

(2000) 05 BOM CK 0030

In the Bombay High Court

Case No : Writ Petition No's. 2771 to 2775, 3822 (all of 1997) , 3005, 3252, 3261 (all of 1998) and 221, 222, 254, 255, 1965 (all of 1999)

Narendra Sakharam Jadhav

APPELLANT

Vs

State of Maharashtra and others

RESPONDENT

Date of Decision : 05-05-2000

Acts Referred:

Citation : (2000) 05 BOM CK 0030

Hon'ble Judges : S.K. Shah, J;G.D. Patil, J

Bench : Division Bench

Advocate : P.B. Patil, for the Appellant; Leela Varsale, Anand Jaiswal, V.G. Wankhede, D.A. Sonawane, Mrs. Indira Bodade, G.G. Mishra and S.R. Gaikee, for the Respondent

Final Decision : Allowed

Judgement

G.D. Patil, J.—All these petitions were heard at the stage of motion hearing itself making rule returnable forthwith with consent of learned counsel for the petitioners and learned counsel appearing for the State and its authorities so also the other learned counsel appearing for other some of the respondents, though some of them were only nominal parties and therefore, no service was found to be necessary on some of them. Further since the common question involved in all these petitions is the effect of the derecognition of the Two-Year Diploma in Teaching Course (Dip.T.) of the erstwhile Sagar University and now as Dr. Harisingh Gour Vishwavidyalaya, Sagar and Devi Ahilya Vishwavidyalaya, Indore, they were heard together and are being disposed of by this common judgment.

2. In Writ Petition Nos. 2771/97, 2772/97k, 2773/97, 2774/97 and 2775/97 each of the petitioners therein have obtained Dip. T. Two-Years Course of Dr. Harisingh Gour Vishwavidyalaya, Sagar. Each of them joined and completed the said course respectively on (1) 17-7-1992 and 30-4-1994 (2) 1-8-1991 and 30-4-1993 (3) 19-7-1992 and 30-4-1994, (4) 13-8-1991 and 30-4-1993 and (5) 1-8-1991 and 30-4-1993. Thus all these 5 petitioners had joined the course prior to 31-5-1993

on which date the Government Resolution in this respect, to which we will refer at a later stage, came to be issued by the State of Maharashtra. All these petitioners further were appointed by order dated 15-11-1996 issued separately in relation to each of them on the post of Primary Teacher by the Chief Executive Officer of the Zilla Parishad, Buldana, since they were found as having been selected by the District Selection Committee, Buldana. The appointments were, however, made subject to certain conditions. One of the condition was that the appointment was subject to the interim orders of this Court in Writ Petition No. 5749/1995 with other petitions, delivered on 24-7-1996, (correct date appears to be 27-7-1996) since, the order further says, Diploma in teaching is not equivalent to the Diploma in Education (D.Ed.) and that they were appointed in the pay-scale of untrained Primary Teachers and were required to successfully pass the Examination of Diploma in Education within five years from the date of appointment and consent letter from each of them was also got executed by the Chief Executive Officer indicating their consent for having been appointed on certain conditions including those referred to hereinabove. The petitioners, after joining the post of Primary Teachers under these orders, however, made representations to the Chief Executive Officer, Akola for deletion of these conditions and prayed for issuing order of appointment as trained teachers, inviting attention to certain orders passed by the Courts and Government including some Government Resolutions. Since nothing immediately was done, the petitioners approached this Court in the year 1997 by filing these petitions. They prayed for a declaration of the conditions nos. 7, 8 and 9 incorporated in the consent/guarantee letter, one of which is at Annexure-D in Writ Petition No. 2771 of 1997, being arbitrary and illegal as they treat the petitioners as untrained teachers, though they are trained teachers, each of them having Dip. T. and further are entitled to benefits admissible to the trained teachers. They seek further direction regarding difference of arrears of salary payable to them as admissible from the date of joining the duties as per rules and for enlistment in the seniority list accordingly, of primary teachers by inserting their names at appropriate places.

3. The petitioner in writ petition No. 3822 of 1997 has similarly obtained Diploma in Teaching of Dr. Harisingh Gour Vishwavidyalaya, Sagar, by joining the diploma course on 18-7-1992 i.e. prior to 31-5-1993 and completed the same on 30-4-1993. The petitioner was appointed as Assistant Teacher in respondent No. 2 School with effect from 1-9-1997 and a proposal was forwarded for approval to the respondent No. 4 Education Officer, whereupon the respondent No. 4 i.e. the Education Officer, Zilla Parishad, Buldana on 29-10-1997 refused to grant approval to the petitioners appointment on the ground that the Diploma in Teaching, which the petitioner was having, was not equivalent to the D.Ed, in Maharashtra. The petitioner, therefore, has filed the instant petition seeking quashing of the order dated 29-10-1997 passed by the respondent No. 4 Education Officer and for a direction to him to grant approval so also for a declaration that the resolution dated 31-5-1993 de-recognition the Dip. T. Course

as equivalent to D.Ed. Course to be ultra-vires and illegal.

