

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Writ Petition No. 2216/2006

Court on its own motion vs. State of Maharashtra through its Secretary, Education Department, Mantralaya, Mumbai 32 and others.

Office Notes, Office Memoranda of Coram
appearances, Court's orders or directions
and Registrar's orders.

Court's or Judge's Orders

Mr.Anand Parchure, Amicus Curiae for petitioner.
Mrs. **B.H.Dangre**, Addl. G.P. For respondents 1 to 3.
Mr. **B.G.Kulkarni**, Advocate for respondent no.4.

Coram : B.H. Marlapalle and A.H. Joshi, JJ.

Dated : 3rd December, 2008.

This suo motu public interest litigation petition
prays for the following reliefs;

A) to direct the respondent State to forthwith approach the Maharashtra Public Service Commission (respondent no. 3) to fill in the vacancies for the post of Directors/ Principals in the Institutes/ Colleges run by the State Government within a time bound period.

B) to direct the respondent no.4 University to forthwith take steps to ensure filling up the post of

Principals and Lecturers in private Colleges within a time bound period.

2. Interlocutory orders were passed from time to time in this petition and the State Government as well as the University filed affidavits in compliance of these orders. As of now, out of the 14 posts of Principals / Directors of Government Colleges/ Institutes, the selection for 11 posts has been completed by the Maharashtra Public Service Commission and the names have been forwarded to the State Government. The State Government has issued appointment orders to 10 candidates and verification of the antecedents of one appointee recommended by the Maharashtra Public Service Committee is in progress. For the remaining three posts the Maharashtra Public Service Commission is required to initiate fresh steps.

3. So far as the Principals of the State run B.Ed. Colleges are concerned, the affidavit filed by the Joint

Director Higher Education states that there are five B.Ed. Colleges run by the State Government all over the State of Maharashtra and the Maharashtra Public Service Commission has completed the selection process for all these five posts. The select list has already been received by the State Government and the process of verification of antecedents is presently in progress.

4. So far as the appointment of the Directors in the four Institutes of Science located at Nagpur, Aurangabad, Bombay and Amravati is concerned, the issue was for some time pending for consideration before the Maharashtra Administrative Tribunal in a number of writ petitions filed in the year 1988 and all these petitions, on their transfer to the Maharashtra Administrative Tribunal, have been dismissed in the year 2001. It appears that during the last seven years the State Government did precious little to fill in these posts in the prime Institutes of Science.

5. Though in the petition there is no relief prayed for filling up of all other academic posts lying vacant in the Government run colleges/ institutes other than the Medical Colleges which subject is being dealt with by us in P.I.L. No. 3427/01, it goes without saying that the State Government is required to fill in these posts as well (Lecturers / Associate Professors/ Readers and Professors) expeditiously.

6. So far as the appointments to the posts of lecturer and Principal in the Private Colleges are concerned, the University has filed its affidavit regarding the steps proposed to fill in the post of Principal in all the affiliated colleges where the said posts are lying vacant and various measures have been proposed by the University and we record our satisfaction for the same.

7. We, therefore, direct as under:

A) The Maharashtra Public Service Commission will initiate fresh process to fill in the vacant three posts of Principal for the Government Colleges in Maharashtra as expeditiously as possible so as to ensure that these posts are filled in by 31st May, 2009.

B) The State of Maharashtra through the Principal Secretary Higher and Technical Education will take appropriate steps so as to issue appointment orders to fill in the posts of Principal in the B.Ed. Colleges by 31st January, 2009.

C) The Government of Maharashtra through the Principal Secretary in the Department of Higher and Technical Education will send requisition for the post of Director Institute of Science to the Maharashtra Public Service Commission within four weeks from today and the Maharashtra Public Service commission will publish proclamation / advertisement for the said posts before 15th February, 2009 and will take further steps to ensure that these selections are finalised and the select list is submitted to the Government of Maharashtra by 15th May, 2009. We suggest that the proclamation / advertisement so released shall be published in at least two national english

newspapers so as to have wide circulation at the National level to fill in these prime posts. The State Government will in turn issue the appointment order by 30th June, 2009.

