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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NOS.8357/2021, 2888/2022, 9590/2015,
9498/2015 & 41/2016

WRIT PETITION NO.8357 OF 2021

1. Mr. Bhimrao Pandurang
Gaikwad
R/o. 4/72, Yamunanagar, Nigdi
Pune - 411044.
2. Parasappa Bhimanna Mali
359, C/O Anil Bhaskar Waychal,
Gharonda Housing Society,
Phulenagar, Yerawada,
Pune- 411006.
3. Hanmant Sambhaji Gore
C/O Tara Bandu Bawane,
Parth Bld. Pragati Colony B,
Near PCMC School, Vikasnagar
Kiwale Dehuroad 412101.
4. Dheeraj Sudam Patil
R/o. Flat No-7, Krishna Samran
Apt., Vidya Vihar Colony,
Talegaon Dabhade Pin:410507.
5. Bhushan Shankarao Pawar
C/O Sanjay Anatro Deshmukh
Dnyanraj Colony, Wada Road,
Sathkar Sthl, Rajgurunagar Pune. Petitioners

Versus

1. The State of Maharashtra,
Through the Secretary,
Higher Technical Education and
Employment Department,
Mantralaya, Mumbai 400 032.

2. The Director of Technical Education, 3 Mahapalika Marg, Mumbai 400 001.

3. All India Council for Technical Education (A.I.C.T.E.), Through the Member Secretary, Represented by the Regional Officer A.I.C.T.E. (Western Region), India Assurance Building, Second Floor, Opp. Churchgate Station, Mumbai - 400 020.

4. Maharashtra State Board of Technical Education, Through its Director, 49, Kherwadi, Ali Awar Jung Marg, Bandra (East), Mumbai - 400 051.

5. Joint Director of Technical Education (Pune Region) 412, E, Shivaji Nagar Bahirat Patil Chowk, Pune PIN-411016.

6. The President, Nutan Maharashtra Vidya Prasarak Mandal, Vishnupuri, Talegaon Dabhade, Tal. Maval Dist. Pune, PIN - 410507.

7. The Principal, Nutan Maharashtra Vidya Polytechnic Samarth Vidya Sankul, Vishnupuri Talegaon Dabhade Tal. Maval Dist. Pune, PIN - 410507.

8. The Principal Nutan College of Engineering & Research, Vishnupuri Talegaon Dabhade, Tal. Maval, Dist. Pune, PIN - 410507.

.... Respondents

WITH
WRIT PETITION NO.2888 OF 2022

1. Moin Ayyub Khan,
Age: 32 years, Resident of House
No.3892, Behind Ajmeri Masjid,
Naikwadipura, Nashik - 422 001.
2. Vaibhav Gajanan Kshatriya,
Age: 32 years, Resident of Flat No.
1, Plot No. 6, Radhakrishna Apts,
Ayodhya Nagar, Upnagar,
Nashik-422 101.
3. Shaikh Sameer Ahmed Shakil
Ahmed,
Age: 31 years, Resident of Row
House No. 3, Kausar Park, Behind
Manoj Garage, Khode Nagar,
Nashik - 422 011.
4. Jamil Ahemad Abdul Hafiz
Shaikh,
Age: 35 years, Resident of 12,
Hari Manzil Society,
A Dwarka, Nashik - 422 001.
5. Ikhlas Shafique Sayyed,
Age: 36 years, Resident of Flat No.
4, Sai Ganesh Apartments, Chetna
Nagar, Nashik - 422 009.
6. Mrs. Shaikh Rukhsana
Khursheed,
Age: 43 years, Resident of Flat No.
3, Sabir Pride, Near Masjid-e-
Hasan, Khode Nagar, Wadala
Shewar, Nashik - 422 006.
7. Sanjay Narayan Shewale,
Age: 57 years, Resident of B-2,
Padmavishwa Towers, Near
Wisdom High, M. P. Deore Road,
Rameshwar Nagar, Gangapur
Road, Anandvalli, Nashik-422 013.

8. Mudassar Ali Mahemud Ali
Sayyed,
Age: 37 years, Resident of Flat No.
5, 3rd Floor, Fatema Tower, B/H
Zara Habitats, Opp. JMCT College,
Wadala Road,
Nashik-422 006.

9. Shaikh Zeeshan Akil,
Age: 30 years, Resident of 10,
Paradise Harmony, Pakkhal Road,
Dwarka, Nashik - 422 006.

10. Sayyed Tanvir Ahmed Riyaz,
Age: 41 years, Resident of
3893/B1, Near Ajmeri Masjid,
Naikwadipura, Nashik - 422 001.

11. Milind Ramkrishna Kalgunde,
Age: 40 years, Resident of Plot No.
17, B/4 Gangotri Vihar,
Amrutdham, Panchavati,
Nashik - 422 003.

12. Aijaz Mohammad Shaikh,
Age: 35 years, Resident of Row
House No. 5, Anjum Park - B,
Pakkhal Road, Near Ashoka Tower,
Nashik-422 011.

13. Mrs. Kausar Jahan Gulam
Gous Shaikh
Age: 47 years, Resident of Flat No.
1104, Shreeji Centrum, C Wing,
Near Nashik Hotel,
Nashik-422 009.

14. Miss Gulshiffta Ayub Khan
Now Mrs. Gulshiffta Zeeshan
Shaikh
Age-30 Resident of Flat No 15,
Aashiyana Heights Wadala Road,
Nashik PIN-422006.

15. Mohammed Irfan Abdul Rauf
Shaikh
Age-41 Resident of Plot No 9,
Rabia Villa Mirajkar Nagar, Opp.
Sahiyadri Hospital Wadala Road,
Nashik – 422011.

16. Imtiyaz Ahmed Kamruddin
Shaikh
Age-43 Resident of Flat No. 4,
Saidarshan Apartment Pakhal
Road, Nashik PIN-422001.

.... Petitioners

Versus

1. The State of Maharashtra,
Through the Secretary, Department
of Higher Technical Education,
Mantralaya,
Mumbai - 400 032.

2. The Director of Technical
Education, 3 Mahapalika Marg,
Mumbai - 400 001.

3. The All India Council for
Technical Education,
Represented by the Regional
Officer (Western Region), 2nd
Floor, Industrial Research
Building, National Institute of
Industrial Engineering Campus,
Vihar Lake,
Mumbai-400087.

4. The Maharashtra State Board of
Technical Education,
Through its Director, 49,
Kherwadi, Ali Anwar Jung Marg,
Bandra (E), Mumbai - 400 051.

5. The Joint Director of Technical
Education (Nashik Region
Government Polytechnic Building,
Samangaon Road, Nashik Road,

Nashik-422 101.

6. The President,
Jumma Masjid Charitable Trust,
JMCT Campus, Wadala Road,
Nashik-422 006.

.... Respondents

7. The Principal,
Jumma Masjid Charitable Trust's
JMCT Polytechnic JMCT Campus,
Wadala Road,
Nashik-422 006.

**WITH
WRIT PETITION NO.9590 OF 2015**

1. Mr. Ramesh Balmohanrao
Salunke
Age: 58 Years, Occupation: Service,
R/O. Shrikrishna Nivas
Mantri Colony Banglow No.-03
Near M.I.T. Medical College
Ambejogai Road, Latur Pin 413512.

2. Mrs. Kale Arpita Sunil
Age: 49 Years, Occupation: Service,
R/O. D-2, Adam Villa, Shubham
Complex, Near Old Octroi Naka,
Chinchwad, Pune, Pin-411033.

3. Mr. Virendrakumar Trambaklall
Gujarathi
Age: 57 Years, Occupation: Service,
Flat No.7, 2nd Floor, R.M.Heights,
Indira Shankar Nagari, Paud Road
Pune-411038.