4. In Writ Petition No. 3005 of 1998 the petitioners joined Two-Year Dip. T. Course on 2-9-1994 and completed the same on 30-4-1996, conducted by Devi Ahilya Vishwavidyalaya, Indore. Both of them were appointed and posted by orders issued separately on 28-7-1997, but identically worded, as Assistant Teachers in the respondent No. 2 Primary Ashram School and they joined their respective posts on 1-8-1997. The respondent No. 3 Management then submitted a proposal to the respondent No. 4 District Social Welfare Officer in October 1997 for grant of approval. Since the respondent No. 4 informed the management by his communication dated 5-8-1998 that approval could not be granted to the petitioner's appointment, their services were terminated by the respondent No. 3 by issuing letter dated 1-9-1998, intimating them that they will be relieved on 1-10-1998, vide Annexure-E and E-I to the petition. From the communication dated 5-8-1998, Annexure-F to the petition, it is clear that approval was not granted for the appointment as Primary Teachers since Dip. T. Course was not equivalent to D.Ed, course. Government communication in this regard is dated 22nd April 1997, Annexure-H to the petition. In September 1998 the petitioners have, therefore, filed this petition. They are praying for a declaration that the Government Communication at Annexure-H, respondent No. 4's communication at Annexure-F, so also the Government Resolution dated 31-5-1993, Annexure-M, as also the notices of termination at Annexures E and E-I to be void and illegal and, therefore, prayed for consequential reliefs.

5. In writ petition No. 3252 of 1998 the petitioners completed Dip. T. course in Devi Ahilya Vishwavidyalaya, Indore by joining the said course on 2-9-1994. They were appointed as Assistant Teachers by identically worded orders issued separately on 31-7-1997 and 26-11-1997 respectively and were posted in Dnyanadeep Ashram School at Tambola, of which respondent No. 2 is Head Master, with effect from 2-8-1997 and 8-12-1997 respectively. Respondent No. 4 District Social Welfare Officer, Buldana, by his communications dated 30-5-1998 and 5-8-1998 since expressed his inability to grant approval, the petitioners were served with notices of termination of their appointments on 29-9-1998, Annexures E and E-I, intimating them that their services will stand terminated from 28-10-1998. By the communication dated 5-8-1998 the respondent No. 4 District Social Welfare Officer had expressed his inability to grant recognition to the petitioner's appointment since Dip. T. was not equivalent to D.Ed. Course. The petitioners, therefore, have filed the instant petition in October, 1998 claiming relief of declaration that the Government Decision dated 22-4-1997, Annexure-H, Government Decision dated 31-5-1993, Annexure-M, respondent No. 1, 4's communication dated 5-8-1998, Annexure-F refusing grant of approval, so also the notices of termination dated 29-9-1998 Annexures E and E-I to be void and illegal and for grant of consequential reliefs.

6. The petitioner in Writ Petition No. 3261 of 1998 obtained Diploma in Teaching of Dr. Harisingh Gour Vishwavidyalaya, Sagar. He had joined the said diploma

course on 13-8-1991 and completed the same on 30-4-1995 as he had failed in second year examination earlier and the University was not holding supplementary examinations. The petitioner thus had joined the said course prior to 30-5-1993. The petitioner was appointed by the respondent No. 3 Society by its order dated 23-12-1997, Annexure-C, on probation for a period of two years as Assistant Teacher with effect from 24-12-1997 and was posted in respondent No. 2 school. The respondent No. 4 Education Officer (Secondary), however, declined to grant approval to the petitioner's appointment by his order dated 29-9-1998, Annexure-D on the ground that the petitioner's Dip. T. course was not recognized by the State Government. The petitioner has filed the Government Resolution dated 4-2-1984 and decision contained in the communication dated 9th October 1997 as Annexures E and F to the petition, so also the Government letter dated 22-4-1997 at Annexure-K. to the petition, and has claimed a relief of declaration that the Government Resolution dated 31-5-1993, Annexure-J and Government letter dated 22-4-1997, Annexure-K and the order dated 29-9-1998 Annexure D to be void and illegal and for consequential reliefs.

7. In Writ Petition nos. 221/1999 and 222/1999 all the petitioners are holding Diploma in Teaching of Dr. Harisingh Gour Vishwavidyalaya, Sagar. The petitioner in writ petition No. 221 of 1999 joined Dip. T. course on 26-6-1989 and completed the same on 30-4-1991, whereas the petitioner nos. 1 and 2 in Writ Petition No, 222 of 1999 joined the said course respectively on 16-7-1990 and 1-8-1991 and completed the same on 30-4-1992 and 30-4-1994 respectively and thus joined the said course prior to 31-5-1993. The petitioner in Writ Petition No. 221 of 1999 was appointed on 27-9-1993 whereas the petitioners in writ petition No. 222 of 1999 were appointed as trained primary teachers on 27-11-1996 and 18-11-1996 in the services of the respondent Zilla Parishad, Akola and posting orders were issued by the respondent No. 3 Block Development Officer, P.S. Washim and they accordingly joined the services. By communication dated 9-1-1999 the petitioners were called by the respondent No. 3 and had been tendered with the communication dated 3-12-1998 Annexure F, along with form of undertaking at Annexure-G and were further instructed to execute the same on or before 22-1-1999 failing which, they were informed, they would be paid salary as untrained teachers. The communication dated 3-12-1998, Annexure-F from the Chief Executive Officer, Zilla Parishad, Akola speaks of the Dip. T. Course being not equivalent to the D.Ed, course and as such the petitioners were entitled to the scale of untrained teachers only. The petitioners in these two writ petitions are claiming the relief of a declaration that the Government Resolution dated 31-5-1993, Annexure-H, the C.E.O's communication dated 3-12-1998, Annexure-F, to be void and illegal and for consequential reliefs.

