
(1978) 02 BOM CK 0003

In the Bombay High Court

Case No : Special Civil Application No. 2491 of 1977

Malini Ganesh Tarlekar and Others

APPELLANT

Vs

Hansraj Madhaorao Patil and Others

RESPONDENT

Date of Decision : 14-02-1978

Acts Referred:

Poona University Act, 1974 — Section 2, 2(23), 2(30), 2(31), 20

Citation : AIR 1979 Bom 230

Hon'ble Judges : Pendse, J;Deshmukh, J

Bench : Division Bench

Advocate : C.R. Dalvi and K.Y. Mandlik, for the Appellant; M.A. Rane, R.S. Bhonsale and V.R. Bhonsale, for the Respondent

Judgement

Deshmukh. J.

1. This is a petition by 8 academicians addressed against respondent No. 1 principally for a writ of quo warranto. According to them, respondent No. 1 ceases to be a teacher in the Poona University from 4th of Dec. 1976 or at any rate from 15th of March 1977 and thereafter he has no right to hold any office under the University, which was available to him because he was a teacher in a College. That is how they question his membership of the Board of Studies, Academic Council and the Executive Council of the Poona University.

2. In order to understand the dispute and the defences raised, a few facts may be stated: The petitioners have described their status as persons occupying some elected offices in the academic world. It is not necessary to point out those qualifications as they are not strictly relevant for the purpose of disposing of the dispute.

3. Respondent No. 1 was a teacher In the new Law College, Ahmednagar, when he was elected as a member of the Board of Studies of Poona University in April of 1975. Respondent No. 2 is the University Itself. Respondent No. 3 is the Registrar of the University and respondent No. 4 is the Vice-Chancellor.

4. Respondent No. 1 is a Bachelor of Arts. In addition he has a Bachelor's Degree in Teaching and Bachelor's Degree in Law. In other words he is B. A. B. T. LL. B. He obtained his B. A. degree in the year 1939 and that of B. T. in the year 1943. Between 1942 and 1955 respondent No. 1 served as an Assistant Teacher in Government High School at Dhulia and Jalgaon. He was also Principal of the primary training school between 1954 and 1957. In the year 1958 he obtained the LL. B. degree having passed the examination in the First Class. This was a degree from the Poona University. Respondent No. 1 then practised as a lawyer at Dhule between 1958 and 1970. In June 1970 he was appointed Principal of the New Law College, Ahmednagar, which is run by a Society named Ahmednagar Zilla Maratha Vidya Prasarak Samaj. It is to be noted that at the relevant time in 1975 he was also holding the position of the Head of the Department of Law in that College.

5. Respondent No. 1 was elected as a member of the Board of Studies of the University u/s 29, Sub-section (2) clause (ii) of the Poona University Act 1974. The Board consists of various representatives, out of which the relevant clause requires that there shall be not more than ten Heads of Departments in Colleges teaching the subjects at the special principal or major level, to be elected from amongst themselves, as prescribed by the statutes. There is no dispute that respondent No. 1 belonged to this electoral college and from it was elected as a member of the Board of Studies under this clause. Later in the meeting of the Board of Studies, he was elected its Chairman, under Sub-section (4) of Section 29. This position as an elected Chairman of the Board of Studies gave him membership of the Academic Council u/s 25 Sub-section (1) clause (v). The Chairman of the Board of Studies is one of the many officers who are designated as ex-officio members of the Academic Council, Respondent No. 1 thus became a member of the Academic Council of the Poona University u/s 25 Sub-section (1) Clause (v). The Academic Council is authorised to elect three persons representing the Faculties or group of Faculties from amongst its members as prescribed by the Statutes to be the members of the Executive Council. This is provided by Section 23. Sub-section (1) clause (xi). Under this clause respondent No. 1 was elected by the electoral college of Academic Council to be the member of the Executive Council. So far as the holding of these positions described above are concerned, there is no dispute at all.

6. The next undisputed facts are that respondent No. 1 completed the age of 60 on 4th Dec. 1976. In the statement of facts or the pleadings in the petition it is not clear under what precise provision an application was made by the Secretary of the Society, which employs respondent No. 1 for extension of his services till the end of the academic year 1976-77. However, sometime in Nov. 1976 the Secretary of the Society which runs the New Law College, Ahmednagar, wrote to the University asking for an extension of the services of respondent No. 1 till the end of the academic year 1976-77. This application was considered by the Executive Council on 16th Nov. 1976 and extension asked for was granted. The decision was communicated to the Society in due course. The same Secretary

again wrote to the Vice-Chancellor on Jan. 24, 1977, asking further extension of the services of respondent No. 1 for the two succeeding academic years 1977 to 1979. The Executive Council considered this request on 29th January 1977 and granted the extension to respondent No. 1 till 15-3-1978.

7. During this extended period certain events took place about which also there is no dispute. One refers to the completion of 60 years of service on 1-5-1977 by Principal Jamadagni of Garware College, Poona. Presumably on a similar application by the Officer of that Society where he was employed he was also granted extension till 15-3-1978. Principal Jamadagni was elected to the Senate from the constituencies of principals and the Senate in turn had elected him to the membership of the Executive Council from amongst the Principals who were the members of the Senate.

8. On February 17, 1977, Dr. M.L. Abhyankar, the Member of the Senate, wrote to the Vice-Chancellor that both the extensions. viz. of Principal Jamadagni and respondent No. 1, were illegal on the ground that both of them were holding administrative posts, This complaint was referred by the Vice-Chancellor to the Chairman of the Legal Advisory Committee. Mr. V.G. Oak, Retired Chief Justice of the Allahabad High Court. In his turn Mr. Oak appears to have consulted the entire Advisory Committee and forwarded the opinion of the Advisory Committee to the Vice-Chancellor. The unanimous recommendation was that the objection raised by Dr. Abhyankar was correct or valid and that the Executive Council should reconsider the question of granting extension to those two Principals,

8. On April 23, 1977, the Executive Council re-considered the entire matter and passed two separate resolutions. By the first resolution they decided that a teacher cannot be continued as a Principal of a College beyond the age of 60. By another resolution they raised a query for being referred to the Chancellor whether the post of a Head of a Department is an administrative post. In other words, the Executive Council was of the view that a principal's post appears to be an administrative post and a teacher cannot be extended beyond 60 so long as he continues to be a Principal. They were in doubt as to whether a teacher who was also a Head of a Department could be said to hold an administrative post. These facts were considered by the Executive Council because principal Jamadagni was elected originally from the electoral college of principals whereas respondent No. 1 was elected from the electoral college of the Heads of Departments in the College.