D) The State Government will approach the Maharashtra Public Service Commission to fill in the vacant posts of lecturers in the Government run colleges (other than Medical Colleges) by sending requisition within six weeks from today and the Maharashtra Public Service Commission in turn will take all the due steps to finalise the selection by 31st May 2009. Undoubtedly, the posts of Associate Professor and Professor either by nomination or by promotion will also be filled in, in the like manner so as to ensure that these vacant posts are also filled in by 30th June, 2009.

E) So far as the posts of Principal in the private colleges are concerned, we approve the following measures proposed by the University by noting that the University has already issued a circular to all such colleges directing their managements for taking prompt and immediate steps to fill in these posts by 31st March, 2009 and every Management has been directed to submit an undertaking to that effect.

a) Each individual case of such private colleges would be evaluated as on 15th March, 2009 so as to note down the steps taken to fill in the post of Principal and if the recruitment process is seen to be in progress, the University may consider extending the dead line up to 31st May, 2009.

b) The Colleges which fail to fill in the post of Principal by 31st May, 2009, the University will issue orders in the first week of June, 2009 prohibiting admissions in the first year of the respective faculties for the academic year 2009-2010 and the names of such defaulting colleges would be notified in the local newspapers at the state level as well as the regional level.

c) If the students are admitted despite these prohibitory orders in the first year, the University will not grant enrolment to such un-authorized students nor would it permit the unauthorised students to appear for the examination.

d) The Colleges which would continue to be the defaulters in the next academic year (2010-2011), the University will prohibit the admissions for the first year and second year in that academic year and if the defaults continue at the end of the academic year 2010-2011, the

University will be left with no option than to withdraw/ cancel the affiliation of such Colleges. Undoubtedly the University will follow the due process of issuing a show cause notice etc. when it proceeds to withdraw/ cancel the affiliation.

e) The names of the colleges where admissions have been prohibited as mentioned hereinabove will be intimated in writing to the Joint Director of Higher Education every year with a request to take appropriate stringent measures which the Government may direct.

f) The University will prepare data bank of all the lecturers/ professors who are eligible for appointment to the post of Principal and such list shall be circulated to all the private colleges (aided and non-aided) on or before 31st January, 2009.

We clarify that the names so circulated by the University will be in addition to the applications that the Colleges may receive in response to the advertisement released by them. The circulation of such names by the University may not leave any scope for the Colleges

concerned to take a position that suitable candidates are not available.

8. Before we dispose off the petition in terms of the above directions, we deem it appropriate and in the interest of the higher education in the State of Maharashtra to make the following suggestions to the University as well as to the State Government.

a) The calender to fill in the future vacancies in the posts of lecturer, associate professor, professor and principal is prepared and followed so that within a period of three months (if the post is required to be filled in by promotion) and within six months (if the post is required to be fill in by nomination) these vacancies are filled in.

b) The State Government should take appropriate penal measures against the defaulting private aided colleges whose names would be submitted by the University to the Joint director of Higher Education from time to time.

c) The State Government as well as the University should consider some disciplinary measures in respect of the teaching faculty in the Government run as well as Government aided Colleges/ Institutes all over the State of Maharashtra so as to ensure that they devote their full time for education research, training, art and literature and that they do not engage themselves in any other vocation or source of earning while in service. Some steps in this regard which may be considered could be on par with the Government employees like submission of the details of movable/ immovable properties every year and to submit a written undertaking while joining the services that he/ she will devote full time for teaching, training, research, literature and art and will not engage in any other business/ source of income. These are only some of the examples and it is for the State Government as well as the University to formulate such measures to ensure that the highest academic standards are maintained by these institutes as public money is spent to run these institutes.

9. Undoubtedly, the measures sought to be taken by the respondent no.4 University which are exemplary are also required to be taken by all the Universities in the State

of Maharashtra and we, therefore, expect the Director of Higher Education (the Respondent no.2) to call upon other universities to adopt the same at the earliest so as to ensure that in the next academic year teaching faculty posts as well as the posts of Principal are filled in in the private colleges (aided as well as un-aided).

10. The petition is disposed off accordingly.
11. Certified copy to be issued on priority.

JUDGE

JUDGE

patle.