8. In Writ Petition No. 254 of 1999 all the four petitioners joined Dip. T. course of Dr. Harisingh Vishwavidyalaya, Sagar. All of them joined the said course on 3-8-1993 and completed on 30-4-1995. They were appointed as trained primary

teachers by identical orders on 18-11-1996 and then on 9-1 -1999, as is the case in the earlier two petition nos. 221 and 222 of 1999, they were handed over copy of the communication dated 3-12-1998 of the C.E.O., Zilla Parishad, Akola for obtaining undertaking from them. The petitioners herein are claiming the similar reliefs as are being claimed by the petitioners in Writ Petition Nos. 221 and 222 of 1999.

9. In Writ Petition No. 255 of 1999 the petitioner joined the Dip. T. course of Dr. Harisingh Gour Vishwavidyalaya, Sagar on 16-7-1990 and completed on 30-4-1992 and was appointed as trained teacher on 16-11-1996 in the services of the Zilla Parishad, Akola as primary teacher and then on 18-1-1999 was served with a communication dated 3-12-1998, Annexure-G, of the Chief Executive Officer, Z.P. Akola, along with the affidavit. He is claiming the same reliefs as are being claimed by the petitioners in writ petition No. 254 of 1999.

10. The petitioner in Writ Petition No. 1965 of 1999 joined the Dip. T. course of Dr. Harisingh Gour Vishwa Vidyalaya, Sagar on 17-7-1992 and completed the same on 30-4-1994. The petitioner was appointed as Assistant Teacher in respondent No. 2 school at Akot. Respondent No. 4 Education Officer, Zilla Parishad, Akola, however, refused to grant approval by his communication dated 29-4-1999 by his order at Annexure-T on the ground that as per Government Circular Dip. T. course was not equivalent to the D.Ed. Course in Maharashtra and that this Court's Bench at Aurangabad by its order dated 9-9-1998 has dismissed the petitions in this regard. The petitioner claims in this petition that the Government Resolution dated 31-5-1993 so also the communication dated 28/29th April 1999 of the respondent No. 4 Education Officer to be void and illegal and consequential reliefs including extension of benefit of Government decision dated 23-4-1997, Annexure-P.

11. The question involved in the instant petitions, as already indicated, is as to whether the Diploma in Teaching (Dip. T.) awarded by the erstwhile Sagar University in the State of M.P. and thereafter conducted and awarded by Devi Ahilya Vishwavidyalaya, Indore and Dr. Harisingh Gaur Vishwavidyalaya, Sagar has been recognized and approved and treated on par with D.Ed, awarded in the State of Maharashtra for filling the posts of Teachers in this State and if yes, as to what is the effect of its de-recognition as such at a later stage vis-a-vis the petitioners. This issue has been raised and decided in number of petitions filed at the main seat of this Court at Bombay and the Benches at Nagpur and Aurangabad and practically nothing remains to be decided and there should not have been any occasion for filing of such petitions. At one point of time this Court was constrained to pass the order as follows, which has been passed in Writ Petition No. 3822 of 1997 and we quote the same here :

"Coram : B. N. Srikrishna and S. P. Kulkarni, JJ.

Dated: 1st April, 1998.

We have noticed that despite the judgment of a Division Bench of this Court in

Writ Petition No. 1744/1995 in Shabirkhan s/o Nasirkhan vs. District Selection Committee and others and the judgment of the Division Bench in Writ Petition No. 1178/1997 in Kiran vs. State of Maharashtra and others, a number of writ petitions are being filed in this Court which raise an identical issue. We expect the State Government to follow the law that has been laid down at least in the judgments of the two Division Benches. The learned Government Pleader Shri D. N. Kukdey is requested to draw the attention of the persons heading the Education Department and spare us from this repeated futile exercise of deciding the same issue. Shri Kukdey has promised to do so.

In the meantime, the petitioner shall not be removed from service on the ground of his not being approved. S. O. to 24-4-1998."

Later on in the same petition the Government Pleader had given certain assurance before the Court and the same was noted in the order dated 15th September 1998. The said order is as under:

"Coram : J. N. Patel and D. D. Sinha, JJ.

Dated : September 15, 1998.

The learned Government Pleader assures the Court that Education Department is taking a decision in such matters and necessary instructions would be issued to the concerned Education Officer.

S. O. four weeks."

It is in the above backdrop, we will now refer to the number of decisions in which the issue involved in the present matter has been dealt with and before doing that, we would like to take note of the steps taken by the Government in this regard from time to time as reflected in one of the orders of this Court's Bench at Aurangabad.