10. The Vice-Chancellor wrote to the Chancellor and referred the two questions for the decision of the Chancellor u/s 86 of the Act. The first question was whether principal Jamadagni continues to be a member of the Executive Council and the second was whether respondent No. 1 continues to be a member of the Executive Council. Even without waiting for the Chancellor's opinion on this topic the Secretary of the University informed the Ahmednagar New Law College that respondent No. 1 was not being granted extension as a Principal beyond the age of 60. It obviously means that the position of respondent No. 1 as a Head of the

Department was yet to be decided but a final decision was taken qua his position as a principal of the College.

11. By about 21st July 1977 the Chancellor gave his opinion by passing two separate orders. The opinion in the case of principal Jamadagni was that he ceases to be the member of the Executive Council, So far as respondent No. 1 was concerned, the Chancellor decided that he did not cease to be a member of the Executive Council. After these events a special meeting of the Senate was fixed on October 13, 1977. Before that day the present petitioner took inspection of the proceedings of the Minutes of the Executive Council and Academic Council and made certain reference to the Chancellor. The gist of the representation was that respondent No. 1 was a mere teacher and not a post-Graduate Teacher and that under the existing conditions of service of the Poona University he had to retire at 60 and there could be no extension to him at all. Before making this representation, it appears one Mr. S.D. Patil, Principal of the Kopergaon College, wrote to the Registrar making a query as to whether respondent No. 1 ever applied for being recognised as Post Graduate Teacher (Papers) in law and whether he was given any such recognition. The Registrar immediately replied on 11-5-1977 that respondent No. 1 had never applied for being recognised as a Post Graduate Teacher (Papers) and the question of his being recognised as such does not arise. Being thus armed with the opinion that respondent No. 1 was not recognised as a Post Graduate Teacher and that the Chancellor is giving no replies to the representation made in October of 1977, present petition came to be filed on 8th November 1977,

12. The principal attack of the petitioners is that the Poona University has two different categories of teachers, viz. "teacher" and "university teachers". There is a further classification of teachers into three categories. viz. Post Graduate Teachers (Research), Post Graduate Teachers (Papers) and Post Intermediate Teachers. The educational qualifications and other experience required for acquiring status of either of the above-mentioned teachers has also been laid down by appropriate statutes and regulations. It is then urged that statute 80-H passed under the old University Act of 1948, which is still the valid statute u/s 91 of the present Poona University Act of 1974, lays down the conditions of service of various teachers in the University,

13. In terms of the classification mentioned above, the Post Intermediate Teacher who appears to be the lowest rung of the ladder has to retire at at the age of 60 and there is no provision at all for extending the age of such a teacher. What is provided in the interest of the continuity of imparting education to the students is that where a teacher of this designation completes the age of 60 during the midst of the academic year, he can be prolonged till the completion of that academic year, viz. 15th of March of that academic year. Even there the authorities of the College have to make a reference to the Executive Council and the Executive Council has to grant permission sought for. It is further clarified that a person belonging to the category of this class will retire at 60, even

though he is the principal of a constituent college. This is provided by Statute 80-H clause 4 (vii) (a).

14. It is then urged that it is only the Post Graduate Teacher (Papers) who is entitled to a further extension of service from 60 to 65, subject to the conditions mentioned in clause (b) of Sub-clause (viii) of clause 4 of Statute 80-H read with its *nota bene*. In short it means that if the College Authorities apply for extension of service for the Post Graduate Teacher (Papers) and the teacher concerned is willing to serve and the request is accompanied by a medical certificate from a registered medical practitioner and the teacher concerned is not occupying any administrative post in the college, the Executive Council may grant him the extension asked for. Even then the extension has to be for one year at a time and unless every year the request is renewed in the manner stated above and granted, even the Post Graduate Teacher (Papers) shall not reach the age of 65.

15. What is then urged is that respondent No. 1 is not a Post Graduate Teacher (Papers) but is only Post Intermediate Teacher. Even though he may be the Head of a Department in the Faculty of Law, the rule does not make any exception in the case of the Head of a Faculty. In the circumstances attainment of age of 60 is the dead end of the service of respondent No. 1, even though he happens to be a head of the department of law in the Ahmednagar New Law College. The primary assertion is that the extension granted to respondent No. 1 beyond 15th of March 1977 upto 15th of March 1978 is an unauthorised and unlawful extension and contrary to the Statute 80-H. In the circumstances, respondent No. 1 ceases to be a teacher at all on 15th of March 1977. The initial extension to respondent No. 1 from 4th December 1976 to 15th March 1977 under Sub-clause (a) above is not seriously disputed and we may assume that the University authorities were within their right in granting that extension of service to respondent No. 1.

16. It is then urged that respondent No. 1 was elected as a member of the Board of Studies u/s 29 Sub-section (2) as a Head of Department in the College. Since he ceases to be a teacher and as such the Head of the Department from 15th of March 1977 onwards, he ceases to be a member of the electoral college from which he was returned to the Board of Studies. The basic qualification having been lost, respondent No. 1 could not be treated as a member of the Board of Studies from 15th of March 1977 onwards. If he ceases to be a member of the Board of Studies from that date, he also ceases to be the Chairman of that body and as such he has no *locus standi* as an *ex-officio* member of the Academic Council. Consequently it follows that his elective post as a member of the Executive Council also comes to an end, as he ceases to be a member of the Academic Council. On these allegations a writ of *quo warranto* is claimed against respondent No. 1.

17. In answer to this petition, respondent No. 1 pleads a threefold defence and we may note that the third point raised in the defence is being supported by the University Authorities. The first defence of respondent No. 1 is that the provisions of *nota bene* of Sub-clause (b) of clause (viii) of clause 4 of Statute 80-

H applies to the teachers covered by clause (a). That being so, even If respondent No. 1 were to be treated merely as post Intermediate Teacher, his extension till 15th of March 1978 is a valid extension by the University authorities. The second plank of the argument is that respondent No. 1 is in fact a Post Graduate Teacher. The Poona University commenced two diplomas known as Diploma in Taxation Laws and Diploma in Labour laws and Labour Welfare. Even though these diplomas were commenced by describing them as non-post Graduate Diplomas, subsequently the University authorities recognised these diploma courses as Post Graduate Courses. Consequently wherever this course is being taught as in the New Law College, Ahmednagar, the institution is recognised as a centre of the post graduate education.

18. So far as this post graduate diploma course is concerned, the educational qualification laid down is the same as is required by the person teaching the LL. B. classes, viz. a Master's Degree in Law or a Second Class Teacher's (sic) Degree in Law with five years' practice at the Bar. Respondent No. 1 is admittedly a Bachelor of Law having passed that degree in First Class with more than five years practice at the Bar. Since he qualifies himself to impart instruction to a Post-Graduate Diploma Course in a centre of Post Graduate Education respondent No. 1 becomes in fact and in law a post Graduate Teacher. This fact has been recognised by the University by putting his name in the tentative roll of Post-Graduate Teachers from Post-Graduate Centres outside the University Campus in subject of law. Respondent No. 1 therefore justifies the extension granted to him by the University Authorities till 15-3-1978.