4. Mrs. Meena Vijay Kadam
Age: 44 Years, Occupation: Service,
59, Ambika Garden, Tukaram Nagar
Talegaon Dabhade, Pin 410506.

5. Mrs.Charulata Chandrashekar
Patil
Age: 38, Years, Occupation: Service

Lavikuns Plot No.47, Sector-29,
Chaitanya Park Near D.Y.Patil
College, Akurdi, Pradhikaran, Nigdi,
Pin 411044.

6. Mrs. Vishakha
Sandeepkharote-Chavan,
Age: 36 Years, Occupation: Service,
Flat No.303, 10B, Swapnapoorti
Phase-2, Pradhikaran, Nigdi,
Sector-26, Pune-411044.

7. Mrs. Gauri Tukaram Jadhav
Age: 41 Years, Occupation: Service
Rameshwar Hosusing Society
Flat.No.-11, 'G'block, Rh-75,
Shahunagar, Chinchwad, Pune,
Pin 411019.

8. Mrs. Leena Devdatta Nagarkar
Age:32 Years, Occupation: Service
Building-A,Flat No-15, Near
Ganesh Temple, Bijlinagar,
Chinchwad, Pune-411033.

9. Raju Bhim Gaikwad
Age: 32 Years, Occupation: Service
Siddharth Nagar, Dapodi, Pune Pin 411012. Petitioners

Versus

1. The State Of Maharashtra
Through The Secretary, Higher And
Technical Education And
Employment Department
Mantralaya, Mumbai 400032.

2. The Director Of Technical
Education, Maharashtra State, 3,
Mahapalika Marg, Mumbai-400001.

3. Joint Director of Technical
Education (Pune Region.),
412, E, Shivaji Nagar,

Bahirat Patil Chowk,
Pune-411 016.

4. All India Council for Technical Education (A.I.C.T.E.) Through Western Region Office, Industrial Assurance Building, 2nd Floor, Veer Nariman Road, Churchgate, Mumbai-400 020.

5. Pimpri Chinchwad Education Trust, Through its Secretary Sector No.26, Near Akurdi Railway Station, Pradhikaran, Nigadi Pune, Pin 411044.

6. The Principal,
Pimpri Chinchwad Polytechnic,
Sector No. 26, Near Akurdi Railway Station, Pradhikaran, Nigadi Pune
Pin 411044.

.... Respondents

**WITH
WRIT PETITION NO. 9498 OF 2015
WITH
INTERIM APPLICATION NO. 3907 OF 2021**

1. Shri. Vijay Shripad Kulkarni,
Age: 54 years, Occupation: Service,
R/o. House no. 129, First Phase
Ramaudyan, Pandharpur Road,
Miraj Dist. Sangli. PIN 416410.

2. Shri. Ajit Mahavir Kamate,
Age: 54 years, Occupation: Service,
R/o. OM, 38, Ganesh Housing
Society, Near Prabhakar Tiles,
Sambhajipur, Tal. Shirol,
Dist. Kolhapur PIN-416001.

3. Shri. Raju Shamrao Oak,
Age: 51 years, Occupation: Service,
R/o. House no 99, Ashirwad,
Phase-1, Ramudyan, Phandarpur
Road, Miraj, Dist. Sangli,

PIN - 416410.

4. Shri. Prashant Annasaheb Patil
A.P. Nej, Tal. Hatkanangale,
Dist. Kolhapur.

5. Shri. Keshav Dinkar Ligade
Plot no. 124, Ganesh Housing
Society, By-Pass Road,
Sambhajipur, Tal. Shirol, Dist.
Kolhapur,
PIN – 416101.

.... Petitioners

Versus

1. The State of Maharashtra,
through the Secretary, Higher and
Technical Education and
Employment Department,
Mantralaya, Mumbai 400032.

2. The Director of Technical
Education, Maharashtra State
3, Mahapalika Marg,
Mumbai-400001.

3. All India Council for Technical
Education (A.I.C.T.E.),
through Western Region Office,
Industrial Assurance Building,
2nd floor, Veer Nariman Road,
Churchgate, Mumbai-400 020.

4. Dr. J.J. Magdum trust
Through its Chairman
Jaysingpur, Tal. Shirol,
Dist. Kolhapur.

5. The Principal,
Dr. J.J. Magdum Polytechnic,
Jaysingpur, Tal. Shirol,
Dist. Kolhapur.

.... Respondents

AND

WRIT PETITION NO.41 OF 2016

1. Mr. Pravin Chandrakant Mhetre
Age: 35 years, Occupation:
Service,
R/o. 17/377, Murdande Mala,
Galli No.1, Ichalkaranji,
Dist. Kolhapur PIN-416115.

2. Ms. Anita Anil Nimbalkar
(Mrs. Anita Rajesh Pawar)
Age: 25 years, Occupation:
Service,
R/o. Plot No-61, Mahatma Gandhi
Colony, Old Kupwad road, Sangli
Tal:Miraj, Dist.: Sangli,
PIN-416416.

3. Ms. Amruta Ajitkumar Kore
Age: 31 years, Occupation:
Service,
R/o. Ajinkyatara Housing Society.
Plot No. 71, Behind Post Office,
A/P: Jaysingpur, Tal: Shirol,
Dist.: Kolhapur PIN – 416101.

4. Ms. Manisha Mahaveer
Magdum (Mrs. Manisha Ritesh
Jadhav)
Age: 29 years, Occupation:
Service,
R/o.305, Mangeshwar Chowk,
Sangliwadi, Sangli PIN – 416416.

5. Ms. Prajakta Babgonda Patil
(Mrs.Prajakta Sushant Chiparage)
Age: 28 years, Occupation:
Service,
R/o. A/P: Ankali, Tal.-Miraj,
Dist.: Sangli Pin: 416416.

6. Ms. Minakshi Ganpati
Mankale,
Age: 28 years, Occupation:
Service,

R/o C/O Shripati Ishwara Kore,
20/210, Bhone Mal,
Behind Jivheshwar Mandir,
Ichalkaranji, Dist.: Kolhapur
PIN-416115.

.... Petitioners

Versus

1. The State of Maharashtra,
through the Secretary,
Higher and Technical Education
and Employment Department,
Mantralaya, Mumbai 400032.

2. The Director of Technical
Education, Maharashtra State
3, Mahapalika Marg,
Mumbai-400001.

3. All India Council for Technical
Education (A.I.C.T.E.),
through Western Region Office,
Industrial Assurance Building,
2nd floor, Veer Nariman Road,
Churchgate, Mumbai-400 020.

4. Shree Datta Shetkari Sahakari
Sakhar Karkhana Ltd. Charitable
Trust, Through its Chairman,
Post Datta Nagar Tal. Shirol,
Dist. Kolhapur PIN 416120.

5. The Principal,
Shree Datta Polytechnic College,
Post Datta Nagar Tal. Shirol,
Dist. Kolhapur PIN 416120.

.... Respondents

Mr Suresh Pakale, Senior Advocate a/w Mr Nilesh Desai,
Advocate for the Petitioners in all petitions.

Dr. Uday Warunjikar a/w Mr. Sumit Kate, Advocates for
Respondent No. 4 in WP No.9498 of 2015.

Mr Mihir Govilkar, Advocate for Respondent No. 4 in WP
No.8357 of 2021.

Adv. Anu C. Kaladharan h/f Adv. Anjali N. Helekar for Respondent No.3 in WP No.8357 of 2021, WP No.2888 of 2022, WP No.9498 of 2015.

Sr. Adv. A. V. Anturkar i/by Adv. Sugandh Deshmukh for Respondent Nos. 5 & 6 in WP No.9590 of 2015.