12. The Division Bench of this Court at Aurangabad Bench in their interim order dated 30th April 1997, in Writ Petition Nos. 954 of 1995 and others, has found as follows :

"(2) The Government of Maharashtra by resolution dated 28th September 1973, further amended Clause I(ii) of the recruitment rules for the posts of Primary School Teachers, and accordingly the requirement of qualification was changed. The amended rule reads as under:

"Those who have passed the S.S.C. Examination or Matriculation Examination or Lokshala Examination or any other examination recognized as such by the State Government and the Primary Teachers Certificate Examination or Diploma in Education Examination or Diploma in Education (2 years) (Pre-Primary Education) or Art Teachers Diploma or Drawing Teachers Certificate.

Note : (i) Those having Diploma in Education (Pre-Primary) should be considered for posts of primary teachers for lower classes only.

(ii) The candidates holding qualification mentioned in (i) above should be held eligible for the pay scale sanctioned for candidates possessing Secondary School Certificate and Sr. Primary Training Course qualification as laid down in Government Resolution No. PTP-1069-F dated 19-6-1969.

(iii) The Art teachers Diploma or Drawing Teachers Certificate holders should be considered only in primary schools are required by the Zilla Parishads."

(3) By another resolution dated 10th February 1975, the Government of Maharashtra directed that, in case of candidates who have obtained the certificates/Diplomas awarded by the other State Governments through the media of instructions other than Marathi, English, Urdu, Gujarathi, Hindi and Sindhi, it is obligatory on the part of the appointing authorities to obtain specific approval of Government for recognizing the qualifications obtained by the candidates for appointment of Primary/Secondary teachers. It was for the first time, that the Government of Maharashtra issued the Government resolution dated 18-2-1982 wherein it was provided that the candidates holding degree of B.T./B.Ed. from the Universities outside the State of Maharashtra as well as diploma holders from such outside States who were being appointed as primary teachers, they shall be treated as trained teachers.

(4) In pursuance of the said resolution, candidates holding diploma in teaching awarded by Dr. Harisingh Gour Vishwavidyalaya, Sagar, came to be appointed as primary trained teachers and such teachers continued to be in service on permanent basis. However, by letter dated 30-9-1992, issued by the Officer on Special Duty, Government of Maharashtra, and addressed to the Deputy Director of Education, Amravati Division, Amravati, it was directed that the teachers who hold the diploma in teaching from Dr. Harisingh Gour Vishwavidyalaya, Sagar, prior to 18-2-1982 shall only be treated as trained teachers and those who have obtained the diploma in teaching from Dr. Harisingh Gour Vishwavidyalaya, Sagar, any time after 18-2-1982 shall not be treated as trained teachers because the syllabus of diploma in teaching awarded by Dr. Harisingh Gour Vishwavidyalaya, Sagar, is not comparable with the syllabus prescribed for diploma in education in the State of Maharashtra.

(5) On 31st May 1993, the Government of Maharashtra issued another resolution and withdrew the recognition granted vide Government Resolution dated 18-2-1982 for appointment of primary teachers to those who had passed diploma in teaching from Dr. Harisingh Gour Vishwavidyalaya, Sagar. As a result of the resolution dated 31st May 1993, some of the teachers who have passed diploma in teaching after 1982 and appointed as primary teachers, thereafter, were removed from service and Writ Petitions were filed before this Court challenging such termination orders. In Writ Petition No. 3491/1995 and 3492/1995 (Nagpur Bench) and Writ Petition No. 621/1997 (Bombay Bench), (in fact No. 612/1997) this Court held that the resolution dated 31st May 1993 cannot be made applicable retrospectively and it can be made applicable only prospectively as per the law laid down by the Supreme Court in the case of

Suresh Pal and Others Vs. State of Haryana and Others, . The termination orders so challenged were quashed and set aside.

(6) The Government of Maharashtra issued yet another notification on 8th March 1995 wherein it was held that the degree and diploma courses granted by the Universities listed in the annexures to the resolution were recognized for appointments in the State of Maharashtra. In the said list, the name of Dr. Harisingh Gour Vishwavidyalaya, Sagar, also appears. The present petitioners contend that this resolution dated 8th March, 1995 makes them eligible for being appointed as trained primary teachers and hence, they have sought directions against the State authorities.

(7) However, it is pertinent to note that the resolution dated 8th March, 1995 is differently worded than the resolution dated 18th February 1982. The resolution issued on 18th February 1982 held that the diploma in teaching of Dr. Harisingh Gour Vishwavidyalaya, Sagar was equivalent to diploma in education in Maharashtra State, whereas resolution dated 8th March 1995 only states that the degrees and diplomas awarded by Dr. Harisingh Gour Vishwavidyalaya, Sagar, are recognized for appointment in State of Maharashtra. It is thus clear that the issue of diploma in teaching awarded by Dr. Harisingh Gour Vishwavidyalaya, Sagar, being equivalent to the diploma in education in Maharashtra, has not been decided."

