

**MAHARASHTRA FEDERATION OF UNIVERSITY & COLLEGE TEACHER'S ORGANISATION**  
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**July 13, 2019**

To,  
The Chairman/Secretary,  
University Grant Commission,  
Bahadur Shah Zafar Marg,  
New Delhi.

**Subject:** Gross violation of UGC Regulations-2018 by every Vice-Chancellor of every University in the State of Maharashtra.

**Reference:** Direction or order issued by the Hon'ble Vice-Chancellor of

(1) University of Mumbai Direction No. 01 of 2019 dated 26th March, 2019.

(2) Rashtrasant Tukadoji Maharaj Nagpur University Direction No. 20 of 2019 dated 10th April 2019.

(3) Savitribai Phule Pune University Circular No. 43 of 2019 Order dated 19th March 2019.

(4) Shivaji University, Kolhapur Order dated 2nd April 2019.

(5) Kavayitri Bahinabai Chaudhari North Maharashtra University, Jalgaon Direction No. 4 of 2019 dated 25th March 2019.

(6) Punyashlok Ahilyadevi Holkar Solapur University, Solapur Order dated 25th March 2019.

(7) Gondwana University, Gadchiroli Direction No. 13 of 2019 dated 2nd April 2019.

(8) Sant Gadge Baba Amravati University, Amravati Direction No. 8 of 2019 dated 2nd April 2019.

Respected Sir,

**1. Preamble**

1.1 The University Grants Commission issued Gazette Notification No. F.1-2/2017/(EC/PS) dated 18th July 2018 for implementation of 7th Pay commission and on Minimum Qualifications for appointment of Teachers and other Academic staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education.

1.2 This has been done in exercise of the power conferred under clause (e) and (g) of subsection (I) of section 26 read with section 14 of the University Grants Commission Act 1956 (3 of 1956) and in suppression of the "UGC Regulations on Minimum Qualifications for appointment of Teachers and other Academic staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education, 2010" (Regulation No. F.3 -1/2009 dated 30th June 2010) together with all amendments made there in from time to time.

1.3 The Department of Higher and Technical Education, Government of Maharashtra, issued the Government Resolution (GR) No. Misc-2018/C.R.56/18/UNI-1 dated 8th March 2019, on revision of pay scales of teachers in Non-Agricultural Universities, National Law University, Affiliated colleges, Government colleges/Institutes, as per 7th Central pay commission and UGC regulations on minimum qualifications for appointment of teachers and academic staff in the universities and colleges and measures for maintenance of standards in Higher Education 2018. Subsequently, the same department issued a Corrigendum to the GR, No. Misc-2018/C.R.56/18/UNI-1 dated 10th May 2019.

**2. UGC Regulations are Mandatory:**

2.1 In the first section of the Regulations (18th July 2018), under **1. Short Title...**, point no. 3 clearly states

**Nagpur University Teachers' Association****MEETING NOTICE : 1****DATED : 15.08.2019**

**From :**  
**Dr. Vilas Dhone**  
Secretary, NUTA  
14, Samruddhi Nagar,  
Sewagram Road, Wardha-442 001

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

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

2. If you propose to move any resolution for the consideration of the General Body, you are requested to send such resolution to me, with a copy to Prof. P.B. Raghuvanshi, President NUTA, Buty Plot, Near Mahajan wadi, Rajapeth, Amravati 444 601 within a period of 10 days from the date of the posting of this Bulletin.

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

Thanking you.

Yours faithfully  
**Sd/- Dr. Vilas Dhone,**  
Secretary, NUTA.

**Time, Day and Date of the Meeting**  
**12.00 Noon on Sunday, the**  
**24th November, 2019**

“3. If any University contravenes the provisions of these Regulations, 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”. With this clarification, it is apparent that these regulations are mandatory in nature.

2.2 It is stated in clause 1.2 of the Notification, under **1. Coverage**, “1.2 Every university or institution deemed to be University, as the case may be, shall as soon as may be, but not later than within six months of the coming into force of these Regulations, take effective steps for the amendment of the statutes, ordinances or other statutory provisions governing it, so as to bring the same in accordance with these Regulations.”

2.3 Further UGC reiterates in its letter D.O. No F.1-14/2019(CPP-II) dated 4th June 2019 that “All the Universities, Colleges and Institutions Deemed to be Universities are hereby requested that the enclosed Guidelines shall be adhered to in letter and spirit. You are requested to kindly take steps to ensure that the vacancies in the University as well as the Colleges affiliated to your University are filled at the earliest.”

2.4 Thus, it is clear that, each state government shall adopt UGC Regulation and implement it in letter and spirit to get the financial support from Central government, for implementation of 7th pay-revision. It is to be noted that

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH : NAGPUR  
WRIT PETITION NO. 2068 OF 2019**

**Petitioners :** Rajesh Vasant Rao Pande, Age 60 years, Occ. Retired, R/o. Pooja Colony, Near Deep Nagar No. 2, Chatri Talav Raod, Amravati, Tah. and Dist. Amravati.  
**VERSUS Respondents :** (1) State of Maharashtra through its Secretary, Higher and Technical Education Department, Mantralaya, Extension Building, Mumbai. (2) Assistant Director, Higher Education, Amravati Division, V.M.V. Premises, Amravati, Tah. & Dist. Amravati. (3) Degree College of Physical Education, through its Principal, Hanuman Vyayam Nagar, Amravati, Tah. & Dist. Amravati.

Shri P. S. Patil, Advocate for petitioner Shri S. M. Ghodeswar, Asst. Govt. Pleader for respondents 1 & 2 Shri Akshay Sudame, Advocate for respondent no. 3

**Coram : Sunil B. Shukre & S. M. Modak, JJ  
Dated : 29th July 2019**

**Oral Judgment (Per Sunil B. Shukre, J)**

1. Rule. Heard forthwith by consent of parties.

2. It is not in dispute that the facts involved in this petition are identical to those involved in Writ Petition No. 13166 of 2017 which has been decided on 3.10.2018 by the Division Bench of this Court at main seat. The said judgment has been confirmed by the Hon'ble Apex Court in SLP (C) No. 14703/2019 on 1.7.2019 when it dismissed the same. We, therefore, see no difficulty in allowing the present writ petition on the same line as has been done in WP No. 13166 of 2017.

3. We quash and set aside the communication impugned herein. We direct respondents no. 1 and 2 to pay pension and pensionary benefits to the petitioner for the services rendered by him from 1.2.1993 to 31.5.2019 with respondent no. 3 College as per the prevailing rules and all arrears of the pensionary and retiral benefits with effect from the date of superannuation be paid to the petitioner within three months from the date of this order.

4. Writ Petition is allowed in the above terms. Rule is made absolute accordingly. No costs.

S. M. MODAK, J

SUNIL B. SHUKRE, J

this was the procedure followed during implementation of 6th pay-revision also. Many issues were clarified between the centre and state governments as far as financial disbursement was concerned.

**3. Constitutional Obligation:**

3.1 In 2008, Deputy Secretary, Ministry of Human Resource Development, Department of Higher Education, issued letter No.1-32 /2006 -U.II/U.I(i) dated 31st December 2008, to the Secretary, UGC notifying scheme of revision of pay of teachers and equivalent cadre in universities and colleges, following the revision of pay scales of Central Government employees on the Recommendation of the sixth Central Pay Commission. In the letter, sub-para (g) of para 8 was as follows:

“(g) Payment of Central assistance for implementing this 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 by the UGC by way of Regulations and other guidelines shall be implemented by State Governments and Universities and Colleges coming under their jurisdiction as a composite scheme without any modification except in regard to the date of implementation and scales of pay mentioned herein above.”

3.2 The UGC ACT 1956 essentially intended to make provision for co-ordination and determination of standards in universities. This is squarely covered under entry 66 of the List I (Union List) in seventh Schedule of the Constitution of India. Thus, it is the constitutional responsibility of the UGC to issue mandatory regulations, even after 42<sup>nd</sup> amendment of the Constitution in 1976. Hence, the above direction, in sub para (g) of para 8 of the MHRD letter was consistent with the said constitutional obligation. This position remains unchanged even in 7<sup>th</sup> pay-revision. The ratio of Central assistance was 80:20 during 6th pay-revision and 50:50 during 7th pay-revision.