Adv. K. S. Thorat 'B' Panel Counsel for the Respondent - State in WP/8357/2021.

Adv. V. M. Mali, AGP for the Respondent State in WP No.2888 of 2022.

Adv. Ashwini Purav, AGP for the Respondent State in WP No.9590 of 2015.

Adv. P. J. Gavhane, AGP for the Respondent - State in WP No.9498of 2015.

Adv. T. J. Kapre, AGP for the Respondent - State in WP No.41 of 2016.

Ms. Vaishali L. Maindad for the Respondent Nos.6 & 8 in WP No.8357 of 2021.

Adv. Padmanabh Pise i/b V.B. Rajure for Respondent Nos.4 and 5 in WP No.41/2016.

Adv. Mihir Govilkar for Respondent No.4 – MSBTE in WP No.8357/2021 and WP No.2888/2022.

Adv. Anjali Helekar for Respondent No.3 (AICTE) in WP No.8357/2021, WP No.2888/2022 and WP No.9498/2015.

CORAM : NITIN W. SAMBRE &
ASHWIN D. BHOBE, JJ.

Reserved on : 21st MARCH 2025
Pronounced on : 22nd MAY 2025

PER COURT :

1. Heard learned Counsels appearing for the parties.
2. The issue involved in the present Petitions is common, and, as such, the Petitions are taken up together for disposal.

3. Rule. The rule is made returnable forthwith with the consent of and at the request of the learned counsels appearing for the parties. Learned Counsels appearing for the respective Respondents waive service.

4. Factual Matrix involved in the Petitions, relevant for the adjudication are as under :

(A) WRIT PETITION NO.8357/2021

Petitioners are working as lecturers at Nutan Maharashtra Vidya Polytechnic(Respondent No. 7). The Respondent No. 7 by their application dated 3rd December, 2017 sought NOC from the Respondent No. 4 (Maharashtra State Board of Technical Education), under section 35 of the Act to convert Respondent No. 7 Polytechnic into an Engineering College. The undertaking appended to the said application gave the details as to how the existing employees would be absorbed. Vide GR dated 20th June, 2018 Respondent No. 1(The State of Maharashtra) granted permission.

Petitioners claim that the Respondent No.7 despite their assurances made to the Petitioners of protecting service conditions and salaries failed to abide by the same. Petitioners further claim that after obtaining no objection certificate from the authorities transfer orders were issued to the Petitioners. Petitioners have sought for the following reliefs :

(a) This Hon'ble Court may be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Certiorari and/or a Writ in the nature of Certiorari or any other appropriate Writ and direction, and call for the papers and proceedings from

Respondent Nos.1 to 5 to ensure that in respect of GR dated 20th June, 2018 and after examining its legality validity and propriety and quash for the same.

In the alternative, the present Petitioners be appropriately absorbed by protecting their post service seniority etc. in i.e. 8 School and they be fixed in a scale as applicable to their post and seniority.

(b) This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos.1 to 5 to ensure that Respondent Nos.6 to 8 to pay the arrears of salaries arising out of non payment of salary as per the Sixth pay scales to the Petitioners from their initial date of appointment and to implement the Seventh Pay Commission Pay Scales with effect from 1.1.2016 and implement allowances as per Government rules in vogue from time to time to the Petitioners along with 12% compound interest on the arrears due to the Petitioners.

(c) This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos. 6 to 8 to enforce and/or give effect to the VI pay Commissions Pay Scales introduced under Government Resolution dated 20 August 2010 from due date as applicable to the Petitioners with all arrears payable to them there under and VI pay scales and implement the Seventh Pay Commission Pay Scales introduced under Government Resolution dated 11 September 2019 together with Circular dated 29th September, 1995 with all arrears payable thereunder.

(d) This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos. 6 to 8 to pay the gratuity payable to the Petitioners under the Payment of Gratuity Act, 1972.

(e) Pending the hearing and final disposal of this Writ Petition, the Respondent Nos. 1 to 5 be directed to take appropriate and necessary actions against Respondent Nos. 6 to 8 for committing gross irregularities in not following the provisions of Government Resolution dated 20 June 2018 granting permission for the conversion of Nutan Maharashtra Vidya Polytechnic to Nutan College of Engineering and Research, Pune and then submit report to this Hon'ble Court.

If the conditions laid down in Government Resolution dated 20 June 2018 are violated, then the said Government Resolution may be set aside.

(f) Ad-interim reliefs in terms of the prayer clauses (a), (b) & (d).

(g) Cost of the petition may be provided for the Petitioners.

(B) WRIT PETITION NO. 2888/2022

Petitioners are the teaching and non-teaching staff employed by the Respondent No. 6 (Jumma Masjid Charitable Trust) working at the Jumma Masjid Charitable Trust's JMCT Polytechnic (Respondent No. 7). Petitioners contend that despite Government Resolution dated 20th August, 2010 and Government Resolution dated 11th September 2019 which make the VIth Pay Commission and VIIth Pay Commission applicable to the staff of Engineering Institute, the Respondent Nos. 6 and 7 have refused to pay the allowances and salaries of the Petitioners in terms of the said Resolutions. Petitioners have sought for the following reliefs :

“(a) this Hon'ble Court may be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate Writ, Order and/or direction directing Respondent Nos. 1 to 5 to ensure that Respondent Nos. 6 and 7 continue to pay the Petitioners' salaries in the appropriate, maternity leave period salary of Petitioner Nos. 6 and 14 be paid to them and admissible Pay Scale as per their posts and seniority, and further not to take any punitive action as regards the employment of the Petitioners in any manner whatsoever.

(b) This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate Writ, Order and/or direction directing Respondent Nos. 6 and 7 to enforce and/or give effect to the VI pay Commissions Pay Scales introduced

under the GR dated 20 August 2010 (for the teaching staff) and GR dated 22 April 2009 (for the non-teaching staff) as applicable to the Petitioners with all arrears payable to them thereunder, with interest on unpaid salaries as per Government Resolution dated 22 November 1994 r/w Circular dated 29th September 1995 with all arrears payable thereunder.

(c) This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate Writ, Order and/or direction directing Respondent Nos. 6 and 7 to enforce and/or give effect to the VII pay Commissions Pay Scales introduced under the GR dated 11 September 2019 (for the teaching staff) and GR dated 16 September 2019 (for the non-teaching staff) as applicable to the Petitioners with all arrears payable to them thereunder, with interest on unpaid salaries as per Government Resolution dated 22 November 1994 r/w Circular dated 29th September 1995 with all arrears payable thereunder.

(d) This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate Writ, Order and/or direction directing Respondent Nos. 6 and 7 to pay the Gratuity payable to the Petitioners under the Payment of Gratuity Act, 1972.

(e) this Hon'ble Court may be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate Writ, Order and/or direction directing Respondent Nos. 1 to 5 to remove the name of the Respondent No. 7 Institution from the No-Admission Category, and further direct Respondent Nos. 6 and 7 to admit students in their Institution against the sanctioned intake of 360 students in all the faculties.

(f) Pending the hearing and final disposal of this Writ Petition, the Respondent Nos. 1 to 5 be directed to take appropriate and necessary actions against Respondent Nos. 6 and 7 for committing gross irregularities in not obtaining the Extension of Approval for the courses run at the JMCT Polytechnic for the AY 2021-22.

(g) Pending the hearing and final disposal of this Writ Petition, this Hon'ble Court be pleased to direct Respondent Nos. 6 and 7 not to take any adverse or punitive action against the Petitioners in any manner whatsoever and they be

permitted to report for work regularly as per the present practice, and further restrain Respondent Nos. 6 and 7 and/or their agents, servants or any one claiming through them from terminating/transferring the services of the Petitioners and/or altering the service conditions of the Petitioners to their detriment and, pay the Petitioners their salaries regularly as prayed in prayer clause (c) and (d).