The Court then by this order dated 30th April 1997 kept the matter pending, issuing certain interim directions including the one directing the Government to refer the question as to whether the Diploma in Teaching granted by Dr. Harisingh Gour Vishwavidyalaya was equivalent to D.Ed, awarded in the State of Maharashtra to the State Council of Educational Research and Training, Pune, known as "State Board of Teacher's Education", directing further the said Council/Board to submit its report and/or opinion to the Court by 15-7-1997. It may be noted here that one of the writ petitions in which this order was passed, included Writ Petition No. 3631 of 1996. This writ petition No. 3631 of 1996 was finally decided along with some other writ petitions on 9-9-1998 by the Division Bench of this Court at Aurangabad and the decision is reported in Ravindra Motilal Patil and others Vs. The State of Maharashtra, of this judgment reveals that as per interim order dated 30-4-1997 Government had appointed an Expert Committee and that report of the said Committee revealed that Diploma in Education of the Maharashtra and Diploma in Teaching from Sagar, (M.P.) were not equivalent. The Division Bench earlier had noted in para 6 that the controversy in regard to the recognition of the Diploma in Teaching from aforesaid Universities of Sagar, Madhya Pradesh was resolved by the judgment of the Division Bench of this Court in Writ Petition No. 3138 of 1995 dated 28-11-1995 which had also been concurred by the same learned Judges while delivering the judgment and order on the same day in the group of Writ Petitions i.e. W.P. Nos. 517 of 1997 and other petitions. Copy of the judgment dated 28-11-1995 in Writ Petition No. 3138/95 has been filed at Annexure-R-2 in Writ

Petition No. 2771 of 1997 along with written submissions of respondent No. 2 therein viz. Zilla Parishad, Buldana. The judgment is very brief and we quote the same below :

"Coram : G.D. Kamat and R. M. Lodha, JJ.

Dated 28th November, 1995.

Petitioner's grievance in the petition is that he has not been wrongly selected and appointed on the post of primary teacher in Zilla Parishad, Thane. The petitioner says that pursuant to the advertisement, he applied and he was also eligible to apply for the said post. He has already passed Std. XII (Science) and has a Diploma in Teaching (Dip. T.) from Sagar University (M.P.) which is equivalent to D.Ed, in Maharashtra.

This petition, in our view, is misconceived. What was asked in the advertisement as far as eligibility condition is concerned is that the applicants must have passed S.S.C. and to have further qualification of D.Ed. The Government of Maharashtra has not equated Diploma in Teaching (Dip.T.) of Sagar University (M.P.) with D.Ed, in Maharashtra. Petitioner's assertion that promissory estoppel applies or that because the petitioner was called for interview and, therefore, he must be selected is without any merit. Petition rejected.

Petition accordingly rejected."

The request for reconsideration of the view taken in writ petition No. 517/1997 was also entertained but ultimately it did not find favour with the Courts. On the submissions advanced placing reliance on the decision of the Apex Court in the case of Suresh Pal and Others Vs. State of Haryana and Others, , on the facts before the Court, it held that it was not of any help to the petitioners to decide the claim made by in those petitions.

This was so held by pointing out in para 19 as follows :

"It is nowhere stated by the petitioners in the petition that they had joined the course with the Universities of Sagar, Madhya Pradesh on the basis of assurance from the State Government. They have nowhere said that at the time when they joined the course, it was recognized by the State of Maharashtra and it was on the basis of that recommendations they have joined the course. Therefore, the petitioners cannot complain that they are eligible to be considered for appointment as Primary Teachers by applying the Doctrine of Promissory Estoppel. We, therefore, find that the case relied upon by the learned counsel for the petitioner is of no help to the petitioners to decide the claim made by the petitioners in these petitions."

13. It is apparent from the judgment dated 28-11-1995 in Writ Petition No. 3138 of 1995 that the matter was decided only on the aspect on finding that the Government of Maharashtra has not equated the Diploma in Teaching (Dip. T.) of Sagar University (M.P.) with the D.Ed, in Maharashtra and on no other aspect and

it appears that it was not brought to the notice of the Court by any one that as observed in paragraph (3) of the order dated 30th April 1997 by the Aurangabad Bench of this Court in Writ Petition No. 954 of 1995, degrees and diplomas granted by the two Universities i.e. Dr. Harisingh Gour Vishwavidyalaya and Devi Ahilya Vishwavidyalaya were recognized and approved for appointment of primary teachers by the Government Resolution dated 18-2-1982. Granting equivalence and granting recognition for a particular purpose is somewhat different and this has also been so indicated in the order dated 30th April 1997 in Writ Petition No. 954 of 1995 of this Court at Aurangabad Bench.

14. The judgment next to the one dated 28-11-1995 in Writ Petition No. 3138/1995 was the one in Writ Petition No. 3491 of 1995 with Writ Petition No. 3492 of 1995 decided on 25-4-1996 (Suhas P. Patil and others vs. State of Maharashtra and others) by this Court (A. A. Desai and B. U. Wahane, JJ.) wherein this Court went on an undisputed position that Diploma in Teaching of Sagar University was recognized by the Government of Maharashtra and that while the recognition was in force, the petitioners therein had joined the Diploma Course on 13-9-1991 while the derecognition as ordered came into force on 31-5-1993 and thereupon placing reliance on a decision of the Apex Court in Suresh Paul's case (cited supra) held that de-recognition could not be retrospective and the petitioners were held eligible and entitled to be considered for the posts for which they had applied. This decision was relied upon in a decision of this Court in Shabirkhan vs. District Selection Committee, Writ Petition No. 1744 of 1995 decided on 24th December 1996 (M. B. Ghodeswar and S. Radhakrishnan, JJ), so also in the above referred order dated 30-4-1997 in Writ Petition No, 954 of 1995.