19. The third and the alternative argument is that respondent No. 1 was undoubtedly qualified to be elected from the electoral college of the Heads of the Departments in Colleges under clause (ii) of Sub-section (2) of Section 29 of the said Act. His election being valid on the day it took place, the provisions of Sub-section (3) of Section 29 gave him a fixed duration of three years as a member of the Board of Studies. The term of the office of a member of the Board of Studies under clauses (ii), (iii) and (iv) of Sub-section (2) of Section 29 has been laid to be three years by Sub-section (3) of Section 29. Since he was elected under this section in April of 1975 he has a right to continue as a member of that body till April of 1978. If he is a member and continues to be so as a member of the Board of Studies till April of 1978 every other post, which came to him because of the basic qualification of being a member of the Board of Studies, is available to him till April of 1978.

20. So far as this point is concerned the University authorities squarely support him. It may, however, be noted for the purpose of accuracy of record that respondent No. 1 has not specifically pleaded this as defence in his written reply but it is a defence raised In the argument by the University authorities which is being adopted by Mr. Rane, on behalf of respondent No. 1 as a further supporting point for justifying his status as a member of the University Authorities.

21. Before we consider the rival arguments on merits it is necessary to dispose

of two preliminary objections raised by Mr. Rane. The present controversy regarding the status of respondent. No. 1 as a sitting member of the University bodies was referred to the Chancellor by the Vice-Chancellor u/s 86 of the said Act. The Chancellor has given his decision as he is authorised to do under that section. Since the Chancellor has expressly decided the controversy and the University authorities are merely acting upon that decision, the Chancellor should have been made a party respondent. Whatever the language used by the petitioners, the challenge in essence would now be to the decision of the Chancellor. His second preliminary objection is that It is on the staff of the Ahmednagar New Law College that the name of respondent No. 1 is borne. His College is vitally interested in the continuance of respondent No. 1 as their member of the staff. Since the basic qualification of respondent No. 1 to continue as a teacher Itself is under challenge. The College should have been made a party as an Institution affected by the decision of this petition.

22. We do not find any substance in either of these objections. The first objection it raised on the assumption that the Chancellor has some separate legal existence so far as the Poona University Act is concerned. The legal position it entirely different. "University" has been defined in clause (32) of Section 2 and means the University of Poona, as reconstituted under this Act, Section 3 describes the incorporation of the University and says that the Chancellor, Vice-Chancellor, the members of the Senate. Executive Council and Academic Council of the University and all persons who are deemed to be, or may hereafter be appointed or elected as such offices or members, are hereby constituted and declared to be a body corporate by the name of the "University of Poona," and such body corporate shall have perpetual succession and a common seal and may by that name sue and be sued, Sub-section (2) of Section 3 enables the University to acquire and hold property and to deal with the same etc. The reading of those provisions makes it clear that the expression "University" covers the entire body and officers who constitute it as described in Sub-section (1) of Section 3. Respondent No. 2 to the petition is the University of Poona and with the impleading of the University of Poona as such It must be assumed that every officer forming a part of that University is already represented before the Court. We do not think that the Chancellor should have been separately made a party respondent,

23. Incidentally we may point out that the Vice-Chancellor's reference if read closely covers two distinct points for the decision of the Chancellor. One obviously is whether the term of election of respondent No. 1 to the Board of Studies is a fixed term and Is available to him irrespective of the fact whether he continues to be a teacher or not. This point has undoubtedly been answered by the Chancellor. The reference further closely read indicates that the Vice-Chancellor's views at least show that the Diploma in Labour Laws and Labour welfare was not in the real sense a post-Graduate Diploma and respondent No. 1 though entitled to teach or impart Instructions in that course could not be styled in that sense a post-graduate Teacher. To the second point which is also agitated

before us there is no reply and no decision by the Chancellor, Apart from whether the Chancellor decided any of the questions referred to him, and even if it was to be assumed that the decision given by him in whatever form and shape binds the University authorities, we have already pointed out that it is not necessary to make the Chancellor separately a party in a litigation where the University as such is made a party respondent.

24. So far as the other objection is concerned, we do not see any right of the Ahmednagar New Law College to employ a person who may not be otherwise qualified according to the Rules of the University. The eligibility of serving as a Professor or a Lecturer either as Post Intermediate or Post-Graduate Teacher under the Poona University is a matter of personal qualification to the person concerned. If he has that qualification, it enables an affiliated College like the New Law College, Ahmednagar, to employ him. If a lecturer concerned does not have the requisite qualification it cannot be said that any right of the Ahmednagar New Law College is going to be affected by this judgment. We do not think that the College should have been made a party at all. However, as respondent No. 1 seems to be a very important member of that College and was faced with this challenge in the Court, the College could have chosen to come here and we may have permitted the College to participate in the debate. We do not think, however, that the College was a necessary party without which the petition could not be heard and disposed of.

25. Having considered the preliminary objections, we would now go to the merits of the matter. While considering the real position of respondent No. 1 under the provisions of the Poona University Act, the various Statutes and Regulations, it would be necessary to know the scheme of instructions either Under-Graduate or Post-Graduate staffing pattern for that purpose envisaged by the Poona University. Before the Introduction of the present pattern of 10 plus 2 plus 3, the entire post S. S. C, instructions were to be conducted under the supervision of the Poona University alone. The provisions of the Poona University Act, 1974, envisaged that up to the graduation level there could be either Colleges conducted by the University or affiliated Colleges or both. We are told that at the moment there is not a single college conducted by the Poona University and all the Colleges which carry on instructions upto the graduation level are affiliated Colleges alone. All such colleges are the constituent colleges conceived of by Section 51 falling in Chapter VIII of the present Act. This Chapter which, consists of only two sections, deals with the administration and teaching pattern of the post-intermediate and Post-Graduate Teaching. For the purpose of engaging the staff in the affiliated colleges as well as the constituent recognised institutions, the University is vested with several controls, one of which is the prescription of the minimum educational qualification and the emoluments for different classes of teachers and tutorial staff. Their appointments are to be approved by the University. In the case of some teachers to which we will presently refer, the University has a right to recognise them as "teachers of the University."