(h) Pending the hearing and final disposal of this Writ Petition, this Hon'ble Court be pleased to direct Respondent Nos. 1 to 5 to remove the name of the Respondent No. 7 Institution from the No-Admission Category, and further direct Respondent Nos. 6 and 7 to admit students in their Institution against the sanctioned intake of 360 students in all the faculties.

(i) Ad-interim reliefs in terms of the prayer clauses (b), (e) and (g).

(j) Costs of the Petition may be provided for the Petitioners.”

(C) WRIT PETITION NO.9590/2015

Petitioners are teaching and non-teaching staff working at Pimpri Chinchwad Polytechnic, Akurdi, Pune an Institute managed and run by Respondent Nos. 5 and 6. Petitioners seek directions to the Respondent Nos. 5 and 6 to extend the service conditions applicable to them and to give benefits of the time scale promotions as per Government Rules and Regulations in vogue and for a direction to pay all the arrears and other service benefits and make applicable the other service benefits provided under Government Resolutions and Circulars issued by the Director of Technical Education, Maharashtra, Mumbai from time to time. Petitioners have sought for the following reliefs :

“a) This Hon'ble Court may be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and / or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos. 5 & 6 to enforce and / or give effect to the circular no.2/NGC/1095/3896 dated

29/9/1995, Government Resolution RPS 1220/1/TE-6 dated 27/02/2003, and Government Resolution no TED 1099/(168/99)/ TS-5 dated 20/10/2000. And extend the benefits payable thereunder to the Petitioners.

b) This Hon'ble Court may be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and / or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos. 5 & 6 to enforce and draw the monthly salary of the Petitioners accordingly and further.

c) To implement Senior Lecturer scale and Selection grade scale and Pay band 4 with applicable Academic Grade Pay (AGP) from the due applicable dates as set out in Exhibit "A" to the Petition. The provisions of the government resolutions in favour of Petitioner Nos. 2 to 6 (Teachers) and to give effect to Government Resolution no SRV-1095/Pr.Ka.1/195/ VaRa dated 8 June 1995 and Government Resolution no. TED 1099/ (168/99) /TE-5 dated 20/10/2000 and Government Resolution No. RPS 1209/CR-27/SER-9 Dated 22 April 2009 in favour of Petitioner Nos. 1, 7 to 9 (non teaching staff).

d) This Hon'ble Court may be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and / or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos. 5 & 6 to enforce and direct to draw monthly salary of the Petitioners in accordance with the Government pay scales and allowances applicable to the posts held by the Petitioners on or before 10th of every month.

e) Pending the hearing and final disposal of this writ petition, this Hon'ble Court may be pleased to issue an order and injunction of this Hon'ble Court restraining Respondent Nos. 5 & 6 or its agents, servants and/or anyone claiming through them from terminating, transferring, suspending or demoting the services of the Petitioners and/or altering the service conditions of the Petitioners to his detriment and further Respondent nos. 5 & 6 be directed to draw monthly salary and allowances as per Government Rules in vogue from time to time.

f) Ad-interim reliefs in terms of the prayer clauses (a) to (e).

g) Cost of the petition may be provided to the petitioners.

h) Such Order or other reliefs that may be necessary may kindly be passed.”

(D) WRIT PETITION NO.9498/2015

Petitioners are full time, permanent teaching faculty at Dr. J.J. Magdum Polytechnic, Jaisingpur, Kolhapur, managed by Dr. J.J. Magdum Trust, Jaisingpur, Kolhapur. Petitioners are seeking a directions to the said Respondent Nos. 4 and 5 to pay salary and arrears of pay and other service benefits, in terms of the Government Resolutions and Circulars of Director of Technical Education, Maharashtra from time to time and for implementation of the time scale promotions as per the Government Rules and Regulations in vogue. Petitioners have sought for the following reliefs :

“a) This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and / or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos. 4 & 5 to enforce and / or give effect to the VI pay Commissions pay scale in pay board 4 introduced under G.R. dated 20th October, 2010 with applicable Academic Grade Pay (AGP) from due date as applicable to the Petitioners with all arrears payable to there under and Government Resolution RPS 1220/1/TE-6 dated 27/02/2003, and Government Resolution no. TED 1099 / (168/99)/ TS-5 dated 20/10/2000 together with circular dated 29th September, 1995 with all arrears payable to there under.

b) This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and / or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos. 4 & 5 to make adequate financial provisions for payment of gratuity payable to the Petitioners, at the time of their retirement by taking necessary & appropriate steps as provided under the Payment of Gratuity Act. Respondent no 4 & 5 may be directed to raise the gratuity fund and make necessary contributions in the gratuity fund to make sufficient provision of funds for the payment of

gratuity to the Petitioners as per the provisions of the Payment of Gratuity Act.

c) This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and / or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos. 4 & 5 direct Respondent Nos. 4 & 5 to pay monthly salary & wages to the Petitioners on or before 10th day of every month regularly.

d) Pending the hearing and final disposal of this writ petition, this Hon'ble Court may be pleased to issue an order and injunction of this Hon'ble Court restraining Respondent Nos. 4 & 5 or its agents, servants and/or anyone claiming through them from terminating, transferring, suspending or demoting the services of the Petitioners and/or altering the service conditions of the Petitioners to their detriment and further Respondent nos. 4 & 5 be directed to draw monthly salary and allowances as per Government Rules in vogue from time to time on or before 10th day of every month.

e) Ad-interim reliefs in terms of the prayer clauses (a) (c) & (d).

f) Cost of the petition may be provided for the Petitioners.

g) Such order and further reliefs that may be necessary may kindly be passed.”

(E) WRIT PETITION NO. 41/2016

Petitioners are full time, permanent teaching faculty at Shree Datta Polytechnic College, Shirole, Kolhapur managed by Shri Datta Shetkari Sahakari Sakhar Karkhana Ltd. Charitable Trust, Shirole, Kolhapur. Petitioners claim a direction to the Respondent Nos. 4 and 5 to pay their salaries and arrears of pay and implement service benefits in terms of the Government Resolutions and Circulars issued by the Director of Technical Education, Maharashtra State from time to time and to pay dearness allowances and other allowances as per the Government

Rules and Regulations in vogue from time to time. Petitioners have sought for the following reliefs :

“a) *This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos. 4 & 5 to enforce and / or give effect to the VI pay Commissions pay scale introduced under G.R. dated 20th August 2010 with applicable Academic Grade Pay (AGP) from due date as provided and as admissible to the Petitioners together with the annual increments as per the provisions of G.R. dated 20th August 2010 and arrears payable thereunder from the due date till date.*

b) *This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos. 4 & 5 to make adequate financial provisions for payment of gratuity payable to the Petitioners, at the time of their retirement by taking necessary & appropriate steps as provided under the Payment of Gratuity Act, 1972. Respondent no 4 & 5 may be directed to raise the gratuity fund and make necessary contributions in the gratuity fund to make sufficient provision of funds for the payment of gratuity to the Petitioners as per the provisions of the Payment of Gratuity Act, 1972.*

c) *This Hon'ble Court be pleased to exercise powers vested in it under Article 226 of the Constitution of Indian and issue a writ of Mandamus and/or Writ in the nature of Mandamus, order and direction directing Respondent nos. 1 to 3 to take appropriate legal action against Respondent Nos. 4 & 5 for their unconstitutional and illegal actions as averred in the Petition.*

d) *This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a Writ of Mandamus and / or a Writ in the nature of Mandamus or any other appropriate writ and direction, directing Respondent Nos. 4 & 5 direct Respondent Nos. 4 & 5 to pay monthly salary & wages with dearness allowance and other allowances payable to the Petitioners on or before 10th day of every month regularly.*

e) *Pending the hearing and final disposal of this writ petition, this Hon'ble Court may be pleased to issue an order*

and injunction of this Hon'ble Court restraining Respondent Nos. 4 & 5 or its agents, servants and/or anyone claiming through them from terminating, transferring, suspending or demoting the services of the Petitioners and/or altering the service conditions of the Petitioners to their detriment and further Respondent Nos. 4 & 5 be directed to draw monthly salary and allowances as per Government Rules in vogue from time to time on or before 10th day of every month.

f) Ad-interim reliefs in terms of the prayer clauses (a) (c) & (d).

g) Cost of the petition may be provided for the Petitioners.

h) Such order and further reliefs that may be necessary may kindly be passed.”