15. In its interim order dated 27-7-1996 in Saiyed Hamiduddin vs. State of Maharashtra, Writ Petition No. 3315 of 1995 along with other petitions passed by Aurangabad Bench of this Court, Annexure -F to Writ Petition No. 2771 of 1997, this Court had taken note of the Government Resolution dated 5th March, 1995, saying that "it was mentioned therein that Degrees and Diplomas obtained by the candidates from the other Universities which are approved by the University Grants Commission, will be regarded as equivalent to degrees/diplomas obtained from the State of Maharashtra automatically, except for the purpose of appointment to teaching posts in the Government Colleges (that too teaching posts in Medical Colleges only). The list of the Universities approved by the University Grants Commission is annexed with this Resolution and the name of Dr. Harising Gaur University, Sagar, Madhya Pradesh is mentioned at Serial No. 37 of the said list."

16. Another Writ Petition No. 1378 of 1996 dated 8-10-1996 (Sanjay and others vs. State) and Writ Petition No. 1252 of 1996 dated 11-10-1996 (Gopal vs. State) (Desai and Radhakrishnan JJ.) were also decided granting reliefs to the petitioners on finding that Diploma obtained from the Sagar University was obtained prior to the de-recognition of the said diploma by the State. Review

application bearing M.C.A. Stamp No. 1559/1998 in Writ Petition No. 1378 of 1996 was also dismissed on 27th August, 1998. (M. B. Ghodeswar and S.B. Mhase, JJ.) Similarly review application was filed in Writ Petition No. 1252 of 1996 decided on 11-10-1996, bearing M. C. A. No. 475 of 1998 and it was rejected by the Division Bench consisting of B. N. Srikrishna and J. N. Patel, JJ. on 23-9-1999, specifically observing that the view taken by the order sought to be reviewed has been repeatedly accepted, reiterated and followed in subsequent judgment in W.P. No. 3006 of 1998.

17. Next in order comes the judgment in Writ Petition No. 612 of 1997 decided on 17-3-1997 by a Division Bench of this Court at Bombay, (Ashok Agrawal and A. Y. Sakhare, JJ), wherein, relying upon the decision of the Apex Court in Suresh Paul's case (cited supra), taking note of the fact that the Dip. T. course from Barhanpur of H. S. Gour University, Sagar. Madhya Pradesh was recognized with effect from 1982 and the recognition was withdrawn with effect from 31st May 1993 and the same was again recognized vide Government decision dated 8th March, 1995 and further noting that the petitioner completed the said diploma course during the period from 1991 to 1993, the Court directed the concerned respondents to grant approval to the petitioner's appointment. This decision has been relied upon while passing the interim order dated 30-4-1997 in Writ Petition No. 954 of 1995 by the Division Bench at Aurangabad, referred to hereinabove as also in Writ Petition No. 996 of 1998 decided on 23-9-1998, Pralhad Akotkar vs. State and others (M. B. Ghodeswar and S. B. Mhase, JJ.) as also in the interim order dated 10-8-1999 passed in Writ Petition No. 2383 of 1998, Ravindra Joshi vs. State (Patankar and Gundewar, JJ.) and Writ Petition No. 3006 of 1998 decided on 27-8-1999, Anil Barbude vs. State and others (B. N. Srikrishna and D. D. Sinha, JJ.) (since reported in Ani. Barbude and another Vs. The State of Maharashtra and others,). One another writ petition bearing No. 1178 of 1997, Kiran Nilkanth vs. State of Maharashtra and others was decided on 12-8-1997 by V. S. Sirpurkar and B. H. Marlapalle, JJ. of this Court granting relief to the petitioner who had completed his Diploma in Teaching Course from the erstwhile Sagar University on or before 31-5-1993, placing reliance on the order of the Court in Writ Petition No. 5173 of 1996 rendered by the Division Bench consisting of A. P. Shah and Marlapalle, JJ., which appears to be an interim order dated 30-4-1997 in W. P. No. 954/1996 with other writ petitions including writ petition No. 5173 of 1996.