**4. Maharashtra Government Modified the Composite Scheme and Issued the GR:**

4.1 It is observed that the state government has not only modified the composite scheme of UGC but has grossly destroyed many provisions. Both, the G.R dated 8<sup>th</sup> March 2019 and the Corrigendum dated 10<sup>th</sup> May 2019, are signed by Mr Vijay Eknath Sable, Under Secretary of Government of Maharashtra, Higher and Technical Education Department. So, the Bureaucracy of Higher and Technical Education Department of Maharashtra has grossly violated the UGC regulations and also ignored the constitutional mandate elaborated above. Such unwarranted modification by the Bureaucracy, who do not have any power to supersede the UGC regulation, is a gross administrative offence. This will create a serious impact on Centre- State financial relationship, with reference to the educational allotment and expenditures.

4.2 Some highlights on certain provisions of UGC Regulations omitted/ modified in 7th Pay revision GR dated 8th March 2019 and subsequent Corrigendum dated 10th May 2019 are as follows:

- 1) Incentive increments for M.Phil./ Ph. D. acquired on or after 1.1.2016 are denied
- 2) Career Advancement from date of Interview instead of date of Eligibility
- 3) Extension to complete Refresher Course/Orientation Course till 31.12.2018 is denied
- 4) Provision to count period of active service spent on pursuing Research Degree, teaching experience is omitted
- 5) Additional increment for bunching of more than 2 stages is denied
- 6) Provision to fill all sanctioned posts immediately is omitted

7) Regulation for Contractual appointments (procedure, Salary) is omitted

8) Provision for Counting of Past service, including Contract service is omitted

9) Provisions on Work-load and Teaching days are omitted

10) Principal's Scale, not on par with Professor's scale

11) UGC's Leave package is omitted

4.3 Thus, the G.R. dated 8th March 2019 (and further G. R. dated 10th May 2019.) issued by Higher Education Department, in the State of Maharashtra contains many provisions contradicting the UGC Regulations-2018. These Government Resolutions are grossly illegal and unconstitutional on at least two counts namely;

a) It is an attempt by the Higher Education Department, Government of Maharashtra to frame subordinate legislation on a subject entered at entry 66 in the Union List in the Seventh schedule of the Constitution of India.

b) It is an attempt to encroach upon the power of UGC conferred on it by section 26 of UGC Act, in as much as this Government Resolution provides provisions amounting to amending the UGC Regulations-2018.

Hence these Government Resolutions (hereinafter collectively referred to as "Government Resolutions") in our considered opinion are ab initio illegal, unconstitutional and encroaching upon the Regulation making power of the UGC in an unauthorized manner.

5. If you go through the directions issued by the Hon'ble Vice-Chancellors of different Universities as mentioned in the reference above you will find that there is a competition among the Vice-Chancellors in totally ignoring and bypassing the UGC Regulations-2018.

(A) The Direction referred at 1 above; issued by University of Mumbai, Vice-Chancellor has chosen not to mention the UGC Regulations-2018 in the order part of the direction. He chose to ignore the UGC Regulations-2018, totally.

(B) The Hon'ble Vice-Chancellor of Nagpur University issued the direction referred at (2) above, has defined the Regulations in the dictionary clause of the order. But totally ignored the UGC Regulations-2018 in the order part of the directions.

(C) So far as Vice-Chancellors who issued the directions mentioned at Sr.No. 3 to 6 are concerned all of them have in uniform manner chosen to ignore the UGC Regulations 2018 in the order part of their directions.

(D) The only Vice-Chancellor of Gondwana University in his directions referred at Sr. No. (7) above has ordered in para 4 of his directions to implement UGC Regulations 2018, but he also ordered simultaneously to implement unconstitutional and unauthorized illegal Maharashtra Government Resolution dated 8th March 2019. Interestingly his orders are silent as to what is to be done if there is a conflict between the provisions of the two documents.

(E) Surprisingly and shockingly one Hon'ble Vice-Chancellor who himself was a member of the committee appointed by the UGC to draft the UGC Regulations was pleased to include the following provision in the order part of his direction, namely;

"(4) Provisions contained in the UGC - Regulations - 2018 vide Notification dated 18th July, 2018 shall be applicable, **to the extent as they are accepted by the Higher & Technical Education Department of Govt. of Maharashtra vide its Govt. Resolution No. Misc.2018/C.R.56/18/UNII dated 8th March, 2019.**"

6. We are told by this direction referred at (8) above

that the;

(i) Regulations issued by the UGC after the approval of the Cabinet of the Central Government and published in the Gazette of India is to be implemented only to the extent it is accepted by the Higher Education Department, Government of Maharashtra.

(ii) Further we are ordered by this direction to ignore the powers conferred on Parliament by entry 66 in the Union List of the 7th Schedule of the Constitution of India.

(iii) We are also told by this direction referred at (8) above to ignore the powers conferred on UGC by the section 26 of the UGC Act 1956.

These are the actions by the Hon'ble Vice-Chancellor who himself was a member of the Regulations Drafting Committee of UGC.

7. It is grossly illegal and unconstitutional for the Universities in the State of Maharashtra to prescribe provisions contrary to the UGC Regulations-2018 and direct the colleges to implement it. Immediate and effective intervention by UGC is required to protect the Constitutional provisions. If the Constitutional and legal provisions, prescribed by the UGC Regulations-2018, are allowed to be encroached upon by the unauthorized, illegal and unconstitutional provisions prescribed by the Government Resolutions issued by the Department of Higher Education in the State of Maharashtra, it will create a total and aggravated chaos in the field of the Higher Education in the State of Maharashtra.

8. In that view of the matter, we request the UGC to;

(i) Direct all the Universities in the State of Maharashtra to implement the scheme along with UGC Regulations-2018 in its letter and spirit, in view of the fact that the Cabinet in the Government of Maharashtra in its meeting held on 5th March 2019 approved the UGC scheme of pay revision and also further resolved to accept the fifty percent financial assistance from UGC/Government of India.

(ii) Issue show cause notices to all Universities in the State of Maharashtra for issuing orders violating the UGC Regulations-2018.

(iii) Pass an appropriate order against the violation of UGC Regulations-2018 after hearing. In the hearing we also may be permitted to place our say in the matter.

(iv) During the pendency of the above matter Interim Order may kindly be issued with immediate effect to all the Universities in the State of Maharashtra to desist from taking any action against any provision of the UGC Regulations-2018.

9. The Maharashtra Federation of University and College Teachers' Organizations (MFUCTO), in their Executive committee meeting held at Amravati on April 21, 2019, has strongly condemned the violation of UGC Regulations, 2018 (Gazette Notification) by the State Government and by the Universities in Maharashtra. The MFUCTO has adopted a programme of agitation to demand implementation of UGC Regulations in Maharashtra without modifications. As a part of this agitation, a Protest Dharna will be held by teachers from different universities of Maharashtra, outside the UGC office in New Delhi on 22nd July 2019. **We humbly request you to given an appointment to MFUCTO delegation on 22nd July 2019.**

Thanking you,

With Warm Regards

Dr. Tapati Mukhopadhyay  
(President)

Dr. S.P Lawande  
(General Secretary)

\* \* \* \* \*

## A NOTE

on Additional points for consideration by the Hon'ble Chairman of UGC  
submitted by

**(1) Prof. B. T. Deshmukh, Ex-MLC**

**(2) Dr. P. B. Raghuwanshi, President, NUTA**

*Both members of a five member MFUCTO delegation appearing before the Hon'ble  
Chairman of UGC on 30.07.2019 at New Delhi*

We are in full agreement with the contents of the Memorandum submitted by MFUCTO to the Hon'ble Chairman of the UGC dated 13.07.2019. Copy of the same received by the UGC on 15.07.2019. (Hereinafter referred to as "**Memorandum**") Here we are placing some additional points for the consideration of the Hon'ble Chairman of the UGC.