5. Though Petitioners have sought for various reliefs in the Petitions, however, Mr Suresh Pakale, learned Senior Counsel appearing for the Petitioners in all the above Petitions, has restricted the prayers to seek directions to the Respondents Management to obey and discharge their statutory obligations in extending the revised pay scales prescribed by the following Government Resolutions (GRs):

(i) GR dated 11th December 1999 whereby a revised pay scale (popularly known as the V Pay Scale) came to be introduced by the State Government to employees employed in Polytechnics.

(ii) GRs dated 20th August 2010 (for the teaching staff) and 22nd April 2009 (for the non-teaching staff) by which revised pay scales (popularly known as VI Pay Scale) came to be introduced by the State Government to employees employed in Polytechnics.

(iii) GRs dated 11th September 2019 and 16th September 2019 by which revised pay scales (popularly known as VII Pay Scale) came to be introduced by the State Government for teaching and non-teaching employees employed in Polytechnics.

(iv) By way of an amendment, all the pay revisions are made part of the MEPS Rules, 1981, i.e. Notifications dated 6th September 2016, 16th October 2018 and 17th October 2023.

6. Mr Pakale, learned Senior Counsel, submits that the present Petitions seek enforcement of the Government Resolutions. He submits that Petitioners are entitled to get their monthly salaries in accordance with the pay scales prescribed by the afore-referred Government Resolutions. He submits that the Respondents - Management have refused to obey and implement the said Government Resolutions for reasons, which are unjustified. He, further, submits that on account of the said act of the Respondents - Management, Petitioners are denied of their monthly salaries on a regular basis. He points out various representations made by Petitioners to the respondents - Management as well as Respondents Statutory Authorities seeking for redressal of their grievances. He, further, submits that Petitioners left with no remedy are before this Court by way of the present Petitions seeking directions to the Respondents - Management to extend the benefits of the said revised pay scales and also to clear the unpaid salaries payable by them. Mr Pakale, in support of his contentions, relies on the following judgments:

(i) K. Krishnamacharyulu V/s. Venkateshwara Hindu College of Engineering¹,

(ii) Bhartiya Kamgar Sena V/s. State of Maharashtra & Ors.²,

(iii) Vidya Dhar Pande V/s. Viduat Grih Shiksha Samiti³,

(iv) Manojkumar Amare & Ors. V/s. The State of Maharashtra & Ors.⁴,

(v) Paul Manoj Pandian V/s. P. Veldura⁵,

(vi) Shree Hari Chemicals Export Ltd. V/s. Grocery Markets and Shops Boards for Greater Bombay & Anr.⁶,

(vii) Mrs Vandana Jayant Damle V/s. State of Maharashtra & Ors.⁷,

(viii) Pune Institute of Computer Technology V/s. Vandana Jayant Damle & Ors.⁸.

(ix) Teachers Association for Non-Aided Polytechnic V/s. Hind Seva Mandal & Ors.⁹,

1 1997 (3) SCC 571

2 2013 (1) BCR 466

3 1989 AIR (SC) 341

4 WP No.242/2013

5 2011 (5) SCC 214

6 WP No.9743/2009

7 WP No.7111 of 2017

8 Special Leave to Appeal (c) No.7540/2023

9 (2003 BCR (sup) 846

*(x) Anil Dattatray Ade V/s. Presiding Officer,
School Tribunal, Amravati Region, Amravati &
Ors.¹⁰*

7. Mr. Pakale, learned Senior Advocate for Petitioners further submits that the issues raised in the present Petitions are squarely covered by the decision of the Full Bench of this Court in the case of *Mr Hanumant Mahadev Bhosale V/s. All India Council for Technical Education*¹¹. In addition to the oral submissions, he has placed his written submissions on record. He, therefore, prays that the Petitions be allowed.

8. Senior Advocate Mr. A. V. Anturkar i/by Advocate Sugandh Deshmukh, Dr. Uday Warunjikar a/w Mr. Sumit Kate, Mr. Mihir Govilkar, Advocate Anu C. Kaladharan h/f Advocate Anjali N. Helekar, Advocate K. S. Thorat 'B' Panel Counsel, Advocate V. M. Mali, AGP, Advocate Ashwini Purav, AGP, Advocate P. J. Gavhane, AGP, Advocate T. J. Kapre, AGP and Ms. Vaishali L. Maindad, learned counsel appearing for the respective Respondents have opposed the Petitions. Mr Anil Anturkar, learned Senior Advocate (representing Respondents – Management in Writ Petition No.9590/2015), has raised the following contentions on behalf of the Management:

(a) That if the field is occupied by statutory provisions or by sub-ordinate legislation, then the power under Article 162 of the Constitution of India is not available to cover the field occupied either by statutory provisions or by sub-ordinate legislation.

10 2003 (3) BCR 465

11 (2023) 6 Mh.LJ 634

(b) As far as the pay scales payable to the teachers in the school is concerned, the field is occupied by Maharashtra Employees of Private School Act, 1977 (hereinafter referred to as 'MEPS Act, 1977') and Maharashtra Employees of Private School Rules, 1981 (hereinafter referred to as 'MEPS Rules, 1981'). Thus, the pay scales payable to teachers and polytechnic is covered by the aforesaid statutory provisions and sub-ordinate legislation vis the MEPS Rules, 1981.

(c) Even the field, as to how to introduce change in the pay scales is provided by the statutory provisions vis Section 16(2) of the MEPS Act, 1977. Thus, the Government Resolutions by which the benefits in the pay fixation have been given retrospectively, imposing huge amount of arrears on the Management is contrary to the provisions of MEPS Act, 1977.

(d) Section 16(3) provides that the Rules made under MEPS Act, 1977 shall be subject to condition of previous publication. The Government Resolutions relied by the petitioners pertaining to IVth, Vth, VIth and VIIth Pay Commissions are issued under Article 162 of the Constitution of India. There is no requirement to follow the procedure of the previous publication as required under the MEPS Act, 1977. Thus, the same is contrary to Section 16 of the MEPS Act, 1977.

(e) The Government Resolutions are not statutory provisions mean of the MEPS Act and Rules.

(f) In respect of the decision of the Full Bench of this Court in the case of *Hanumant Bhosale* (Supra), Mr Anturkar submits as follows:

“15. In the Full Bench Judgment of Hanumant Bhosale (supra) that the following points are not considered, which it is submitted out have been considered viz.;

(a) The effect of Section 16(3) of MEPS Act, 1977 which prohibits retrospective effect being given to the pay scale since it will be prejudicial to the Management.

(b) The effect of Section 16(3), of the MEPS Act which mandate that the Rules, if are to be amended, they have to meet the requirement of Section 24 of the Maharashtra General Clauses Act, viz. the requirement of previous publication.

(c) That the binding judgment of the Hon'ble Supreme Court which provides that if the field is occupied either by statutory provision or by the subordinate legislation power under Article 162 of the Constitution of India is not available.