26. We may then point out that every person permitted to Impart instructions under the University is now called a teacher and out of them a certain class of teachers is called "Teacher of the University." The word Teacher has been defined by Sub-section (30) of Section 2, whereas the word "Teacher of the University" has been defined by Sub-section (31) of Section 2. On a proper construction of the definition of the "Teacher of the University" it appears that they are the teachers who are giving Post-Graduate Instructions and are required to be recognised as such by the University as also are required to be so designated by the Statutes,

27. So far as the designation is concerned, the provision applies to "Teachers" also as defined by Sub-section (30) of Section 2. The Statutes relevant for the purpose are Statutes 3 and 4 framed by the University Senate at its meeting held on 28/29 October 1974 and assented by the Chancellor, Vide letter No. G. S./ 3488 dated 27th Dec. 1974. This requirement of recognition is the result of Section 59. The definition of "Teacher of the University" conceives of the appointees by the University itself in its own department for imparting Post-Graduate Instructions, as also teachers who are serving in the affiliated colleges or constituent colleges and are recognised by the University. A committee provided by Section 59 has to recommend and the Executive Council has to grant recognition or withdraw the same under the provisions of Section 24 Sub-section (1) clause (xxxi). It may incidentally be noted that under the earlier Act of 1948 the then Court of Poona University, which had to lay down the standards of qualification and classification of teachers, delegated that power to the Academic Council by passing Statute 88-A.

28. The Handbook in the Poona University printed in 1972 was made available to us and the Statute 88-A is to be found at page 32 thereof. Various faculties have been referred to along with the qualifications of teachers in respect of each one of them. Regulation Rule 1-C u/s 22 (1) read with Statute 88-A under the old Act is to be found at pages 105 and 106 of the same Handbook, Under this Regulation teachers to be recognised as "Teachers of the University u/s 47 for imparting instruction for the .University u/s 40 (1), shall be divided into the following three categories:--

- (A) Post-Graduate Teachers (Research),
- (B) Post-Graduate Teachers (Papers),
- (C) Post-Intermediate Teachers.

So far as the faculty of law, with which we are concerned, the qualifications of these classes of teachers are to be found at pages 113 and 114 of the same handbook. We need not refer to the Post-Graduate Teachers (Research). The Post-Graduate Teachers (Papers) must have the qualification of Master's degree in law with three years of experience in teaching. The Post-Intermediate Teacher in law can have either a Master's degree in law or a second class Bachelor's degree in Law with five years practice at the Bar. These provisions are still in force in view

of the provisions of Section 91 of the present Poona University Act of 1974. Since all previous Statutes and Regulations survive and are operative unless they are inconsistent with the present provisions of the Act, it may be noted that it is not now necessary to have a specific recognition for a Post-intermediate Teacher and the recognition is now confined to only Post-Graduate Teachers out of the Teachers of the University.

29. So far as respondent No. 1 is concerned, admittedly he does not have a Master's Degree in law. He is a first Class Law Graduate and has about 12 years practice at the Bar. Prima Facie therefore, he would not answer the description of a Post-Graduate Teacher under the existing Valid Regulation at page 113 of the said handbook. Before we discuss the argument raised on behalf of respondent No. 1, we may usefully refer to Statute 80-H of the Poona University as it exists on 20th October 1973.

30. This Statute deals with terms and conditions of service of various categories of teachers. It not only lays down the time scale but also provides for percentage of certain types of post in the hierarchy in a College. We are directly concerned with Sub-clause (viii) of clause 4 of the Statute which deals with the age of retirement of the various categories of teachers. Clause (a) of Sub-clause (viii) lays down that the age of retirement for a teacher in a Constituent College will be 60 and no confirmed teacher shall be made to retire before he completes 60 years of the age. A teacher completing his sixtieth year in the middle of an academic year, may continue on the staff upto the end of that academic year. The permission to continue will be granted by the Executive Council only on a request for continuation being made by the authorities of the College. This condition regarding 60, being the age of retirement, will also apply to the principal of a Constituent College.

31. All teachers therefore Including Principals have to retire at the age of 60 with the only exception that they may be continued till the end of the academic year i. e. 15th of March of the academic year within which their birth day falls, but this extension is permitted only on the request of the authorities of the College. Beyond this there seems to be no possibility of a teacher continuing in service in a constituent college as a teacher beyond the age of 60. Clause (b) of that Sub-clause (viii) is rather peculiarly worded and Mr. Rane has based his argument over the precise implication of nota bene that follows that clause. In order to understand Mr. Rane's argument, it is better to quote Sub-clause (viii) of clause 4 of Statute 80-H.

"80-H (4) (viii) (a) The age of retirement for a teacher in a Constituent College will be 60 and no confirmed teacher shall be made to retire before he completes 60 years of age. A teacher completing his sixtieth year in the middle of an academic year, may continue on the staff upto the end of that academic year. The permission to continue will be granted by the Executive Council only on a request for continuation being made by the authorities of the College. This condition regarding 60, being the age of retirement, will also apply to the

Principal of a Constituent College.

(b) age of retirement for a Post-Graduate teacher (papers) in a Constituent Recognised Institution and/or Affiliated College shall be 65 and that for a Post-Graduate Teacher (Research) in a constituent Recognised Institution shall be 70:--

Provided, however, that the age of retirement for the Heads of Constituent Recognised Institutions, as Heads, shall be 65.

(N. B.-- The recognised Post Graduate Teachers (Papers) in the affiliated colleges, if any, be allowed to teach the under-graduate classes for not more than 6 periods a week during their extension from 60 to 65,

(i) The continuation of the services of teachers in Constituent and Affiliated Colleges beyond the age of sixty should be permissive and not compulsory. The Executive Council should have authority to grant such extension on a year to year basis on the request of the Management:--

(ii) The extension beyond the age of sixty shall be granted only on a certificate of medical fitness being produced from a Registered Medical Practitioner;

(iii) the teacher in whose case such extension is to be given should not hold any administrative post In the college)"

Clause (b) above refers to the retirement of Post-Graduate Teacher (Papers) In a Constituent Recognised Institution and/or Affiliated College as being 65 and that of Post-Graduate Teacher (Research) in a Constituent Recognised Institution to be 70. The proviso suggests that the age of retirement of the Heads of Constituent Recognised Institution, however, shall be only 65. Prima facie therefore this clause read alone creates an impression that the Postgraduate Teacher (papers) with whom alone we are concerned, is entitled to continue up to the age of 65, as a matter of right or as a matter of course. It will depend upon as to how we construe the nota bene consisting of three clauses and title. According to Mr. Rane, that nota bene governs or is applicable to clause (a) from the above Sub-clause and does not seem to apply to Clause (b) as is sought to be argued by Mr. Dalvi. We find considerable difficulty in accepting the argument of Mr. Rane. Primarily we find that the nota bene consisting of the title and the three clauses is one indivisible provision, and to whomsoever applies, applies as a whole. The reason seems to be obvious.