**(1)**

The subject matter under consideration of the Hon'ble Chairman of UGC presented by the Memorandum is elaborately covered by the detailed provisions of the Constitution of India and also by law laid down by the Judgement delivered by the Supreme Court of India in "Petitioner : State of Tamil Nadu & Anr. Etc. Etc. Vs. Respondent : Adhyanan Educational & Research Institute & Ors. Etc." Date of Judgment is 24/03/1995 (hereinafter referred to as the **Judgment of the Apex Court.**)

**(2)**

Following is the para 9 & 15 of the Judgment of the Apex Court :-

"9. We may begin by examining the provisions of the Constitution delineating respective spheres of the Central and the State legislatures. Entry 66 of List 1, i.e, the Union List of Seventh Schedule of the Constitution reads as follows:

"66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions."

"15.The subject "coordination and determination of standards in institutions for higher education or research and scientific and technical institutions" has always remained the special preserve of the Parliament."

**(3)**

In para 16 of the Judgment of the Apex Court details are given regarding the Constitutional provisions related to the distribution of the powers between the Parliament and State Legislature in the following words:-

"16. We may now refer to the provisions of Articles 246, 248 and 254 in Part II of Chapter 1 which relates to the distribution of the legislative powers between the Parliament and the State Legislatures.- It is not necessary to enter into a detailed discussion of these Articles since they have been the subject matter of various decisions of this Court. **We may only summarise the effect of these Articles as has emerged through the judicial decisions, so far as it is relevant for**

**our present discussion. -While Article 246 states the obvious, viz. that Parliament has exclusive power to make law.-, with respect to any of the matters enumerated in List I and has also the power to make laws with respect to any of the matters enumerated in List III,"**

**(4)**

In case of a situation of inconsistency between the laws made by the Parliament and State Legislature, after quoting article 254 of the Constitution of India, law is laid down in para 17 of the Judgment of the Apex Court which reads :-

"17.According to some jurists, the repugnancy may also arise between a pre—Constitutional law made by the then Provincial Legislature which continues to be in force by virtue of Article 372 and the postConstitutional law of the Parliament in which case by virtue of the first part of Article 254 [1], **the law made by the Parliament shall prevail, notwithstanding that the Provincial Legislature was competent to make the law prior to the commencement of the Constitution.** This is the consequence of the relevant provision of Article 254 [1] which reads as follows:

"254 [1] Inconsistency between laws made by Parliament and the laws made by the Legislatures of States. - [1] If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact... the law made by Parliament, whether passed before or after the law made by the Legislature of such State... shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void."

**(5)**

The expression "coordination" used in entry 66 of the Union List of the 7th Schedule of the Constitution of India is elaborately explained in para 44 of the Judgment of the Apex Court which is as follows :-

"44.What emerges from the above discussion is as follows: [i] The expression "coordination" used in Entry 66 of the Union List of the Seventh Schedule to the Constitution does not merely mean evaluation. **It means harmonisation with a view to forge a uniform pattern for a concerted action according to a certain design, scheme or plan of development. It, therefore, includes action not only for removal of disparities in standards but also for preventing the occurrence of such disparities.** It would, therefore, also include power to do all things which are necessary to prevent what would make

"coordination" either impossible or difficult. This power is absolute and unconditional and in the absence of any valid compelling reasons, it must be given its full effect according to its plain and express intention."

(6)

When Parliament enacted UGC Act 1956, in the beginning itself it is mentioned that it is as per the powers conferred on it by entry 66 (Co-ordination and determination of Standards) in the Union List of 7th Schedule of the Constitution of India in the following words :-

"THE UNIVERSITY GRANTS COMMISSION : ACT, 1956 : (3 of 1956) [3rd March, 1956] :

"An Act to make provision for the co-ordination

*Dearness Relief on Pension/Family Pension 12% from 1st January, 2019.*

**GOVERNMENT OF MAHARASHTRA  
FINANCE DEPARTMENT**

Government Resolution No.: DRP-2019/CR.313/SER-4  
Hutatma Rajguru Chawk, Madam Cama Road,  
Mantralaya, Mumbai 400 032.

**DATE: 15 JULY, 2019**

**READ - (1)** Government Resolution, Finance Department No.: PEN-2019/C.R 58/SER-4, dated 24.01.2019. **(2)** Government Resolution, Finance Department No.: PEN-2019/C.R 58/SER-4, dated 01.03.2019.

**RESOLUTION**

Government is pleased to decide that the rate of dearness relief with effect from 1st January, 2019 will be revised from 9% to 12% to the State Government pensioners /family pensioners on their Basic Pension/Family Pension. Revised dearness relief will be payable in cash from 1st July, 2019. The order in respect of arrears amount of 6 months from 1st January, 2019 to 30th June, 2019 will be issued separately.

2. It will be the responsibility of the Pension Disbursing Authority, i.e. Pay and accounts Officer, Mumbai/Treasury Officers, as the case may be, to calculate the quantum of dearness relief payable in each individual case.

3. Government is also pleased to direct that above decision should mutatis mutandis, apply to those pensioners including family pensioners of Recognised and Aided Educational Institutions, Non-Agricultural Universities and Affiliated Non-Government colleges and Agricultural Universities to whom the pension scheme is made applicable.

4. In exercise of the powers conferred by the proviso to Section 248 of the Maharashtra Zilla Parishads and Panchayat Samities Act, 1961 (Mah.V of 1962) and of all the other powers enabling it in that behalf, Government is further pleased to decide that the above decision shall apply to the pensioners including family pensioners of Zilla Parishads.

5. The State Government Employees who had drawn lumpsum payment on absorption in PSUs/Autonomous Bodies/Local Bodies and have become entitled to restoration of 1/3rd commuted portion of pension, will also be paid the increase in dearness relief at the prescribed rate and date mentioned in paragraph 1 of this Government Resolution. According to Government Resolution, Finance Department, No.COP1001/50/SER-4, dated 9th April, 2001 dearness relief will be paid on full pension.

6. The expenditure on this account should be debited to the Budget Heads to which the retirement benefits of the employees mentioned in the above paras are debited and should be met from the grants sanctioned thereunder.

7. This Government resolution of Maharashtra Government is available at the website [www.maharashtra.gov.in](http://www.maharashtra.gov.in). Reference no. for this is 201907151315449905 This order has been signed digitally.

By order and in the name of the Governor of Maharashtra.

(Indrajeet Gore)

Deputy Secretary to Government of Maharashtra

and determination of standards in Universities and for that purpose, to establish a University Grants Commission.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :-"

(7)

In every civilized society it is expected from every civilized authority at the time of making legislation or subordinate legislation to quote the authority conferred on it by the Constitution or by the law for framing such a subordinate legislations. Normally opening para of the legislation gives details of such Authority.

When the UGC Regulations 2010 were issued on 30th June 2010 it began with the mention of a power conferred on it by law in the following words :-

"No. F.3-1/2009 : 30 June, 2010 : In exercise of the powers conferred under clause (e) and (g) of sub-section (1) of Section 26 of University Grants Commission Act, 1956 (3 of 1956), .....the University Grants Commission hereby frames the following Regulations, namely :-"

(8)

When the UGC Regulations 2018 were issued the authority for framing such regulations is quoted in the beginning of the regulations in the following words:-

"No. F.1-2/2017(EC/PS).—In exercise of the powers conferred under clause (e) and (g) of sub-section(I) of Section 26 read with Section 14 of the University Grants Commission Act, 1956 (3 of 1956), .....the University Grants Commission, hereby, frames the following Regulations, namely:-"

(9)

In the State of Maharashtra, Finance Department of Government of Maharashtra issued a notification dated 13th January 2019 for implementing the 7th pay scale scheme for the State Government employees. The said notification was published in the Maharashtra Government Gazette in Part IV-A Extraordinary on 13th January 2019. In the beginning of the notification the authority for issuing such notification has been quoted in the following words :-

**"NOTIFICATION: CONSTITUTION OF INDIA. : No. RPS 2019/CR-1/SER-9.-** In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Maharashtra is hereby pleased to make the following rules, namely :"

(10)

Higher Education Department in Maharashtra with the intention of making so many amendments in the UGC Regulations 2018 issued the first G.R. on 8th March 2019 and second G.R. on 10th May 2019. We have submitted copies of these both Government Resolutions to the UGC. A careful reading of both the Government Resolutions bring it to our notice that no where authority is quoted empowering the Higher Education Department of Government of Maharashtra to frame such a subordinate legislation.