*(d) That whether the directions which have been given by AICTE are mandatory or directory in the light of two circumstances viz.; (a) the circular issued by AICTE, itself described this directions as **mere guidelines** and (b) the judgment of the Hon'ble Supreme Court reported in **2013 (3) SCC.385, (particularly Para 20)**.*

*(e) The effect of the judgment of St. Merry and whether the dispute which is based upon the Government Resolution under Article 162 **and not upon any statutory provision can be the subject matter of Writ Petition.***

(f) Whether Mahatma Gandhi Mission apply to the school in the Nagpur judgment referred to above.”

9. On the basis of the above said contention, Mr Anturkar submits that important questions of law arise and, therefore, the same are required to be considered by this Court. He has placed his

notes of written submissions on record. He relies on the following decisions:

*(i) Hanumant Bhosale V/s. AICTE and Ors.*¹²

*(ii) Ramkrishna Vivekanand Mission V/s. State of West Bengal*¹³,

*(iii) Cherukari Mani V/s. Chief Secretary Government of Andhra Pradesh and Ors.*¹⁴,

*(iv) Secretary, Mahatma Gandhi Mission and Anr. V/s. Bharatiya Kamgar Sena & Ors.*¹⁵,

*(v) St. Mary's Education Society and Anr. V/s. Rajendra Prasad Bhargava and Ors.*¹⁶

*(vi) Bhagwan Shikshan Prasarak Mandal and Ors. V/s. Vinayak & Ors.*¹⁷,

*(v) Anil Kale V/s. Maharashtra Academy of Engineering and Education and Research and Ors.*¹⁸.

10. Mr V. B. Rajure learned Counsel appearing for Respondent Nos. 4 and 5 in Writ Petition No.41/2016 has filed written arguments dated 07.02.2025. The crux of the arguments of Respondent Nos. 4 and 5 are in paragraph Nos. 4, 5, 6 and 7 of the written arguments dated 07.02.2025, and are extracted hereunder:

12 (2023) 6 Mh.LJ 364

13 (2005) 9 SCC 53

14 (2015) 13 SCC 722

15 (2017) 4 SCC 449

16 (2023) 4 SCC 498

17 Civil Appeal No.6229/2023

18 WP No.1893/2014

“4. It is submitted that the poor response for admission of students as against Intake capacity resulting in loss to the Trust. For want of sufficient funds the Trust cannot bear the additional burden by applying VIth Pay Commission. It is submitted that to meet the expenses on the staff towards salary teaching and non-teaching and other expenses Trust is required to obtain loan and advances and there is no possibility for the present atleast to repay the loan and advances taken for the said purpose. Therefore, despite the orders of the Government for want of aid from the Government it is not possible to apply the provisions of VIth Pay Commission to the Petitioners. It is submitted that due to constant increasing loss suffered by the Trust is also one of the factor not to apply the Provisions of the said Commission. It is submitted that the Petitioners are also aware of the fact that the Trust is in loss and in financial difficulty.

5. It is submitted that the source of income to the Trust is by way of fees paid by the student and as stated hereinabove, due to shortfall in the admission of the students every year the Trust is in financial difficulty and therefore cannot apply the provisions of VIth Pay Commission to the Petitioners. It is submitted that if the salary as per VIth Pay Commission is paid or applied then the College is required to be closed which may result in loss to the rural students desirous of completion of technical diploma for their livelihood. It is submitted that in case the Trust is directed to implement the provisions of VIth Pay Commission, the college will have to be closed down which may paralyze the education system in Polytechnic adversely affecting the students desiring to complete technical education and the society in general.

6. It is submitted that no action contrary to law or arbitrary and illogical and vindictive is taken by the Trust or College against the Petitioners. It is submitted that the deduction towards Mediclaim Insurance policy was made twice and it is not a permanent deduction. The petitioners did not object immediately, however, a complaint was made in November, 2015 which is against their own action allowing to deduct and thereafter raising the objection is contrary to their own behavior. However, the said Insurance Policy was in the interest of the employee and not in the interest of the Trust.

7. In view of the aforesaid submissions, these Respondents are unable to implement the provisions of VIth Pay Commission to the Petitioners and therefore the Petition be kindly rejected.”

11. In response to the contentions of learned Senior Counsel Mr Anturkar, learned Senior Counsel Mr Pakale submits that the issue

being covered and concluded by the Full Bench of this Court in the case of *Hanumant Bhosale* (supra), it is not open to the parties to contend or canvass that certain points were not raised and urged before the Full Bench. He, therefore, submits that the Petitions be allowed.

12. Though the arguments in the present Petitions were heard on 23.01.2025 and the parties granted liberty to file written submissions by reserving the matter for judgment, the order dated 23.01.2025 passed in Interim Application (ST.) No. 4806 of 2025, was recalled at the instance and at the request of the Respondent Nos. 4 and 5 in Writ Petition No. 41/2016. Arguments were canvassed by the parties on 21.03.2025.

13. On 24.03.2025, Mr Pakale, learned Senior Counsel for the Petitioners, has filed a memo placing on record the decision of the co-ordinate Bench in Writ Petition No.14395/2019 dated 03.03.2025 to contend that the said decision would be applicable to the facts of the case.

14. With the assistance of the respective counsel, we have considered the records and the submissions.

15. The issue covered in the present Petitions is no more *res integra* and is covered by the decision of this Court in the case of *Hanumant Bhosale* (supra), *Anil Dattaram Ade* (supra) and *Teachers Association for Non-Aided Polytechnic* (supra).

16. This Court in the case of *Hanumant Bhosale* (supra), after referring to the Government Resolutions, MEPS Act and Rules as also considering the arguments as urged before us, has held that strict compliance of the provisions of the MEPS Act and Rules and the amendment to Schedule 'C' is not necessary for making the pay scales as recommended by the AICTE applicable to the employees. Useful reference can be made to paragraphs- 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47 of the case of *Hanumant Bhosale* (supra), which read as under:

“37. We now turn to the question as to whether strict compliance with the provisions of sections 16 & 4 of the MEPS Act and Rule 7 of MEPS Rules and the amendment to Schedule “C” is necessary for making the pay scales recommended by the AICTE applicable to the employees governed by MEPS Act and MEPS Rules C and the parameters of section 4(3) of the MEPS Act.

38. The combined effect of the three, the two legislations and executive instructions regarding pay scales in Technical Schools is as follows. The MEPS Rules are enacted in the exercise of the powers conferred under sections 16(1) and (2) of the MEPS Act. Rule 7 of the MEPS Rules deals with scales and pay allowances and provides that pay for full-time as well as Part Time Heads, Assistant Heads, Supervisors, Teachers, and non-teaching staff in primary schools, secondary schools, night schools, and junior colleges would be prescribed as per Schedule-C to the MEPS Rules. Schedule C has been referred to earlier. The AICTE Act, the Regulations and the orders apply to Technical Schools and also the pay-scales.

