secretaries, Dealing with Technical Institutions of all State Govt. and Union Territories

Sub :- Clarification on Norms for Calculation of Work Load in the Technical Institutions.

Ref :- (i) AICTE Notification No. 1-65//CD/NEC/98-99, dated March 15, 2000 for Degree level Technical Institutions.

(ii) AICTE Notification No. 1-65/CD/NEC/98-99, dated May 03, 2000 for Degree level Technical Institutions (Private Self Financing)

(iii) AICTE Notification No.1-65/CD/NEC/98-99, dated Dec. 30, 1999 for Diploma level Technical Institutions.

Sir,

In the above Notifications, It has been mentioned that two hours of Practical/Tutorial will be treated as one hour of lecture. It is hereby clarified that this is for calculation of credits of courses and not for calculation of workload. One hour of Practical/Tutorial classes will be treated as one hour of lecture for calculation of workload.

This issues with the approval of the competent authority.

Yours faithfully,

Sd/- (Dr. S.K. Srivastava)

Advisor (Faculty Development)

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION
(A STATUTORY BODY OF THE GOVERNMENT OF INDIA)
ADDENDUM

F.NO. 1-65/CD/NEC/98-99 Dated July 31,2001

To,
The Secretaries, Dealing with Technical Education
of all State Governments and Union Territories

Sub :- Career Advancement Scheme - Guidelines for Promotion Procedures.

Ref :- AICTE notification for pay scales for Degree Level Technical Institutions Vide No. 1 - 65/CD/NEC/98-99 dated March 15, 2000.

Sir,

In continuation of AICTE notification No. 1-65/CD/NEC/98-99 dated March 15, 2000, the guidelines for process of selection and constitution of Selection Committees for promotion under Career Advancement Scheme for Teachers of Degree level Technical Institutions have been formulated and are described in the Annexure to this letter.

This issues with the approval of the Competent Authority.

Sd/-(Dr. S.K. Srivastava)
Advisor (Faculty Development)

Annexure

Career Advancement Scheme of Teachers of Degree Level Technical Institutions (Government - aided Institutions)

The Promotions under Career Advancement Scheme will follow the guidelines given below. All the promotions in career advancement will be on 'in-situe' basis and therefore the work allocation (teaching load, etc.) will remain the same after promotion.

1.1.0 General

1.1.0 Minimum length of service for eligibility to move into the grade of Lecturer (Senior Scale) would be four years for those with Ph.D., five years for those with M.Phil, M.Tech and six years for others at the level of Lecturer, and for eligibility to move into the Grade of Lecturer (Selection Grade)/Asstt. Professor, the minimum length of service as Lecturer (Senior Scale) shall be uniformly five years.

1.1.1 For movement into grades of Asstt. Professor and above, the minimum eligibility criterion would be Ph.D. Those without Ph.D. can go upto the level of Lecturer (Selection Grade).

1.1.2 An Asstt. Professor with a minimum of eight years of service in that grade will be eligible to be considered for appointment as a Professor.

1.1.3 The selection Committees for Career Advancement shall be the same as those for Direct Recruitment for each category.

1.2.0 Lecturer (Senior Scale)

A Lecturer will be eligible for placement in a senior scale through a procedure of selection, if she/he has :

(i) Completed 6 years of service after regular appointment with relaxation of one year and two years, respectively, for those with M.Phil, M.E./M.Tech. and Ph.D.

(ii) Participated in summer/ winter schools of total duration of 4 weeks, or engaged in other appropriate continuing education programmes of comparable quality as may be specified or approved by the All India Council for Technical Education (AICTE).

(iii) Consistently satisfactory performance appraisal reports.

1.3.0 Lecturer (Selection Grade)

Lecturers in the Senior Scale who do not have a Ph.D. degree or equivalent published work, and who do not meet the scholarship and research standards, but fulfils the other criteria given below for the post of Asstt. Professor, and have a good record in teaching and, preferably, have contributed in various ways such as to the corporate life of the institution, examination work, or through Research & extension activities, will be placed in the Selection Grade, subject to the recommendations of the Selection Committee which is the same as for promotion to the post of Asstt. Professor. They will be designated as Lecturers in the Selection Grade. They could offer themselves for fresh assessment after obtaining Ph.D. and/or fulfilling other requirements for promotion as Asstt. Professor and if found suitable, could be given the designation of Asstt. Professor.