Both the Government Resolutions issued by the Higher Education Department of Government of Maharashtra are in the form of delegated legislation without mentioning a delegating provision or the Article of the Constitution of

India or of the law permitting them to encroach upon Regulations making powers of the UGC.

## (11)

Any delegated legislation deserves to be declared as void or unconstitutional on two grounds as ruled by the Supreme Court in "**State of M.P. & Anr. Vs. Bhola Alias Bhairon Prasad Raghuvanshi, (2003) 3 SCC 1**" in the following words :-

"20. A delegated legislation can be declared invalid by the court mainly on two grounds: **firstly**, that it violates any provision of the Constitution and **secondly**, it is violative of the enabling Act. If the delegate which has been given a rule-making authority exceeds its authority and makes any provision inconsistent with the Act and thus overrides it, it can be held to be a case of violating the provisions of the enabling Act but where the enabling Act itself permits ancillary and subsidiary functions of the legislature to be performed by the executive as its delegate, the delegated legislation cannot be held to be in violation of the enabling Act."

## (12)

In September 2015, UGC issued Notification (No. F.17-6/2013(PS/Misc) titled as "Clarifications on Frequently Asked Questions on UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic staff in Universities and Colleges and measures for the maintenance of standards in Higher Education, 2010". Ten queries were clarified by this Notification. At Sr. No. 6 following was the Query:-

"6. Are the State Governments empowered **not to accede** to the regulation under local circumstances, on the condition of bearing entire establishment cost?"

The clarification issued by the UGC was as follows:-

"**The UGC Regulations are mandatory** in nature and are required to be followed in their letter and spirit without any deviation therefrom."

## (13)

In UGC Regulations 2010 in para 7.4 following is the provision :-

"7.4.0 The Universities/State Governments shall modify or amend the relevant acts/statutes of the Universities concerned within six months of adoption of these regulations."

Accordingly Higher Education Department Government of Maharashtra issued Government Resolution dated 15th February 2011 in which following was the para 8, namely;

"८. विद्यापीठ अनुदान आयोगाच्या दिनांक ३० जून २०१० च्या विनिमयातील (Regulations) परिच्छेद क्रमांक ७.४.० मध्ये दिलेल्या निदेशानुसार अकृषी विद्यापीठांनी यासंदर्भात त्यांच्या परिनियमांमध्ये आवश्यक त्या सुधारणा विहित मुदतीत कराव्यात तसेच सदरहू विनियमांच्या अनुषंगाने विद्यापीठ अधिनियमांमध्ये करावयाच्या सुधारणांचा प्रस्ताव अकृषी विद्यापीठांनी संचालक, उच्च शिक्षण, महाराष्ट्र राज्य, पुणे यांच्या मार्फत सादर करावा."

## (14)

UGC Regulations 2018, were published in the Gazette of India on 18th July 2018. In para 1.2 of the Regulations following is the provision :-

"1.2 Every university or institution deemed to be University, as the case may be, shall as soon as may be, but not later than within six months of the coming into force of these Regulations, take effective steps for the amendment of the statutes,

ordinances or other statutory provisions governing it, so as to bring the same in accordance with these Regulations."

## (15)

The Cabinet in the State of Maharashtra in its meeting (No. 215) held on 5th March 2019 took an appropriate decision consistent with the Regulations of UGC and pay scheme recommended by the UGC and approved by the Government of India. Hon'ble Chief Minister of Maharashtra on the same day through CMO announced the decision by the Official Notification. Relevant part of the said Notification (verbatim) is as follows:-

"सातवा वेतन आयोग लागू केल्यामुळे अकृषि विद्यापीठे व संलग्नित अशासकीय अनुदानित महाविद्यालयातील सुमारे २६ हजार ७४१ शिक्षक व शिक्षक समकक्ष पदावरील कर्मचाऱ्यांना याचा लाभ होणार आहे. वेतन आयोगातील तरतुदी १ जानेवारी २०१६ पासून लागू केल्याने ३१ मार्च २०१९ पर्यंत २५८४ कोटी ४७ लाख एवढा वाढीव खर्च येणार असून त्यामध्ये राज्य शासनाचा ५० टक्के हिस्सा व केंद्र शासनाचा ५० टक्के हिस्सा आहे. या खर्चास मान्यता देण्यात आली असून १ एप्रिल २०१९ नंतर येणाऱ्या ८०० कोटी रुपयांच्या वाढीव खर्चासही मान्यता देण्यात आली आहे."

This portion of the Cabinet decision is totally missing from the both the Government Resolutions (dated 8th March 2019 and 10th May 2019) issued by Department of Higher Education Government of Maharashtra.

## (16)

After detailed scrutiny of the Constitutional provisions, the Judgment of the Apex Court narrated in para 44 as to what is expected from a National Level Regulatory Authority in respect of the Expression "co-ordination" used in Entry 66 of the Union List of the Seventh Schedule of the Constitution of India, is as follows :-

(1) It means harmonisation with a view to forge a uniform pattern for a concerted action according to a certain design, scheme or plan of development.

(2) It, therefore, includes action not only for removal of disparities in standards but also for preventing the occurrence of such disparities.

(3) It would, therefore, also include power to do all things which are necessary to prevent what would make "coordination" either impossible or difficult.

(4) This power is absolute and unconditional and in the absence of any valid compelling reasons, it must be given its full effect according to its plain and express intention."

(1) Prof. B. T. Deshmukh, Ex-MLC

(2) Dr. P. B. Raghuvanshi, President, NUTA

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## SUBMITTED BY

(1) **Prof. B. T. Deshmukh** : Ex-MLC, Founder member of and Ex-President of Maharashtra Federation of University & College Teachers' Organisations (MFUCTO) and President of Nagpur University Teachers' Association (NUTA) from 1974 to 2011, Member of Maharashtra Legislative Council from 1980 to 2010, Life member of AIFUCTO, Member of the editorial board of "Teachers Movement" official Journal of AIFUCTO.

(2) **Dr. P.B. Raghuvanshi** : President of Nagpur University Teachers' Association (NUTA) since 2012 onward, Treasurer of Maharashtra Federation of University & College Teachers' Organisations (MFUCTO), Prof. and Head Department of Chemistry, Brijlal Biyani Science College, Amravati.

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**MAHARASHTRA FEDERATION OF UNIVERSITY & COLLEGE TEACHER'S ORGANISATION**  
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**July 22, 2019**

To,  
Mr. Sanjay Dhotre  
Hon'ble Minister, HRD  
Shastri Bhawan,  
New Delhi

**SUB :** Violation of UGC Regulations (Gazette Notification), 2018 in the Government Resolutions dated 8th March 2019 and 10th May 2019, issued by Maharashtra Government, for implementing 7th Pay-revision and UGC Regulations, 2018

Hon'ble Sir,

**1. Preamble**

1.1 Following the revision of pay-scales of Central Government employees on the recommendations of 7th Central Pay Commission, the Union Cabinet decided to approve revised pay scales of teachers and equivalent academic staff in Universities/Colleges and Centrally funded Technical institutions. This decision was conveyed by the official Press Statement dated 11th October 2017 and was followed by MHRD's Letter to UGC (No.1-7/2015-U.II) Government of India Ministry of Human Resource Development Department of Higher Education New Delhi, dated 2nd November, 2017 on details of the 7th UGC Pay revision scheme.

1.2 It is explicitly stated in para 16(iv)(h) of the letter that, for state governments adopting this scheme, payment of Central assistance for implementing the scheme is subject to the condition that the entire scheme, together with UGC Regulations, **"shall be implemented by the State Governments and the Universities and Colleges coming under their jurisdiction as a composite scheme without any modification, except in regard to the date of implementation and the pay scales mentioned herein above"** (emphasis added).