39. The Respondent- Technical Schools contend that the Government Resolution cannot be issued under Article 162 of the Constitution of India to fill or encroach upon the said field and when an Act and/or subordinate legislation like Rules contemplates that a particular thing should be done in a particular manner, then it has to be done in that manner only and not in another manner at all. The field relating to providing the pay scale payable to the teachers and non-teaching staff in the school and, more particularly, the Engineering / Polytechnic institution is the field occupied by the provisions of section 16 of the MEPS Act and the subordinate legislation, namely Rule 7(1) and Schedule 'C' of the MEPS Rules, we do not find merit

in this contention. There is legislative history to this issue. Until 1990, when section 2(24) of the MEPS Act defining 'school' was amended, the Technical Schools were not referred to in section 2(24) of the MEPS Act, and an amendment was brought in vide The Maharashtra Act XXXII of 1990. The Statement of Objects and Reasons of The Maharashtra Act XXXII of 1990 for amending the Act of 1977 has been reproduced by the Full Bench in Anil Dattatraya Ade Vs. Presiding Officer, School Tribunal, Amravati Region, Amravati - 2003(3) Bom.C.R. 465. It reads thus:

“The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 is enacted to regulate recruitment and conditions of service of employees in certain private schools. The expression “school”, as defined in section 2(24) meant a primary school, secondary school, or higher secondary school or any part of any such school, a junior college of education, or any other institution or part thereof which imparts education or training below the degree level including any institution which imparts technical or vocational education. In Writ Petition No. 2719 of 1984 (Shri P.D. Prabhudesai Vs. The Principal, M.T.E. Society’s Walchand College of Engineering, Vishrambaug at Sangli), it was contended that polytechnic, an institute which imparts technical education upto a diploma level is not covered within the definition of the expression “school” and therefore the School Tribunal constituted under the Act had no jurisdiction to adjudicate the dispute raised by a teacher of a polytechnic. The Division Bench of the Bombay High Court had upheld this contention and observed that by merely interpretative process, it was not possible for the court to confer jurisdiction upon the School Tribunal, where it had none under the Act. Government therefore, considered it expedient to amend the definition of the expression “school” so as to cover all technical and non-technical schools, junior colleges and institutes which impart general, technical, vocational, art or, as the case may be, special education or training in any faculty or discipline or subject below the degree level. Opportunity was also taken to amend certain other definitions or sections of the Act, which were found necessary or were consequential or incidental. The Act seeks further to amend the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, to achieve the abovementioned objectives.”

Accordingly, Maharashtra Act XXXII of 1990 was passed by the Legislature. Clauses (21), (24) and (25) of section 2 were

substituted by the 1990 Amendment. Other amendments were also made. The reference to overcome the situation indicated by a judicial pronouncement that the School Tribunal constituted under the Act had no jurisdiction to adjudicate the dispute raised by a teacher of a polytechnic which imparts technical education up to a diploma level is not covered within the definition of the expression "school", is pertinent.

40. After the amendment of 1990, the State, however, did not find it necessary to correspondingly amend Schedule C because the AICTE had already prescribed the pay scales in respect of the employees in the Technical Schools. There is no debate that the academic and administrative matters of Technical Schools norms are prescribed by the AICTE. The Technical Schools have to function as per the AICTE norms. These norms include the requirement of payment of salaries and pay scales to the employees of the Technical Schools. The AICTE Act prescribes pay scales and other service conditions of teaching and nonteaching staff in Technical Schools and other technical institutions. This position is not in dispute.

41. The AICTE forwarded the recommendations inter alia on 20 September 1989, pertaining to the revision of the pay scale. The State Government, by virtue of Government Resolution dated 26 May 1992 and others had called upon the Technical Schools to implement the revised pay scale as recommended by AICTE with effect from 1 January 1986. The pay scale was further revised from time to time by adopting the aforesaid mechanism, to provide for the pay scale commensurate with recommendations of various Pay Commissions.

42. The M.E.P.S. Act and Rules regulate the recruitment and the conditions of service of the employees in private schools. Schedule 'C' of M.E.P.S. Rules prescribes the pay scale payable to the teachers. The said Rules are framed by the State Government pursuant to its powers under section 4 of the M.E.P.S. Act. Even though the Technical Schools were included in the definition of School under section 2(24) under MEPS Act, they have not lost their distinctive character as regards the pay scales which are prescribed by the AICTE. The State Government advisedly did not feel it necessary to amend Schedule-C because the pay scales for the Technical Schools, which were brought into the definition of section 2(24), were already prescribed by AICTE.

43. The Division Bench in the reference order has referred to the Circular/order issued by the AICTE on 30 December 1999, more particularly Clauses 2.3 and 16.1 thereof. Clauses 2.3 and 16.1 read thus:

“2.3 State Government Institutions and Private Aided Institutions.–

Taking into account the local conditions, a State Government may implement the revised payscales from a date later than January 1, 1996 and/or implement pay-scales other than those given in this notification, but which are not higher than the pay-scales given in Tables. (Appendix A - 1, 2 and 3). In such cases, the details of the modification proposed either to the scales of pay or the date from which the scheme is to be implemented, should be furnished to the All India Council for Technical Education for its approval.

16.1 General

(a) The implementation of the revised scales will be subject to the acceptance of all the conditions mentioned in the scheme including revised qualifications and recruitment procedures as well as of the other terms and conditions issued by the AICTE in this behalf.

(b) The State Government/Institutions are required to amend their Statutes, Memorandum of Association, Rules/Schemes Regulations, Bye-Laws, as the case may be, in line with the scheme forthwith.

(c) Anomalies, if any, in the implementation of the scheme may be brought to the notice of Directorate of Technical Education of respective State Governments for clarification. A Standing Committee will be constituted by Directorates of Technical Education of respective State Government for dealing with anomalies which may arise from time to time during implementation of the scheme of Revision of Pay Scale.

(d) The State Governments, after taking local condition into consideration, may also decide in their discretion to introduce scales of pay different from those mentioned in the Scheme, and may give effect to the revised scales of pay from January 1, 1996 or a later date. In such cases, the details of the modification proposed either to the scales or pay or the date from which the scheme is to be implemented, should be furnished to the AICTE.

This Notification dated 30 December 1999 was addressed to all Secretaries dealing with Technical Institutions of all State Governments and Union Territories. The recommendations were circulated to all the States by the Member Secretary of AICTE to the following covering communication. Under Clause 2.2, it was stated that the revised pay scales, career advanced scheme and incentives for higher qualification given in the notification would be effective from 1 January, 1996. Under Clause 2.3, it was stated that the State Government taking into account the local conditions may implement the revised pay scales from a date later than 1 January, 1996 and implement the pay scales other than those given in this notification, but not higher than the pay scales given in the tables. The pay scales were referred to Clause 4 which in turn appended to Appendix A-1 and 2. Further details regarding qualifications, recruitment, incentives for higher qualification, career advancement, counting of qualifying service for career advancement, teaching days, workload, effective date fitment formula and allowances were provided.

44. Clause 16.1 of the Circular dated 30 December 1999 are general guidelines as its title would suggest. Sub-clause (b) of Clause 16.1 states that the State Governments/ Institutions are required to amend their Statutes, Memorandum of Association, Rules/ Schemes, Regulations, Bye-Laws, as the case may be, in line with the Scheme. Clause 16.1(d) specified State Governments, after considering local conditions, may also decide, at their discretion, to introduce scales of pay different from those mentioned in the scheme and may give effect to the revised scales of pay from 1 January 1996 or a later date. In such cases, the details of the proposed modification, either to the pay scales or the date from which the scheme is to be implemented, should be furnished to the AICTE. Clause 2.3 called upon the State Governments to direct implementation of this Circular/order. Clause 16.1(b) suggests that if there is any conflict in existing rules, bylaws and regulations, the same should be amended to align with this Scheme. From this, a principle cannot be deduced that the State is denuded of its powers to call upon the Technical institutes to implement the AICTE prescribed pay scales.

45. The legislative relations between the Union and the States are covered in Part XI of the Constitution of India in Articles 245 and 246, provide that the Parliament is empowered to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in List I in the Seventh Schedule ("Union List"), notwithstanding anything in Clauses (2) and (3) of Article 246 and the Parliament is empowered to

make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (“Concurrent List”), notwithstanding anything in Clause (3) of Article 246. The Parliament has enacted the AICTE Act in the exercise of its legislative power under Articles 246(1) and (2) read with Entry 66 of List I (Union List) and Entry 25 of List III (State List). The MEPS Act has been enacted in relation to the subject mentioned in Entry 25 of List III (Concurrent List), viz. “Education, including technical education, medical education and universities subject to the provisions of Entries 63, 64, 65 and 66 of List I, vocational and technical training of labour. It needs to be noted that AICTE is the nodal agency of technical education and the Director of Technical Education, the State, is responsible for technical education at the State level. Therefore, there has to be coordination between the two bodies and seamless implementation of AICTE recommendations; these norms are binding on the Technical Schools.