1.4.0 Assistant Professor

1.4.1 A Lecturer in the Senior Scale will be eligible for promotion to the post of Asstt. Professor if she / he has :

(i) Completed 5 years of service in the Senior Scale.

(ii) Obtained a Ph.D. degree or has equivalent published work.

(iii) Made some mark in the areas of scholarship and research as evidenced e.g. self-assessment, reports of referees, quality of publica-

tions, contribution to education innovation, design of new courses and curricula and extension activities.

(iv) After placement in the Senior Scale participated in winter / summer schools (short-term courses) of total duration of 4 weeks, or engaged in other appropriate continuing education programmes of comparable quality as may be specified/approved by the All India Council for Technical Education (AICTE).

(v) Possesses consistently good performances appraisal reports.

1.4.2 Promotion to the Post of Asstt. Professor will be through a process of selection by a Selection Committee to be set up under the Statutes / Ordinances of the concerned Institute / University or other similar Committees set up by the appointing authorities.

1.5.0 Professor

In Addition to the sanctioned position of Professors, which must be filled in through direct recruitment through all India advertisements, promotions may be made from the post of Asstt. Professor after 8 years of service as Asstt. Professor.

1.5.1 The Selection Committee for promotion to the post of Professor should be the same as that for direct recruitment. For the promotion from Asstt. Professor to Professor, the following method of promotion may be followed.

The candidate should present herself/himself before the Selection Committee with some of the following :

a) Self-appraisal reports(required).

b) Research contribution, books, articles, etc. published.(At least four papers in Journals required).

The best three written contributions of the teacher (as defined by her/him) may be sent in advance to the Experts to review before coming for the selection. The candidate should be asked to submit these in 3 sets with the application.

c) Seminars / Conferences attended. Must have attended at least 4 seminars / conference at national or international level or must have attended summer / winter schools (short-term courses) of total duration of 4 weeks.

d) Significant contribution of teaching / academic environment / institutional corporate life.

e) Adequate Extension and field outreach activities.

f) Development of course material / Monographs.

g) Participation in Continuing Education Programme

h) Any other academic contributions.

1.6.0 The requirement of consistently satisfactory performance appraisal reports, shall be the mandatory requirement for Career Advancement from Lecturer to Lecturer (Senior Scale) and from Lecturer (Senior Scale) to Lecturer (Selection Grade) / Assistant Professor.

The requirement for completing the courses would be as follows :

i) For Lecturer to Lecturer (Senior Scale), summer / winter schools courses of total duration of 4 weeks would be compulsory.

ii) Summer / winter school courses of total duration of 4 weeks for Lecturer (Senior Scale) to Lecturer (Selection Grade) / Assistant Professor.

iii) The senior teachers like Asstt. Professor / Lecturers (Selection Grade) and Professors may opt to attend four Seminars / Conferences in their subject area and present papers as one aspect of their promotion / selection to higher level or attend AICTE approved summer / winter schools to be offered by various approved institutions.

2.0.0 Selection Committees Recommended by AICTE

2.1.0 For Lecturer/ Asstt. Professor/Professor

The following committee is recommended for all the levels of promotions / direct recruitments.

1) Chairman, Board of Governors

2) The Principal of the concerned College.

3) Head / Chairperson of the Department not below the rank of Professor.

4) a) Vice-Chancellor or his nominee - not below the rank of Professor in a Technical Institute.

b) Nominee of AICTE not below the rank of Professor.

5) Experts

i) For Lecturers - two subject experts, out of which one must be present.

ii) Three subject experts - for Asstt. Professors / Professors, out of which two must be present.

Notes : i) In case of University, Vice-Chancellor will be the Chairman of the Selection Committee as well as Dean of the concerned Faculty will be the member of the Selection Committee. ii) In case of Government Colleges, where selections are made through Public Service Commission. The Commission must have three subject Experts for which the Public Service Commission must involve University in the selection. The Principal of the College should necessarily be included in the Selection Committee. The Commission may decide the Chairman of the Selection Committee. iii) At least four members including two outside Experts must constitute the quorum.

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