32. In the first place the title to the nota bene says that the recognised Post-Graduate Teachers (Papers) in the affiliated colleges, if any be allowed to teach the under-graduate classes for not more than six periods a week during their extension from 60 to 65. In the first place though in an indirect manner, it is suggested that the service between the ages of 60 and 65 for a recognised Post-Graduate Teacher (Papers) is an extension of service. Ordinarily, therefore, every one has to retire at 60 unless an extension is granted beyond 60 as provided by the three clauses (i) to (iii) which follow this title of nota bene.

33. Going to the first clause under the nota bene it appears that the continuance of service of teachers in constituent and affiliated colleges beyond the age of 60 should be permissible and not compulsory. The Executive Council should have authority to grant such extension on a year to year basis on the request of the management. If we look at these provisions, it is apparent that as per this clause the conditions that must be satisfied are that the teacher concerned must be willing to serve and the management of his Institution must make a reference in that behalf. The Executive Council has the authority to grant extension and this extension is to be on a year to year basis and not for a period of five years at a stretch or from 60 to 65 or for any period longer than one year at a time. The second clause that follows lays down that the extension beyond the age of 60 will be granted on a certificate of medical fitness being produced from a Registered Medical Practitioner. Physical fitness therefore is a further condition which must be fulfilled by producing a certificate from a Registered Medical Practitioner and there is a further condition in clause (iii) which says that the teacher in whose case such extension is to be given should not hold any administrative post in the college.

34. What is an administrative post need not detail us because the principal's work has been accepted as an administrative post and the statement of the petitioners before the University authorities that even the Head of the Department is occupying an administrative post has been rejected by the University authorities. We think that seems to be the correct view of the matter and we are in agreement with the view of the University in that behalf.

35. Let us now go back to clause (a) and see whether it is possible to say that this nota bene should apply to a teacher falling under that clause. It will have to be assumed that extension of service beyond 60 to a mere "teacher" has been provided by Statute in two different places. In this clause itself a limited extension has been laid down where the teacher is extend-ed beyond his birth date up to the end of academic year in which his birth date falls. If he wants further extension then we might have to look to the nota bene, if Mr. Rane's argument, is correct. Clause (a) has taken care to see that 60 is a final end of the service of the teacher including that of a principal and a very limited extension is granted for the obvious reason that the student community should not suffer by the retirement of a, teacher in the midst of an academic) year.

36. The scheme under the nota bene is entirely different. The entire nota bene, in our view, is one indivisible provision and the title refers to a Post-Graduate Teacher (Papers) alone. It refers to the service between 60 and 65 as an extension. It is true that the further clauses that follow merely refer to teachers. But it is equally true that they speak of the continuation of a service of a teacher and that too a possible extension beyond one year for certain period of years but on a year to year basis. It is therefore clear that the Post-Graduate Teachers (Papers) can be extended upto the completion of the 65 years of their life provided a year to year extension is granted by fulfilling the conditions in all the

three clauses of the nota bene.

37. Since this was our view, out of curiosity we made enquiries with the Counsel representing the University as to whether any extension has ever been given to a "mere teacher beyond the age of 60, except the limited extension under clause (a). The answer was emphatic no with the solitary exception of the present respondent No. 1. It is a moot point to consider whether he was granted extension under clause (a) of clause (b) of Sub-clause (viii) of clause 4 of Statute 80-H. We will deal with that question when that part of argument of Mr. Rane is being considered,

38. We may Immediately point out that the Statute 80-H is meant to deal with service conditions of those teachers whose classification appears at page 106 of the said Handbook made under the earlier Act as that classification is still relevant except for the difference which we have already pointed out. Reference to a Teacher and Post-graduate Teacher (Papers) In this Statute must refer to the same Teachers and Post-graduate Teachers whose qualifications have been laid down by the earlier regulation under Statute 88-A on pages 113 and 114 of the said Handbook. A Postgraduate Teacher for the purpose of clause (b) above so far as the Faculty of Law is concerned must be a person with a Master's Degree in Law with three years" teaching experience to his credit. Prima facie such a person alone answers the description of being a Post-graduate Teacher (Papers). We need not repeat that. Admittedly respondent No. 1 does not answer this description.

39. We may now consider what precisely is the position of respondent No. 1 under the University. We have already given his qualifications as B. A., B. T., LL. B, with about 12 years practice at the Bar. This entire qualification merely makes respondent No. 1 a Post-intermediate Teacher as described on page 114 of the Handbook.

40. So far as the present Act is concerned, a Post-graduate Teacher requires to fulfil two more conditions. One is that he must be recognised as such. If he is not one appointed by the University itself, but is imparting Post-graduate instruction, he must be so designated as Teacher of the University by the Statute. Statutes dated October 28/29, 1974 undoubtedly describe the "Teacher" and "Teacher of the University" respectively in Statutes 3 and 4. Statute 4 says that within the meaning of Section 2 (31) of the Act the term "Teacher of the University" means a Professor, Associate Professor, Reader, Lecturer, Demonstrator, Tutor, Or a Recognised Teacher imparting post graduate instruction or guiding research in the University, or in any college or an institution conducted by the University. The word college used In this Statute will have the same meaning as has been attributed to it In the definition Section 2 of the parent Act by Section 6. A "College" would therefore mean a college conducted by the University or affiliated to it. It is not therefore merely educational qualification as laid down by the Statute 88-A read with Regulation but it is necessary that such a Postgraduate Teacher obtains recognition from the appropriate authority of the

University in view of the provisions of Section 59 Sub-section (2) read with Section 24 Sub-section (1) (xxxi). Under the old Act it was only the University Court which could lay down the qualification by making Statutes but as we find that the Court had delegated Its authority by passing Statute 88-A and vesting the same in the Academic Council on the recommendation of the Board of University Teaching in Poona by of course making Regulations. The Regulations referred to by us on pages 113 and 114 therefore would be the Regulations by the Academic Council under the delegated authority from the University Court.

41. There is some change in the present Act. The power to make Regulations in this behalf, viz. the prescription of qualifications for different classes of Teachers, now vests in the Academic Council itself directly by the provision of Section 26 Sub-section (2) clause (va). This is the amendment made by the Maharashtra Act 58 of 1974. The only result will be that the earlier Regulations now in force will be deemed to be as if the Regulations of the present Academic Council. If they are to be amended it would be open to the Academic Council to do so under the powers vested in it as referred to above.