1.3 Consequent to the decision of the Central government, as stated in the above MHRD Notification, the University Grants Commission issued Gazette Notification No. F.1-2/2017/(EC/PS) dated 18th July 2018 for implementation of 7th Pay commission and on Minimum Qualifications for appointment of Teachers and other Academic staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education. **This has been done in exercise of the power conferred under clause (e) and (g) of subsection (I) of section 26 read with section 14 of the University Grants Commission Act 1956 (3 of 1956)** and in suppression of the UGC Regulations, 2010 (No. F.3-1/2009 dated 30th June 2010 ) together with all amendments made there in from time to time.

**2. UGC Regulations are Mandatory :**

2.1 In the first section of the Regulations (18th July 2018), under **1. Short Title ...**, point no. 3 clearly states "3. If any University contravenes the provisions of these Regulations, 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". With this clarification, it is apparent that these regulations are mandatory in nature. It is stated in clause 1.2 of the Notification, under **1. Coverage**, "1.2 Every university or institution deemed to be University, as the case may be, shall as soon as may be, but not later than within six months of the coming into force of these Regulations, take effective

steps for the amendment of the statutes, ordinances or other statutory provisions governing it, so as to bring the same in accordance with these Regulations."

2.2 Further UGC reiterates in its letter D.O. No F.1-14/2019(CPP-II) dated 4th June 2019 that "All the Universities, Colleges and Institutions Deemed to be Universities are hereby requested that the enclosed Guidelines shall be adhered to in letter and spirit.

You are requested to kindly take steps to ensure that the vacancies in the University as well as the Colleges affiliated to your University are filled at the earliest."

2.3 Thus, it is clear that, each state government shall adopt UGC Regulation and implement it in letter and spirit to get the financial support from Central government, for implementation of 7th pay-revision. It is to be noted that this was the procedure followed during implementation of 6th pay-revision also. Many issues were clarified between the centre and state governments as far as financial disbursement was concerned.

**3. Constitutional Obligation :**

3.1 In 2008, Deputy Secretary, Ministry of Human Resource Development, Department of Higher Education, issued letter NO.1-32/2006-U.II/U.I(i) dated 31st December 2008, to the Secretary, UGC notifying scheme of revision of pay of teachers and equivalent cadre in universities and colleges, following the revision of pay scales of Central Government employees on the Recommendation of the sixth Central Pay Commission. In the letter, subpara (g) of para 8 was as follows :

"(g) Payment of Central assistance for implementing this 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 by the UGC by way of Regulations and other guidelines shall be implemented by State Governments and Universities and Colleges coming under their jurisdiction as a composite scheme without any modification except in regard to the date of implementation and scales of pay mentioned herein above."

3.2 The UGC ACT 1956, essentially intended to make provision for co-ordination and determination of standards in universities. This is squarely covered under entry 66 in the Union List (List I of Seventh Schedule of the Constitution of India). Thus, it is the constitutional responsibility of the UGC to issue mandatory regulations, even after 42nd amendment of the Constitution in 1976. Hence, the above direction, in sub para (g) of para 8 of the MHRD letter was consistent with the said constitutional obligation. This position remains unchanged in 7th pay-revision. The ratio of Central assistance was 80:20 during 6th pay-revision and 50:50 during 7th pay-revision.

**4. Maharashtra Government Modified the Composite Scheme and Issued the GR :**

4.1 The Cabinet of Government of Maharashtra decided on 5th March 2019, to implement 7th pay revision, along with UGC Regulations, for teachers and equivalent cadre working in educational institutions under the jurisdiction of Higher Education department. Thereafter, the Department of Higher and Technical Education, Government of Maharashtra, issued the Government Resolution (GR) No. Misc-2018/C.R.56/18/UNI-I dated 8th March 2019, on revision of pay scales of teachers in Non-Agricultural Universities, National Law University, Affiliated colleges, Government colleges/Institutes, as per 7th Central pay

commission and UGC regulations on minimum qualifications for appointment of teachers and academic staff in the universities and colleges and measures for maintenance of standards in Higher Education 2018.

4.2 The teaching community is shocked to observe that in the aforesaid GR, the State Government has not only modified the composite scheme of MHRD and UGC Regulations but has grossly destroyed many provisions. More amendments to the UGC Regulations are issued by the Department of Higher and Technical Education vide Corrigendum No. Misc-2018/C.R.56/18/UNI-I dated 10th May 2019. The GR and the Corrigendum, both, are signed by Under Secretary of Government of Maharashtra, Higher and Technical Education Department. So, the Bureaucracy of Higher and Technical Education Department of Maharashtra has grossly violated the UGC regulations and also ignored the constitutional mandate elaborated above. Such unwarranted modification by the Bureaucracy, who do not have any power to supersede the UGC regulation, is a gross administrative offence. This will create a serious impact on Centre- State financial relationship, with reference to the educational allotment and expenditures.

4.3 Some highlights on certain provisions of UGC Regulations omitted/ modified in 7th Pay revision GR dated 8th March 2019 and subsequent Corrigendum dated 10th May 2019 are as follows :

1) Incentive increments for M.Phil./ Ph. D. acquired on or after 1.1.2016 are denied

2) Career Advancement from date of Interview instead

राज्य शासकीय व इतर पात्र कर्मचाऱ्यांना मंजूर करण्यात येणाऱ्या महागाई भत्त्याच्या दरात दि. १ जानेवारी, २०१९ पासून सुधारणा करण्याबाबत.

### महाराष्ट्र शासन : वित्त विभाग

शासननिर्णय क्रमांक : मभवा-१३१९/प्र.क्र.१३/सेवा-९

मंत्रालय, मुंबई ४०० ०३२. : मादाम कामा रोड, हुतात्मा राजगुरु चौक

दिनांक : ८ जुलै, २०१९

वाचा :- शासननिर्णय क्रमांक : मभवा-२०१९/प्र.क्र.२/सेवा-९, दि. १ फेब्रुवारी, २०१९

#### शासननिर्णय

राज्य शासकीय कर्मचारी व इतर पात्र पूर्णकालिक कर्मचाऱ्यांच्या महागाई भत्त्याच्या दरात सुधारणा करण्याचा प्रश्न शासनाच्या विचाराधीन होता.

२. शासन असे आदेश देत आहे की, दिनांक १ जानेवारी, २०१९ पासून उच्च वेतन आयोगानुसार सुधारित वेतनसंरचनेतील मूळ वेतनावरील अनुज्ञेय महागाई भत्त्याचा दर ९% वरून १२% करण्यात यावा सदर महागाई भत्ता वाढ दिनांक १ जुलै, २०१९ पासून रोखीने देण्यात यावी.

दिनांक १ जानेवारी, २०१९ ते दिनांक ३० जून, २०१९ या सहा महिन्यांच्या कालावधीतील थकवाकीबाबत स्वतंत्रपणे आदेश निर्गमित करण्यात येतील.

३. महागाई भत्त्याची रक्कम प्रदान करण्यासंदर्भातील विद्यमान तरतुदी व कार्यपद्धती आहे त्याचप्रकारे यापुढे लागू राहिल.

४. यावर होणारा खर्च संबंधित शासकीय कर्मचाऱ्यांचे वेतन व भत्ते ज्या लेखाशीर्षाखाली खर्ची टाकण्यात येतात, त्या लेखाशीर्षाखाली खर्ची टाकून त्याखालील मंजूर अनुदानातून भागविण्यात यावा. अनुदानप्राप्त संस्था व जिल्हा परिषद कर्मचाऱ्यांच्या बाबतीत, संबंधित प्रमुख लेखाशीर्षाखालील ज्या उप लेखाशीर्षाखाली त्यांच्या सहाय्यक अनुदानाबाबतचा खर्च खर्ची टाकण्यात येतो, त्या उप लेखाशीर्षाखाली हा खर्च खर्ची टाकण्यात यावा.