46. In reply affidavit filed in Writ Petition No. 1860 of 2005 by the Joint Director of Technical Education, State of Maharashtra, the State has supported the stand of the petitioner that the Government has issued direction to implement the recommendation of 5th pay commission to the teaching staff of non-aided Technical Schools. However, it is stated that no financial assistance would be provided. The learned Advocate General asserts that the State has exercised its power under Article 162 of the Constitution of India in furtherance of the AICTE notification dated 30 December 1999 and has issued the Government Resolution. The record does not indicate that AICTE has taken any objection to the course of action adapted by the State. It is a matter of record in these petitions that there is a no challenge by the Technical school to the Government resolutions issued by the State of Maharashtra. This challenge as far as Technical Schools are concerned, it has been concluded in Teachers Association. Thereafter there is no decision by this Court regarding technical School taking any view to the contrary.

47. Thus, the State Government has issued the Government Resolutions for the implementation of the AICTE scheme emanating from the Regulations framed by virtue of section 23 of the AICTE Act, 1987, providing for revision of the pay scale of employees of the non-government unaided Polytechnic Institutes, without effecting amendment in Schedule ‘C’ of the Maharashtra Employees of Private Schools (Condition of Service) Regulation Rules, 1981. The A.I.C.T.E. has made recommendations regarding the qualification and pay scales for teachers under Higher and Technical Education. The A.I.C.T.E. has prescribed the pay scales. In the exercise of its power, the Council had framed the norms and standards for Technical Schools. including norms/guidelines of the pay scales payable to

the teachers, qualifications and service conditions for teachers and other academic staff, which is to be implemented by the State Government. The Government, in fact, has accepted the recommendations issued by A.I.C.T.E. As the State has exercised the power under Article 162 of the Constitution of India. Here the dicta of the Supreme Court in the case of (Secretary Mahatma Gandhi Mission & Another Vs. Bhartiya Kamgar Sena & Others), Civil Appeal No.115-116/2017 decided on 5 January, 2017, 2017 DGLS(SC) 25 : 2017(4) S.C.C. 449 needs to be noted. It was observed thus:

“69. While the GR dated 12.8.2009 is specific in its declaration that the elaborate Rules contained therein dealing with the pay scales of the various cadres of the teaching staff of the educational institutions mentioned therein, it does not make any distinction between aided and un-aided colleges. However, the GR does not purport to be one made in exercise of the power under section 8(3) of the Universities Act. It is agreed on all hands at the Bar that the expression “Government Resolution” in the Maharashtra Administrative jargon means a decision taken either in exercise of the authority of the State under Article 162 of the Constitution of India or in exercise of the authority under some statutory provision. No doubt the GR does not refer to the source which authorises the exercise of the power for revising the pay scales of the teaching staff of the various educational institutions mentioned therein. The mere absence of the recital of the source of power in our opinion cannot determine the legal status of the instrument or deprive the instrument of its efficacy.

70. The difference between the authority of the State flowing from Article 162 of the Constitution or section 8(3) of the Maharashtra Universities Act is two-fold. Firstly, the statutory authority under section 8(3) could be abrogated anytime by the legislature while the constitutional authority under Article 162 cannot be abrogated by the State Legislature. Secondly, the procedural requirements for the exercise of the power vary depending upon the nature of the source of the power, but the existence of power itself cannot be doubted.

71. In our opinion, the GR dated 12.8.2009 can be safely construed to be one made in exercise of the power under section 8(3) of the Universities Act conferring a legal right on the teaching staff of the

affiliated colleges irrespective of the fact whether they are aided or not.

72. The colleges run by the appellants are admittedly colleges affiliated to the Universities functioning under the Act. Therefore, their teaching staff would be entitled to the revised pay scales in terms of the G.R. dated 12.08.2009.

73. Coming to the non-teaching staff working in the colleges run by the appellant, the Rules of 2009 purport to be the rules revising the pay-scales of the non-teaching staff of only the affiliated aided colleges. Therefore, textually the colleges administered by the appellants are not governed by the rules.

However, the question whether such Rules are sustainable in view of the mandate of Article 14 of the Constitution of India that "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India" is required to be examined. If the answer to the question is in the negative, the further question would be the legal remedy available to the aggrieved person/s."

17. With reference to the contentions of Mr Anil Anturkar, the learned Senior Counsel, that certain points were not considered by the Full Bench Judgment of *Hanumant Bhosale* (supra), and therefore, the same requires to be dealt by this Court, we are unable to accept the said contention of Mr Anturkar.

18. It is trite law and rule of judicial discipline and propriety that doctrine of precedent has merit of promoting certainty and consistency and judicial decision providing assistance to individuals as to the consequences of their actions. Accordingly, when a decision of the Full Bench and/or Co-ordinate Bench of the same High Court is brought to the notice of the Bench, it is to be respected and is binding. We are unable to take a different view

than the one referred in the decision of *Hanumant Bhosale* (supra), which decision is binding on this Court.

19. The State - Authorities have filed replies in Writ Petition No.9590/2015 dated 05.03.2015 and Writ Petition No.9498/2015 dated 22.11.2016. The other three Petitions bearing Writ Petition Nos.8357/2021, 2888/2022 and 41/2016 do not indicate of reply being filed by the State Authorities.

20. Perusal of the replies filed by the State - Authorities in the said two Petitions indicates that the Respondents have not opposed the contentions of the Petitioners qua the Government Resolutions referred to in paragraph 4(i) to 4(iv). In that view of the matter, the State Authorities do not oppose the contentions and we consider that the State is not disputing the contentions of the Petitioners with reference to the Government Resolutions.

21. In the case of *Bhartiya Kamgar Sena* (supra), the Co-ordinate Bench of this Court at Aurangabad was considering the issue pertaining to extending the pay scales under the VIIth Pay Commission to the members and employees of Mahatma Gandhi Mission Trust. Similar, if not identical, contentions were raised in the said Petition. This Court held the Petitioners in the said case to be entitled to the implementation of the recommendation of the VIth and VIIth Pay Commission.

22. The Government Resolutions referred by the Petitioners direct the Respondents – Management to grant revised pay scales to the Petitioners and employees similarly situated like the Petitioners. Learned Senior Counsel Mr Pakale places reliance on the

Notification dated 06.09.2016, 16.10.2018 and 17.10.2023 to contend that pay revisions are made part of the MEPS Rules, 1981 and submits that the contentions of the Respondents – Management in the context of Article 162 of the Constitution of India would be irrelevant.

23. From the records, we find no justification for the Respondents – Management to refuse to obey and implement Government Resolutions, relied by the Petitioners.

24. In view of the above, we find that the Petitioners to be entitled to receive payment of their salary as per the recommendations of the Pay Commission. The Petitions are therefore allowed and we pass the following order:

ORDER

(a) The Petitioners are entitled to the benefit of the payment of their salaries with reference to the recommendations of the Pay Commission.

(b) The Respondents are directed to grant all the benefits to the Petitioners as per their entitlement in terms of the recommendations of the Pay Commission and to act in terms of the Government Resolutions referred to in paras 5 (i) to 5(iv) referred to herein above, within a period of three months from the date of this order.

(c) There shall be no order in terms of costs.

(d) Pending Interim Applications, if any, also stand disposed of.

(ASHWIN D. BHOBE, J.)

(NITIN W. SAMBRE, J.)