18. Then came the judgment, already referred to, in Writ Petition No. 3631 of 1996, Ravindra Patil vs. State of Maharashtra, decided on 9-9-1998 (cited supra) so also the judgments in Writ Petition No. 996 of 1998 decided on 23-9-1998, Pralhad Akotkar vs. State, and in Writ Petition No. 2383 of 1998 decided on 10-8-1999, Ravindra Joshi vs. State, already referred to and finally the judgment dated 27-8-1999 in writ petition No. 3006 of 1998, Anil Barbude vs. State of Maharashtra and others reported in 1999 (3) Mh.L.J. 508, whereby the Division Bench consisting of B. N. Srikrishna and D.D. Sinha, JJ., relying upon the judgment in Writ Petition No. 1178 of 1997 dated 12th August 1997 (Sirpurkar

and Marlapalle, JJ.) and the judgment dated 17th March, 1997 in Writ Petition No. 612 of 1997 (Ashok Agarwal and A. Y. Sakhare, JJ.) and the judgment of the Apex Court in Suresh Pal's case (cited supra), holding that when the petitioners had joined the course, the said course was recognized and de-recognition was received when the petitioners were receiving the instructions and as such it would not be just to tell the petitioners at a future point of time that though when the petitioner joined the course it was recognized, yet, they cannot be given benefit of such recognition and the certificates obtained by them would be futile because during the pendency of the course it was de-recognized by the State Government, ultimately held that the decision of the State Government to de-recognise cannot be made applicable to the petitioners because they were already half-way towards Two Years Certificate Course of Sagar University which was very much recognized when the petitioners joined the course.

19. It is in the above backdrop of the facts obtaining in each of these petitions and the decisions of different Benches of this Court, we have to consider the contrary submissions made by the learned counsel for the petitioners and the contesting respondents.

The relief claimed by the petitioners, as already indicated, in their petitions, is being opposed by the learned counsel appearing for the respondents and as regards the aforesaid decisions, what is mainly contended is that review applications were pending in many petitions and the matters required reconsideration, particularly pointing out that the Government Resolution dated 4-2-1984 and the Government Communication dated 30th September, 1992, Annexure R-I in writ petition No. 2771 of 1997, so also the order dated 28-11-1995 in writ petition No. 3138 of 1995 was not considered in all the aforesaid decisions. It was pointed out that from this communication dated 30-9-1992 it was apparent that the Government of Maharashtra had not equated the Dip. T. of Sagar University with the D.Ed, in Maharashtra. The contention as raised on behalf of the contesting respondents was very much opposed by the petitioners, rightly pointing out from the documents annexed to the review petition, that when this Court had passed the order on 23-9-1999, on Misc. C.A. No. 475 of 1998 seeking review of the judgment in Writ Petition No. 1252 of 1996 the aforementioned Government Resolution dated 4-2-1984 and communication dated 30-9-1992 were very much before the Court and it was on considering this document and the judgment in Writ Petition No. 3006 of 1998, this Court had rejected the review application. It was also rightly pointed out that the decision of this Court in Ravindra Patil's case (cited supra) has to be held as on the facts of those particular cases and in the absence of proper pleadings only the relief was not granted to the petitioners therein. It was further rightly pointed out by the learned counsel for the petitioners that the communication dated 30th September 1992 at Annexure R-I in W. P. No. 2771/1997 has also been taken note of in para 4 of the order dated 30th April 1997 in Writ Petition No. 954 of 1995 along with other petitions (cited supra), which has been relied upon, as already indicated, in the decision of this Court in Kiran's case (cited supra).

Insofar as the judgment of this Court in W. P. No. 3138 of 1995 is concerned, as already indicated, it was on the aspect of equation of these two Diplomas and not on the aspect of recognition for the particular purpose as such and one cannot forget that thereafter several decisions were rendered by various Benches taking into consideration the recognition/approval granted by the Government to the Dip. T. course of Sagar University for filling the posts of Teachers in this State. Moreover, one of the orders passed by this Court viz. dated 27th August 1998 on C.A. No. 386 of 1998 in M.C.A. St. No. 1559/1998 in Writ Petition No. 1387 of 1996 indicates that orders in this regard have been implemented by the concerned authorities. This order further speaks of Government granting recognition to this course of Dip. T. by then. Besides we have already referred to the order dated 1st April 1998 passed by this Court in Writ Petition No. 3822 of 1997 expressing anguish and the one dated 15th September, 1998 passed therein only, indicating certain assurance on the part of the Government Pleader in that regard. It is in this backdrop, nothing remains to be decided on merits in the instant matter since particularly when we also agree with the proposition laid down and accepted in various aforementioned decisions that when the petitioners joined the course when it was recognized by the State Government, it would be unjust to tell them at a future point of time that since in the meantime the course was de-recognized, the certificates obtained by them would of no use to them. The law laid down by the Apex Court in Suresh Pal's case (cited supra) is binding on us.

20. It is in the above view of the matter, we take note of each of the instant petitions as follows and then pass the appropriate orders therein.

21. As already indicated, the petitioners in Writ Petition No. 2771, 2772, 2773, 2774, 2775 and 3822, all of 1997, so also in Writ Petition Nos. 3261 of 1998 and 221, 222, 255 and 1965 of 1999, have joined the Dip. T. Course of Dr. Harisingh Gour Vishwavidyalaya, Sagar or Devi Ahilya Vishwavidyalaya, Indore prior to 31-5-1993.