सदर शासननिर्णय महाराष्ट्र शासनाच्या [www.maharashtra.gov.in](http://www.maharashtra.gov.in) या संकेतस्थळावर उपलब्ध करण्यात आला असून त्याचा संकेतांक २०१९०७०८१५३३५६६९०५ असा आहे. हा आदेश डिजिटल स्वाक्षरीने साक्षात्कृत करून काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

(भा. ज. गाडेकर)

उप सचिव, महाराष्ट्र शासन

of date of Eligibility

3) Extension to complete Refresher Course/Orientation Course till 31.12.2018 is denied

4) Provision to count period of active service spent on pursuing Research Degree, teaching experience is omitted

5) Additional increment for bunching of more than 2 stages is denied

6) Provision to fill all sanctioned posts immediately is omitted

7) Regulation for Contractual appointments (procedure, Salary) is omitted

8) Provision for Counting of Past service, including Contract service is omitted

9) Provisions on Work-load and Teaching days are omitted

10) Principal's Scale, not on par with Professor's scale

11) UGC's Leave package is omitted

### 5. The Role of State University for The Implementation of UGC Regulations

5.1 Once UGC Regulations are notified, with reference to pay review, they have to be adopted by the State Government and flexibility is given only in respect of the date of implementation and scales of pay. Finally, Regulations reach the ground of the university, and Vice Chancellor will issue the directives for implementation without any modification. **In case of 7th pay UGC regulations, modification of Regulations started at Maharashtra Government level. The department of Higher and Technical Education, State of Maharashtra, has modified/omitted several provisions of UGC Regulations, 2018 in the GR dated 8th March 2019 and, in the Corrigendum, dated 10th May. By these modifications, the Regulations have lost their sanctity and paved the way for Centre to withdraw its financial support from Maharashtra State.** This modified and distorted GR reached the university ground. Based on this, Vice Chancellors' directives were issued in all universities. Following is an example of the Vice Chancellor's directives:

5.2 The Maharashtra Federation of University and College Teachers' Organizations (MFUCTO), in their Executive committee meeting held at Amravati on April 21, 2019, has taken serious note of the violation of UGC Regulations, 2018 (Gazette Notification) by the State Government and followed by the Universities in Maharashtra. **The MFUCTO has expressed serious concern that while amending the UGC Regulations, the State Government has encroached on the jurisdiction of a Union subject. With the State Cabinet having decided to accept the scheme of 7th Pay-revision, now it is not open for Officers in the department of Higher and Technical Education to act in contradiction to the UGC Regulations.** The MFUCTO has strongly condemned this and adopted a programme of agitation to demand implementation of UGC Regulations in Maharashtra without modifications. As a part of this agitation, a Protest Dharna will be held by teachers from different universities of Maharashtra, outside the UGC office in New Delhi on 22nd July 2019.

**5.3 We earnestly appeal to you to intervene in this matter and to issue strong directions to the Government of Maharashtra to follow the UGC Regulations without any modification.**

Thanking you,

With Warm Regards

Dr. Tapati Mukhopadhyay  
(President)

Dr.S.P.Lawande  
(General Secretary)

Copy of the memorandum (dated 13th July 2019) submitted by MFUCTO to the UGC and duly received by the UGC on 15th July 2019 is enclosed herewith for your ready reference and necessary action.

(Dr.P.B.Raghuwanshi)

Treasurer, MFUCTO



**Increase in pension / family pension to pensioners / family pensioners of 80 years of age and above.****GOVERNMENT OF MAHARASHTRA : FINANCE DEPARTMENT**

Government Circular No. : PEN- 2019/C.R. 59/SER -4

Hutatma Rajguru Chowk, Madam Cama Marg, Mantralaya, Mumbai- 400 032.

**DATE : 30 JULY, 2019**

**Reference :** 1) Government Resolution, Finance Department No. PEN-1014/C.R. 26/SER-4 dated 09/06/2014.

2) Government Resolution, Finance Department No. PEN-2019/C.R. 59/SER-4 dated 24/01/2019.

3) Government of India Office Memorandum No.F.No.38/37/08-P&PW(A). pt.II dated 03.10.2008.

**Government Circular :**

In accordance to the Government Resolution mentioned at Serial No. 1 above, pensioners/ family pensioners of the age of 80 years and above, have been given 10% increase in the pension/ family pension fixed as per Sixth Pay Commission w.e.f.01.04.2014. According to the Government Resolution mentioned at Serial No.2 the increase is revised from 01.01.2019 as below:

1	Age 80 to 85 years	Increase in basic pension 10%
2	Age above 85 to 90 years	Increase in basic pension 15%
3	Age above 90 to 95 years	Increase in basic pension 20%
4	Age above 95 to 100 years	Increase in basic pension 25%
5	Age above 100 years	Increase in basic pension 50%

2. Government of India vide, Office Memorandum at Serial No. 3, has clarified about the actual admissibility of the additional quantum of pension / family pension to pensioners / family pensioners on attaining the age of 80 years. On the same line, following instructions are issued with respect to State Government pensioners / family pensioners.

“The additional quantum of pension / family pension on attaining the age of 80 / 85 / 90 / 95 / 100 years would be admissible from the 1st day of the month, in which date of birth of a pensioner / family pensioner falls.”

**Example :**

(1) Shri 'A' is a retired State Government employee. (Date of Birth – 05.02.1933, Date of Retirement – 28.02.1991)

Basic Pension as on 01.01.2013 Rs.7610/- (Approx.)

Attaining age of 80 years on 05.02.2013.

According to Government Resolution, Finance Department dated 09.06.2014 pensioners / family pensioners of the age 80 years and above have been given benefit of 10% increase in the pension / family pension w.e.f. 01.04.2014.

From 01.04.2014 Rs.7610 + Rs.761 = Rs.8371 (10% increase in pension is applicable)

Fixation of Pension as per Seventh Pay Commission

Basic Pension as on 01.01.2016 Rs.7610/-

7610 x 2.57 = 19558 (Basic pension as on 01.01.2016 as per Seventh Pay Commission)

From 01.01.2016 Rs.19558 + Rs.1956 = Rs.21514/- (10% additional increase)

Attaining age of 85 years on 05.02.2018.

From 01.01.2019 Rs.19558 + Rs.2934 = Rs.22492/- (15% Increase in pension is applicable from 01.01.2019 only.)

(2) Shri 'B' is a retired State Government employee. (Date of Birth – 27.07.1935, Date of Retirement – 31.07.1993)

Basic Pension as on 01.01.2015 Rs.7750/- (Approx.)

Attaining age of 80 years on 27.07.2015.

From 01.07.2015 Rs.7750 + Rs.775 = Rs.8525 (10% increase in pension is applicable)

Fixation of Pension as per Seventh Pay Commission

Basic Pension as on 01.01.2016 Rs.7750/-

7750 x 2.57 = 19918 (Basic pension as on 01.01.2016 as per Seventh Pay Commission)

Rs.19918 + Rs.1992 = Rs.21910/- (Additional Pension applicable from 01.01.2016)

3. The pensioner / family pensioner who have been given benefit of 10% increase in pension/ family pension as per Sixth Pay Commission on attaining age of 80 years on 31.12.2015, will be liable to get 10% increase in revised pension / family pension as per Seventh Pay Commission for the period between 01 January 2016 to 31 December 2018. The pensioners / family pensioners who have attained age of 80 years during the period between 01 January 2016 to 31 December 2018 will be liable to benefit of 10% increase on revised pension / family pension as per Seventh Pay Commission according to the Government Resolution, Finance Department dated 09.06.2014.

4. Government is also pleased to direct that the above decision should mutatis mutandis apply with necessary changes to those pensioners / family pensioners of 80 years of age and above of Recognized and Aided Educational Institutions, Non Agriculture Universities and affiliated Non-Governmental Colleges and Agricultural Universities, etc. to whom pension scheme is made applicable.

5. In exercise of the powers conferred by the proviso under Section 248 of Maharashtra Zilla Parishad and Panchayat Samitis Act 1961 (Maharashtra Act number Five of 1962) and of all other powers enabling it on that behalf, the Government is further pleased to decide that above decision shall apply to the pensioners / family pensioners of 80 years of age and above of Zilla Parishads.