42. We have referred in detail to these provisions for the purpose of pointing out that Mr. Rane bases an argument on certain Resolution passed by the various University authorities. Before we refer to them it will be appropriate to consider as to how the status of being a Post-graduate Teacher is claimed by respondent No. 1 on the basis of an alternate argument. It is said that the Poona University started from the year 1972-73 two diplomas called Diploma in Labour Laws and Labour Welfare and Diploma in Taxation Laws. It appears that by passing a resolution in its meeting dated 16th of March 1974 the Executive Council of the Poona University Introduced this course from the Academic year 1973-74. It accepted the proposal of the Faculty of Law based upon the proposal of the Board of Studies. The proceedings of that meeting are made available to us and they show that the Faculty of Law in its Resolution clearly stated that it was to be made specifically clear that the diplomas are not Post-graduate Diplomas. This Resolution in its entirety was ultimately accepted by the Academic Council as well as by the Executive Council only with the variation that the name of the proposed Diploma in Labour Law be enlarged into Diplomas in Labour Laws and Labour Welfare. The qualifications of the teacher who will impart instructions were also laid down. So far as the diploma in Labour Law and Labour Welfare, the qualification of a teacher was to be the same as laid down for teachers of the LL. B. Course. We have already seen that for instructions for the LL. B. Course qualification Is either Master's Degree in law or second Class Degree in law with 5 years" practice at the Bar.

43. It may now be noted that In its meeting dated 30th September 1976 and continued on 17th October 1976, the Executive Council passed certain resolution accepting the Resolution of the Academic Council which in turn confirmed the Resolution of the Faculty of law. The proceedings of the Executive Council of the year 1976-77 regarding the above meeting is also made available to us.

Resolution (B) (14) (11) appearing on page 15 discloses the following state of affairs. A resolution was passed by the Faculty of law on 4/24-5-1976, of which the present respondent No. 1 was a member in his capacity as ex-officio member, being Chairman of the Board of Studies. He narrated all the details to the Faculty relating to the status of Diploma Course in law. He argued that the Diploma Courses In law have already been held as Post-graduate Diploma by the University Authorities for all the practical purposes. Having heard this pleading of respondent No. 1 himself, the Faculty resolved to recommend to the University Authorities that the Diploma Courses in Law, viz. Diploma In Labour Laws and Labour Welfare and Diploma in Taxation Laws be held as Post Graduate Diplomas for all academic purposes. This Resolution was accepted by the Academic Council on 12-8-1976, and it resolved to recommend to the Executive Council that the recommendation of the Faculty of law be accepted. In the meeting under consideration dated 30th September 1976 extended to 10th October 1976 the Executive Council resolved that the recommendation of the Academic Council be accepted.

44. Undoubtedly respondent No. 1 is entitled to impart instructions to this Diploma in Labour Laws and Labour Welfare. Though this diploma was introduced with the express direction that it is not a Post-graduate Diploma, In due course in the year 1976 the Executive Council ultimately accepted the recommendation of the other Authorities of the University describing this diploma as a Post-graduate Diploma for all academic purposes also. Mr. Rane therefore argues that respondent No. 1 is a teacher entitled to impart instruction to a post graduate diploma in law and as such becomes a Post-graduate Teacher. If it were necessary that for the purpose of extension beyond 60 one must be a Post-graduate Teacher as contemplated by Statute 80-H, respondent No. 1 has now acquired that status in view of the resolution of the Executive Council passed in the year 1976.

45. This argument is being met in two different ways. The first answer is that the said diploma in law is not in fact or in law a Post-graduate diploma at all and the second answer is that assuming for the sake of argument that it is so, even then respondent No. 1 does not become a Post-graduate Teacher (Papers). What is a Postgraduate Teacher (Papers) has been laid down by Regulations under Statute 88-A and the qualifications of a Post-Graduate Teacher are to be found on page 113 of the said University Handbook. Unless one has that requisite qualification together with teaching experience of not less than three years, one does not become a Post-Graduate Teacher. Respondent No. 1 may at best be described as a teacher entitled to impart instructions to a diploma course in law, which the University describes as a Post-Graduate Diploma, That would not raise him to the special status of a Post-Graduate Teacher who has been specially described in the existing Regulations. That would be a very simple answer and, in our view, quite enough to meet the claim of respondent No. 1. However, Mr. Rane tried to tell us that it is not only the diploma in law that has the status of a Post-Graduate Diploma in the eyes of the Poona University but there are quite a few diplomas

as well which are given the Post-Graduate status by the University.

46. So far as this part of the claim of Mr. Rane is concerned, he was able to tell us that the University calls its diploma in the course of Business Management (D. B. M.) as a Post-Graduate Course. In the same way a diploma in Office Management is also described as a Post-Graduate Diploma. There is a third diploma called Post-Graduate Diploma in Banking as also diploma in Social Work and so on. Various pamphlets were made available to us issued by the University and they do describe them as Post-Graduate Diploma Courses. The moot question that is raised for our consideration is whether this description of those courses by the University will really make them Post-Graduate Courses or Post-Graduate Diplomas at all.

47. It may now be noted as to what are the qualifications for joining the diploma course in law. For instance it is enough that a candidate is a graduate of any Faculty either of the Poona University or of any other University whose degrees are recognised as equivalent to the degree course of Poona University. In other words any degree-holder of any Faculty can take up this course. We have also looked at the instructions that are imparted under this course. They merely deal with some information about the various law relating to the subject on industry and labour, like Industrial Relations Act. The Minimum Wages Act, Workmen's Compensation Act, Employees' Provident Funds Act, Employees' State Insurance Act, Bombay Labour Welfare Act, the Indian Maternity Benefit Act etc. In other words mere factual information about some of the laws that govern industrial life and relationship between master and servant are alone taught in this course.

48. We have also examined the other pamphlets from this point of view and we find that with a limited difference here or there regarding the nature of the degree they are all courses available to a graduate of any Faculty who has never studied the subject forming the diploma course. Looking to the diploma in labour laws it is obvious that an Arts graduate who has no knowledge relating to the Faculty of law is accepted as a student for imparting instructions for this diploma. It is true that for all these diploma courses the basic qualification required is a degree in some Faculty. The question is, will this requirement of obtaining a degree in some Faculty make the Course a Post-Graduate Course in the real academic sense in which that expression is understood.