6. The State Government Employees who opted for lump sum payment on absorption in a Public Sector Undertaking / Autonomous bodies / Local bodies and are entitled to restoration of 1/3rd commuted portion of pension as well as revision of the restored amount in terms of Government Resolution, Finance Department No.COP-1099/306/SER-4 dated 15.11.1999 and also eligible for revised pension as per Sixth Pay Commission vide Government Resolution Finance Department No. COP-1010/CR.58/SER-4 dated 26/07/2010 shall also be entitled to the benefit of increase in pension w.e.f. 01.01.2019.

7. The expenditure on this account should be debited to the Budget Heads to which the pensions of the pensioners mentioned in the above paras are debited and should be met from the grants sanctioned thereunder.

8. This Government Circular is available on the website of Government of Maharashtra i.e. www.maharashtra.gov.in and its computer code number is 201907301251054405. This Circular has been signed digitally.

By order and in the name of Governor of Maharashtra.

( Indrajeet Gore )

Deputy Secretary to Government

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**ALL INDIA FEDERATION OF UNIVERSITY & COLLEGE TEACHERS' ORGANISATIONS**

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 (Regd. Under Act XXI of 1860)

**A****BRIEF NOTE****ON DRAFT NATIONAL EDUCATION POLICY 2019**

After more than three decades, a policy draft on New Education Policy has come to the public domain on 1st June, 2019. We appreciate this measure taken by the Government of India. This draft policy document has to be seriously analysed in the broader interest of education of our nation.

**Preamble and Vision:**

No any national policy is being formulated without keeping in view the political philosophy, economic character, social & cultural attitude of ruling dispensation. The present DNEP 2019 is also no exception. It is a reflection of historical conflict of forces to dominate the education process that is to say between democratization and capitalization. In this policy draft, democratic, welfare and inclusive agendas have been ignored. There is also no reference to global outlook influencing education. Glory of ancient India only has been adored. Experience of freedom struggle, fight against imperialism, ideals of education as propounded by Mahatma Gandhi, B.R Ambedkar, Subhashchandra Bose, Maulana Abul Kalam Azad, Bhagat Singh, Bharat Singh, Jyotirao Phule, Savitri Baiphule, Maharaja Shivani Raj Gaikwad, Bal Gangadhar Tilak, Mahadeve Govind Ranade, Global Krishna Gokhale, Ishwar Chandra Vidyasagar have not been mentioned. Directive principles of state policy and preamble of the constitution also is missing in the draft. The powerful ancient Sangam literature also not found as a source of reference. Secular, secularism not even mentioned once.

**Comparative Study of post independence education policy:**

The first university education commission popularly known as Radhakrishnan Commission (1948-49) speaks of democracy, secularism, social justice, respect for our cultural diversity, scientific temper, Autonomy and less state interference in education. Kothari Commission (1964-65) champions the common school neighborhood system, pivotal of teachers, decentralization of structure, parity between urban and rural and more emphasis on scientific education. The NEP 1986 saw the emergence of a neoliberal agenda of privatization, dual educational system, centralization of educational administration and the death knell of welfare state concept. For a brief period Acharya Ramamurti review committee (1990) suggested equality and social justice, decentralization of educational management, active participation of all stake holders, emphasis on human enlightenment and empowerment for work. Since 1991 till today (including the present DNEP) reflects full scale LPG Economy with disastrous manifestation of commercialization, communalization, bureaucratization and regimentation of thought in the educational system. India has become a signatory of WTO & GATTs where education is being treated as commodity.

**Targets in DNEP:**

The DNEP has targeted every child in the age of 3 to 6

years has access to free, safe, high quality, developmental and appropriate care by 2025. Free and compulsory, quality school education of all children in the age group of 3 to 18 years in 2030. Inclusive education by 2030. Increase in GER (Higher Education) to at least 50% from the present 23% (18-23 age group) by 2035. By 2032, all higher educational qualifications including all degree and diplomas shall be granted by Type-1, Type-2, Type-3 HEI.

Type-1: Research University

Type-2: Teaching University

Type-3: UG College Education.

Closure of substandard and dysfunctional teachers' training institute by 2023. By 2025, every student in grade 5 and beyond should achieve fundamental literacy and numeracy. Excess will be increased specially in grade 9-12 to achieve 100% GER across school stage by 2030. Curriculum and pedagogy are to be transformed by 2020 by revising the National curriculum frame work of 2005. All HEI by 2030 will developed on basis of the three types of institutions. All currently affiliated colleges must develop into Autonomous degree granting colleges by 2032. There is ban on opening of Affiliated colleges by 2020. By 2035, the Indian Higher Education System will consolidate into a far smaller number of institutions (40000 colleges and 800 universities to 15000 institutions). All institutions offering either professional or general education must organically evolve into institutions offering both, seamlessly by 2030. Integration of vocational education to all educational institution. Schools, colleges and universities will provide access to vocational education at least 50% by 2025. To achieve 100% literacy among the youth by 2030. They have targeted for the formation of Rashtriya Shikshaayog by 2019, redesignation of MHRD to Ministry of Education by 2019, HE Grant Council by 2023 and NHERA by 2030.

**Positive Features:**

The DNEP 2019 covers all aspects of educational system like General, Technical, Professional, Vocational, Information Technology, Adult education, Teachers education, Students support, Secure condition of teachers, Assessment and accreditation, Early childhood care education and financing of education. The language of DNEP and contents appears to be most attractive and keeping with the aspirations of the people. Emphasis on revival and pursuit of classical languages also supposed to be in the interest of the country. The observation that the teachers are in heart of the system, importance to research, care for inclusive education by the concept of special education zone for unrepresented groups, extension of RTE Act from pretty primary to secondary education, tagging early childhood care education to primary education, importance to teacher's education and various support to students appears to be more positive inputs in education policy. For the first time education policy has come with a definite time frame for implementation.

### Structural Changes:

The DNEP has suggested sweeping structural changes both in academics and management. It suggests doing away with the present pre primary, primary, middle or upper primary, secondary, higher secondary and college & university education to foundation- 5 years, preparatory- 3 years, Middle or upper primary 3 years, four years of secondary education and finally higher education in universities and colleges. It also suggests bringing preprimary under formal education, merger of schools, merger of colleges, university with large number of students, multidisciplinary universities, introduction of vocational education from 14 yrs of age, then semester system right from secondary education, examination at the end of grade 3, grade 5 and grade 8, secondary board score will not be considered for higher studies. Students are supposed to appear for Aptitude test to be conducted by National Testing Agency, Private parties will be given franchise for NAAC. Then choice of different boards for examination purpose and provision for multiple exit and entry in different level of higher education. In the governing structure the draft suggests many regulatory bodies such as, RSA, NHERA, PSSB, NHEQFW, NSQFW, GEC, NRF, NTP, NET, NAB, HEGC and NCFW. In state level, they suggested State Education Commission, state level regulatory authority, merging of SSA, RMSA, Teachers Education under one umbrella. They are also planning to merge all directorates of primary, secondary and higher secondary into one directorate of school education.

### Financing of Education:

In the draft policy, they suggested education to be viewed as a quasi public good. They have also proposed that input is immaterial and suggested the return for investment in education. The draft policy reaffirmed the commitment of 6% of GDP as public investment in education. It is to be noted that in 2017-18 public expenditure on education in India was 2.7% of GDP compared to Bhutan, Sweden and Zimbabwe spending 7.5%, Costa Rica and Finland 7%, Kyrgyzstan, South Africa & Brazil 6%, UK, Netherlands and Palestine 5%, Malaysia, Kenya, Rangoli, Korea and USA 5%. The current 10% of overall public expenditure in education to be increased to 20% over a period of ten years. They suggested 1% increase in state budget in every year. They have also mentioned of the other sources of income from private, philanthropic, individual, corporate social funding, community mobilization fund, charging higher fees from capable students, qualitative shift regulation to see the inflow of funds, money from religious endowment. The draft policy proposes a national research foundation to grant financial assistance for research both to public and private institutions after strict scrutiny and assessment.

### Observations:

The DNEP 2019, after an in-depth study reflects a mismatch of diagnosis and prescription, a contradiction between dream and reality, hidden agenda of ideological domination, consolidation and expansion of indigenous and international capital, strengthen the neo-liberal forces, ignored the common school system, violating the norms of social justice, opened the road for more exclusion and negated the fundamental pillars of Indian constitution. The DNEP 2019 camouflaged with sugar coated words the give scope to forces of cultivation, commercialization, corporatization and communication of education. This policy will create a situation where the children of affluent section have the facility to attend the school of their choice but the children from disadvantage community have the only option to study in the school complex. This draft policy also is a direct confrontation on federal structure of the Indian constitution. A central regulatory authority under the championship of prime minister is empowered to decide all matters concerning

higher education is a great danger to our federal and democratic polity. It will further accelerate the process of politicalization of higher education. The draft policy will further accelerate the domination of privatization in education. For the first time, in this policy draft, private institutions have been given equal status with that of public institutions. It is also said that the regulatory regime shall encourage private philanthropic efforts in education. The policy also suggests for an amendment to RTE Act where the institutions will not be compelled to take 25% students from marginal sections of the society. The private institutions shall have the autonomy in fee structure, which definitely will increase commercialization of education. Allowing multiple board of assessment in private sectors apart from state and central board of assessment is to slowly allow the market forces to interfere in the assessment of the students. Attack on public funded education system, grading of institutions, emphasis on autonomous colleges, merger of school and colleges, entry of foreign universities will have serious impact on social justice and may strengthen forces of privatization. Vocationalization of education without prohibiting the child labor will encourage cheap labor. The purpose is to provide the cheap labor to the national and international market. The policy draft speaks little about dalits, tribals, disabled, women, minority and other marginal sections of Indian societies.

The DNEP talks only about merit, and not about denial of educational opportunity to millions of people of India for centuries together. The secular ethos of our constitution is completely missing in draft policy. The communal overtone is clearly reflected by emphasizing the glories of ancient India and ignoring the cultural heritage of other period. Excessive importance to Sanskrit, study of yoga, astrology and astronomy, appreciating the role of religious organizations and their involvement in educational development, mission Nalanda and mission Takshashila and desire to modify NCFW 2005 clearly reflects the medieval, sectarian and unscientific contents of the policy. Though the policy draft speaks of the crucial role of teachers, in reality nothing elaborate is mentioned about their security, salary structure and service conditions. In the matter of appointment though the policy suggests permanent appointment, there is also lot of contradictions. The only emphasis on merit for career progression, probation for three years, tenure appointment goes against the spirit of permanent appointment. The draft policy does not suggest the service condition and regularization of the existing large number of contractual, block grant and part-time & guest teachers. The policy does not speak about the democratic rights of teachers, elected representatives of teachers & employees in board of management nor suggests consultative status to the teachers' organisations. There is also no mention of doing away with retrograde, colonial and undemocratic conduct rules threatening the academic freedom of teaching community.

### Suggestions:

The voluminous policy document needs for greater scrutiny than it was received so far and that a hasty implementation will have a great consequences, diluting if not reversing the pains-taking attempts that have been made to democratize the contexts and contents of education for decades. Hence the government should have a wider consultation among all stake holders to arrive at a national consensus on education policy. Any policy, that also includes education, should translate the aspirations of the people of the nation. In order to arrive at a more democratic policy government should extend the period of consultation and open debate national debate for another six months.

**Dr Arun Kumar  
GS, AIFUCTO.**

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**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION : CIVIL APPEAL NO. 10857 OF 2016**

All Manipur Pensioners Association by its Secretary..Appellant **VERSUS** The State of Manipur and others ..Respondents

**JUDGMENT : JULY 11, 2019. : M.R.SHAH, J.**

Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the Division Bench of the High Court of Manipur at Imphal dated 01.03.2016 passed in Writ Appeal No. 28 of 2006, by which the Division Bench of the High Court has allowed the said appeal preferred by the respondent – State and has quashed and set aside the judgment and order dated 24.3.2005 passed by the learned Single Judge in Writ Petition (C) No. 1455 of 2000, by which the learned **Single Judge held that the method of calculating the revised pension in paragraph 4.1 of the office memorandum dated 24.4.1999 in respect of pre-1996 pensioners is different from the method of calculating the revised pension for the Government employees who retired/died in harness on or after 1.1.1996 is arbitrary and violative of Article 14 of the Constitution of India**, the original writ petitioners have preferred the present appeal.

*(Para 2 to 7.9 is not printed)*

**8.** Even otherwise on merits also, we are of the firm opinion that there is no valid justification to create two classes, viz., one who retired pre-1996 and another who retired post-1996, for the purpose of grant of revised pension. In our view, such a classification has no nexus with the object and purpose of grant of benefit of revised pension. All the pensioners form a one class who are entitled to pension as per the pension rules. Article 14 of the Constitution of India ensures to all equality before law and equal protection of laws. **At this juncture it is also necessary to examine the concept of valid classification.** A valid classification is truly a valid discrimination. It is true that Article 16 of the Constitution of India permits a valid classification. However, a very classification must be based on a just objective. The result to be achieved by the just objective presupposes the choice of some for differential consideration/treatment over others. **A classification to be valid must necessarily satisfy two tests. Firstly, the distinguishing rationale has to be based on a just objective and secondly, the choice of differentiating one set of persons from another, must have a reasonable nexus to the objective sought to be achieved.** The test for a valid classification may be summarised as a distinction based on a classification founded on an intelligible differentia, which has a rational relationship with the object sought to be achieved. Therefore, whenever a cut-off date (as in the present controversy) is fixed to categorise one set of pensioners for favourable consideration over others, the twin test for valid classification or valid discrimination therefore must necessarily be satisfied. In the present case, the classification in question has no reasonable nexus to the objective sought to be achieved while revising the pension. **As observed hereinabove, the object and purpose for revising the pension is due to the increase in the cost of living. All the pensioners form a single class and therefore such a classification for the purpose of grant**

**of revised pension is unreasonable, arbitrary, discriminatory and violative of Article 14 of the Constitution of India.** The State cannot arbitrarily pick and choose from amongst similarly situated persons, a cut-off date for extension of benefits especially pensionary benefits. There has to be a classification founded on some rational principle when similarly situated class is differentiated for grant of any benefit.

**8.1** As observed hereinabove, and even it is not in dispute that as such a decision has been taken by the State Government to revise the pension keeping in mind the increase in the cost of living. **Increase in the cost of living would affect all the pensioners irrespective of whether they have retired pre-1996 or post-1996.** As observed hereinabove, all the pensioners belong to one class. Therefore, by such a classification/cut-off date the equals are treated as unequals and therefore such a classification which has no nexus with the object and purpose of revision of pension is unreasonable, discriminatory and arbitrary and therefore the said classification was rightly set aside by the learned Single Judge of the High Court. At this stage, it is required to be observed that whenever a new benefit is granted and/or new scheme is introduced, it might be possible for the State to provide a cut-off date taking into consideration its financial resources. But the same shall not be applicable with respect to one and single class of persons, the benefit to be given to the one class of persons, who are already otherwise getting the benefits and the question is with respect to revision.

**9.** In view of the above and for the reasons stated above, we are of the opinion that the controversy/issue in the present appeal is squarely covered by the decision of this Court in the case of *D.S. Nakara (supra)*. The decision of this Court in the case of *D.S. Nakara (supra)* shall be applicable with full force to the facts of the case on hand. The Division Bench of the High Court has clearly erred in not following the decision of this Court in the case of *D.S. Nakara (supra)* and has clearly erred in reversing the judgment and order of the learned Single Judge. The impugned judgment and order passed by the Division Bench is not sustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. The judgment and order passed by the learned Single Judge is hereby restored **and it is held that all the pensioners, irrespective of their date of retirement, viz. pre-1996 retirees shall be entitled to revision in pension at par with those pensioners who retired post-1996.** The arrears be paid to the respective pensioners within a period of three months from today.

**10.** The instant appeal is allowed accordingly. However, in the facts and circumstances of the case, there shall be no order as to costs.

[M.R. SHAH] J. [A.S. BOPANNA] J.

**NEW DELHI; JULY 11, 2019.**

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