49. We are aware that the University authorities are autonomous and are entitled to administer their own institutions and lay down their own courses of education and standards of teaching thereof. However, the University Authorities cannot by mis-description introduce a concept which is foreign to the academic world itself. In other words a misleading label or nomenclature used either consciously or through oversight cannot change the basic concept of what is Post-Graduate Instruction. This question squarely arose before the Supreme Court and we have good guidance in the judgment of AIR 1976 2534 (SC) . In Madhya Pradesh under orders of Government a Secondary School run by a private society was taken over by Government in view of the precarious financial position of the

School. The petitioner before the High Court and the Supreme Court Smt Juthika Bhattacharya was the Head Mistress and her educational qualifications were B. A., B. T. The Divisional Superintendent of Education acting under the orders of Government refused to absorb her in the post of a Principal though the undertaking given by Government by passing the Madhya Pradesh Local Authorities School Teachers (Absorption in Government Service) Act 1963, was to provide a parallel post to every teacher. The qualifications for a Secondary School Head Mistress, according to Government Rules, was possession of a Post-Graduate Degree and no person without such a degree could be absorbed in the cadre of Principal, The petitioner pleaded that she had Post-Graduate qualification. She took the degree of B. A. in the Arts Faculty and thereafter joined the course for instruction for Bachelor of Teaching course. She also successfully obtained that degree. In the dictionary sense the word "post" means after. The argument addressed to the Supreme Court therefore was that B. T. degree obtained was after getting B. A. degree and the B. T. Degree is to be treated as Post-Graduate Degree or Post-Graduate qualification. This argument has been rejected by the Supreme Court. The Supreme Court points out that in order to construe whether a particular degree is a Post-Graduate degree, regard must be had to the context in which that expression occurs. They then point out that it is not inconceivable that the expression "Post-Graduate degree" may in a broad and general sense mean in a given context any degree obtained after graduation and which a graduate alone can obtain. But that is not the sense in which the Memorandum uses the particular expression. By "Post-Graduate degree" is meant a Master's degree like the M. A. or M. Sc. and not a Bachelor's degree like the B. T. In other words, the expression connotes the successful completion of a course of studies at a higher level in any speciality after the acquisition of a basic qualification at the graduate level. Referring to the LL. B. Degree itself in conjunction with B. T. Degree this is what the Supreme Court observes in paragraph 7 of the report:--

"A Bachelor's degree like the B. T. or the LL. B. is not considered to be a Post-Graduate degree even though those degrees can be taken only after graduation. In the refined and elegant world of education, it is the holder of a Master's degree like the M. Ed. or the LL. M. who earns recognition as the holder of a Post-Graduate degree" We are aware that the Supreme Court was concerned with the expression of a particular Memorandum but the approach in principle seems to be of general application,

50. In the academic world the essence of Post-Graduate education appears to be that a person has to graduate himself in a certain faculty. After having received instructions up to the graduation level, if the student continues further studies in the same faculty he is in essence taking Post-Graduate instructions. If an entirely new subject like teaching or law is taken up for instructions after obtaining some other degree, it is at best a course of instructions which is available after having obtained some other degree. After all degree education is not to be equated with Post-Graduate instructions. It is well known that successful degrees at

graduation level can be obtained in various faculties and passing a graduate's examination in one faculty is no bar to the obtaining of another Bachelor's degree in another faculty. It would be, in our view, a misuse of the expression "Post-Graduate" to call every instructions received after one's Bachelor's degree as a Post-Graduation instruction. That does not seem to be the meaning which that expression carries in what the Supreme Court calls "refined and elegant world of education." .

51. If we look at diplomas that are offered by the Poona University in Labour Laws and Labour Welfare, in the light of the above discussion, it would be dear that any graduate is entitled to take up that course. A student of Arts would read for the first time the name Industrial Disputes Act and would be made conversant with the provisions of the various laws relating to industry and labour to which we have already referred earlier. Can it ever be said that the student is receiving further education in the same Faculty of an intensive and exhaustive nature? The same argument can be applied to all other diplomas offered by the Poona University, where the basic qualification received is graduation in some faculty. They are courses, in our view, in the real sense after graduation diploma or diplomas available after one completes graduation in some faculty. They are not Post-graduate diplomas in the real sense in which that expression is understood in the academic world. To describe such a course as a Post-graduate Course is a misnomer. We find that in spite of the fact that some of the Authorities of the University have styled these courses as Post-graduate Diplomas and have in fact passed a resolution in that behalf, the Vice-Chancellor at any rate does not seem to be agreeable to call these courses as Post-graduate Courses. In his reference to the Chancellor at the Instance of the Executive Council's Resolution he does say in clear terms that in his view the diploma in Labour Laws and Labour Welfare could not be considered as a Post-Graduate Course. We have no doubt that the Vice-Chancellor's view is clearly correct and consistent with the normal meaning attached to the expression Post-Graduate qualification in the academic world.

52. We have already said that the University is an autonomous body and ordinarily it would be expected that the academicians will conduct their affairs in a manner where no exception would be taken by outsiders. When we look to the proceedings of the Executive Council dated 30th September 1976 extending to 17th October 1976 and particularly the Resolution No. (B) (14) (11) the impression somehow we get is that it is respondent No. 11 who alone was active in the various bodies of the University and the other members without realising the consequence of the Resolution to be passed, accepted the argument of respondent No. 1, who happens to be one of the Principals of a Law College. We do not think that the University Authorities have deliberately passed these resolutions with a view to create a misleading impression outside that the Poona University has in fact several Post-Graduate Diplomas in the real sense of the term. We do not think that we will be expecting too much from the University authorities to ask them to reconsider this question and change the nomenclature

they have been using in describing the various courses. It will be quite appropriate, if these diplomas are declared to be diplomas available after graduation rather than Post-Graduate diplomas. Not only the description will be correct, but they will give a correct idea to any one who wants to take up that course and not mislead either the student or the possible employer to think that it is a Post-Graduate qualification.

53. In this context it will be worth while to refer to the original Resolution of the Executive Council in its meeting dated 16th of March 1974 when this Labour Law diploma was introduced. We have already referred to it, but it would be worthwhile to repeat that very resolution proposed by the Law Faculty which was ultimately confirmed by the Executive Council through the various academic bodies which said that it should be specifically made clear that the Diplomas are not Post-Graduate diplomas. The plural reference was undoubtedly to the diplomas in Taxation and Diplomas In Labour Law and Labour Welfare, We therefore hold that the diploma in Labour Laws and Labour Welfare is not a Post-Graduate diploma at all. Incidentally we may also observe, and which matter the University Authorities will seriously consider, whether the Colleges which are imparting instructions only in these courses and none others, can be properly described as centres of Post-Graduate education. It will have its repercussions on the electoral roll of Post-Graduate teachers from Post-Graduate Centres outside the University Campus in subject of law. We believe that this will be mere consequence of what decision the University authorities choose to take after considering our observations.

54. So far as the decision of this case is concerned we hold that respondent No. 1 is not a Post-Graduate Teacher because he does not have the basic qualification of a Post-Graduate Teacher laid down by the Regulations made by the Academic Council under Statute 88-A of the University Court under the old Act. The label attached by the University to this diploma as a Post-Graduate diploma is clearly a misnomer. It cannot give the status of a Post-Graduate centre to the College which is imparting these instructions, nor can a teacher who is entitled to impart instructions in relation to this diploma course be described as a Post-Graduate Teacher. This would mean that respondent No. 1 was not entitled to be granted any extension at all after 15th of March 1977 and his continuance In the service after that date is clearly unlawful. Being a mere teacher, attainment of the age of 60 and completion of term of academic year, was the dead end of his service. The petitioners have succeeded in establishing that respondent No. 1 was no more a member of the academic world after 15th of March 1977.

55. However, the conclusion that is sought to be drawn from it, does not seem to be quite sound. Mr. Dalvi argued that the moment respondent No. 1 ceases to be a teacher he also ceases to be head of a department in a college and as such ceases to be a person eligible to be elected u/s 29 (2) (ii) of the said Act. That respondent No. 1 does not now continue as a teacher is clear. Whether his election to the Board of Studies also comes to an end by the end of his service is

a question which must be determined on the language of the provisions. There are four different types of members on this Board of Studies described by clauses (i) to (iv) of Sub-section (2) of Section 29. Sub-section (3) in term says that the term of office of members under clauses (ii), (iii) and (iv) of Sub-section (2) shall be three years clause (i) which is excluded refers to the Heads of University Departments concerned.

56. A fair reading of Sub-section (3) will mean that the Heads of University Departments concerned appear to be ex- officio members and so long as a person is a Head of the University Department he can participate in the deliberations of the Board of Studies. For a person becoming member of Board of Studies from clauses (ii), (iii) and (iv) there appears to be a fixed term of three years. We were not shown any provision where it is said that losing the basic qualification during the continuance of three years also brings to termination the elective post obtained by the person concerned. Mr. Dalvi no doubt argued that since the Board of Studies speaks of the Heads of Departments under clause (ii) of Sub- section (2) of Section 29, it would be incongruous to hold that a person continues to be a member of the Board of Studies even if he ceases to be a Head of the Department or for that matter a teacher itself We do not think that the continuance as a member of the Board of Studies of a person who ceases to be a teacher is either strange or inconsistent with the provisions of the University, Act.

57. There are various Authorities of the University and the qualifications of the members and the duration of their term have been dealt with in various other sections. The highest body of the University seems to be the Senate. The composition of the Senate is provided by Section 20 of the Act. The first group of members described under clause (A) of Sub-section (1) refers to the Ex-officio Members. The next group of members in the same Sub-section shown by clause (B) refers to Elected Members. There are in all (xvii) Sub-clauses describing various types of members who are to be elected to the Senate from the various constituencies. So far as the term of the office of these members is concerned, the proviso at the end of clause (B) after clause (xvii) is as follows:--

"Provided that, a person elected under Sub-clauses (i) to (xvi) of clause (B) shall cease to be a member of the Senate as soon as he ceases to be a member of the electing body or bodies, as the case may be." This is to be read as against the provisions of Sub-sections (3), (4) and (5) of the same Section 20. Sub-section (3) lays down that the term of the office of the elected members, other than the Heads of the recognised institutions, shall be six years. The term of office of such Heads shall be three years. Sub-section (4) prescribes the term of office of the members nominated by the Chancellor or the Vice-Chancellor shall be three years and the term of office of the Principals and the representatives of managements shall be two years. Under Sub-section (5) the term of office of the student members shall be conterminous with the term of office of the student members of the Students' Council. The term of office of the Heads of University Departments shall be one year.

58. Having thus provided various terms of offices for the various types of members, so far as the elected members falling in Sub-sections (i) to (xvi) are concerned, there is a further qualification, viz. that the elected members shall cease to be a member of the Senate as soon as he ceases to be a member of the elected body or bodies as the case may be. This is in contrast with the provisions of Section 29 Sub- Section (3) which is relevant for our purpose.

59. Going next to the Executive Council we find that this composition and the term of office are provided in Section 23. Sub-section (3) thereof says that the term of office of the elected and nominated members shall be three years. So far as the elected members are concerned, there is a proviso after clause (xi) of Sub-section (1) of Section 23 which provides that a member elected under clauses (vi) to (xi) shall cease to hold office as member if he ceases to be the Head of the University Department, or member of the Senate or the Academic Council or the Dean as the case may be. Here again as in the case of the Senate the elected member coming from the Principal's constituency must continue to have that qualification throughout the term of the office of three years, which is the life of the Executive Council. If that qualification ceases in the midst of the period of three years, he automatically ceases to be a member for the remaining part of the term of that body.

60. Going to the next Academic authority, viz Academic Council we find that the first group of members consists of the ex-officio members. Amongst the other members they are mostly nominated or co-opted members by the authorities mentioned in those Sub-clauses under the title "other members". Sub-clause (2) of Section 25 says that except as otherwise provided, the term of office of the members, other than ex-officio members, shall be three years. There is no provision in the case of academic council to discontinue the membership of a co-opted or nominated member unless otherwise provided in the Act. It means that under this section there is a fixed term of office and a member is entitled to continue for three years. It would thus be amply clear that Section 29 relating to the Board of Studies merely requires the elected member to hold a certain position and to be on the roll of a constituency from which he is to be elected at the time of his election to the Board of Studies. Thereafter there is a fixed term and this period is not made dependent upon the continuance of the original office or position held by the elected member concerned. Since we find that the legislature has made different provisions with regard to the different bodies and their terms of office, it would not be possible for us to accept the general argument of Mr. Dalvi that ceasing to hold a particular office or status automatically brings about a termination of the membership of the Board of Studies.

61. If respondent No. 1 is thus entitled to continue as a member of the Board of Studies for the period of three years from the date of election, viz. April 1975, even if he ceases to be a teacher as also the head of the department during this period, he would be entitled to continue as a member of the Board of Studies till

April 1978. The further post which he has acquired either by way of election as a Chairman of the Board of Studies or as an ex-officio member because he happened to be Chairman of the Board of Studies, would obviously be available to him since he continues to be the member of the Board of Studies.

62. The view of the University Authorities as canvassed before us by Mr. Bhonsle therefore seems to be correct, viz. that respondent No. 1 was validly attending the University authorities and their meetings because of his basic qualification of being a member of the Board of Studies till April 1978. The challenge to respondent No. 1's office which he occupies in the University bodies must thus fail on the second ground urged before us on behalf of the University.

63. Even though therefore we hold that respondent No. 1 is no more teacher at all after 15th of March 1977 and has never been a teacher of the University or a post-graduate teacher or that the various diploma courses including the Labour Law and Labour Welfare diplomas are not Post-graduate Courses, respondent No. 1 still continues to be a valid member of the Board of Studies till April 1978 with the consequent advantages available to him as a member of that body. Though the petitioners have substantially succeeded in pointing out the real position of respondent No. 1 qua the University authorities, on this short ground their challenge fails and the Petition has got to be dismissed. However, in the circumstances of the case there shall be no order as to costs.

64. Rule discharged with no order as to costs.

65. Rule discharged.