22. All the petitioners in Writ Petition No. 3005 of 1998 and 3252 of 1998 have joined the Dip. T. course on 2-9-1994 and completed the same on 30-4-1996 and were appointed as Assistant Teachers in the respective respondent-schools on 28-7-1997 in Writ Petition No. 3005/1998 and on 31-7-1997 and 26-11-1997 in Writ Petition No. 3252 of 1998. Their services were terminated because of the decision of the respondent No. 4 dated 5-8-1998 at Annexure F in Writ Petition No. 3005/1998 and dated 5-8-1998, Annexure-F in Writ Petition No. 3252 of 1998. By these communications at Annexure F to these petitions, respondent No. 4 had expressed his inability to grant approval because of the communication dated 31-12-1998/1 -8-1998 at Annexure-G from the Education Officer, which was based on the decision dated 22nd April 1997, Annexure-H in both these petitions. The Government decision dated 22-4-1997 at Annexure-H reveals that the persons having Dip. T. of Sagar University were held eligible for appearing in the examination which was to be conducted by the Selection Board in May 1997

for selections of the persons for posting as primary teachers in the schools run by the Zilla Parishad, albeit on certain conditions therein. This decision dated 22nd April 1997 thus indicates that Government was recognizing the persons having Dip. T. of Sagar University to be eligible for being appointed to the posts of Assistant Teachers in the primary schools even till May, 1997, although they were being required to pass D.Ed. Examination of the State of Maharashtra within five years from the date of appointment. It is stated in this communication that that was the last chance which was being offered to such persons having Dip. T. of Sagar University. We do not know whether such a concession was thereafter extended and whether even the conditions incorporated in this decision were deleted subsequently. However, there appears to be some change adopted by the Government as the order dated 27th August 1998 passed by this Court on C.A. No. 386/1998 in M.C.A. St. No. 1559/1998 in Writ Petition No. 13-87 of 1996 (cited supra) indicates that the State Government has also recognized the course of Dip. T. for the purposes of teaching. The decision in Nagin Pawar's case and the order dated 30-4-1997 in Writ Petition No. 954 of 1995 with other writ petitions (cited supra) also take note of the aspect of Dip. T. course having been recognized for appointment vide Government decision dated 8-3-1995 and as such instead of probing on this aspect, in these petitions, we prefer to refer the matter back to the respondent No. 4 for arriving at a proper decision in this regard if necessary by obtaining necessary information and/or instructions in this regard from the Education Officer and the State Government, particularly when submissions filed on behalf of the respondent No. 4 in W.P. No. 3005 of 1998 do not throw any light on this aspect of the matter.

23. The petitioners in Writ Petition No. 254 of 1999 joined the Dip. T. course on 3-8-1993 i.e. after 31-5-1993, and completed the same on 30-4-1995. All of them were appointed on 18-11-1996. Later on, however, on 9-1-1998 an undertaking (Annexure-G) was sought to be obtained from them as required by the communication dated 3-12-1998 (Annexure-F) of the Chief Executive Officer, Z.P. Buldana, which has been impugned in this petition. For the reasons already indicated while considering the matter in relation to Writ Petition Nos. 3005/1998 and 3252/1998, similarly, we leave the question open for decision afresh in relation to these petitioners to the respondent Nos. 2 and 3.

24. We now pass the orders as follows in these petitions :

(i) The Writ Petition Nos. 2771, 2772, 2773, 2774 and 2775 all of 1997 are allowed with no order as to costs, making the rule absolute in terms of prayer clauses (a) and (b) in each of the writ petition nos. 2771/1997, 2772/1997, 2773/1997, 2774/1997 and 2775/1997, with a further direction to the respondents to decide and grant the benefits admissible to the petitioners, treating them to be trained teachers, as early as possible.

(ii) Writ Petition No. 3822 of 1997 is allowed with no order as to costs, making the rule absolute in terms of prayer clause (a) by quashing and setting aside the impugned order dated 29-10-1997 (Annexure-D) and further directing the

respondent No. 4 to consider the aspect of granting approval to the appointment of the petitioner at the earliest treating her to be trained teacher.

(iii) Writ Petition No. 3261 of 1998 is allowed with no order as to costs, making the rule absolute in terms of prayer clause (a) by quashing and setting aside the impugned order dated 29-9-1998, (Annexure-D) of the respondent No. 4, with a further direction to the respondent No. 4 to consider the petitioner's entitlement for grant of approval to his appointment and further to consider and grant all the benefits admissible to the petitioner, treating him to be a trained teacher, at the earliest.

(iv) Writ Petition No. 221 of 1999, 222 of 1999 and 255 of 1999 are allowed with no order as to costs making rule absolute in terms of prayer clause (i), by quashing and setting aside the order dated 3-12-1998 (Annexure-F in W.P. Nos. 221 and 222 and Annexure-D in W.P. No. 255 of 1999) to the extent it is being made applicable to the petitioners in these petitions.

(v) Writ Petition No. 1965 of 1999 is allowed with no order as to costs, by making rule absolute in terms of prayer clause (a) by quashing and setting aside the order dated 28/29th April 1999 of the respondent No. 4, (Annexure-1) with a further direction to the respondent No. 4 to consider the aspect of grant of approval to the appointment of the petitioner and further to consider and grant all the benefits admissible to the petitioner treating him to be a trained teacher, at the earliest.

(vi) Writ Petition Nos. 3005 of 1998 and 3252 of 1998 are allowed with no order as to costs, making the rule absolute in terms of prayer clause (a) by setting aside the decision of the respondent No. 4 dated 5-8-1998 (Annexure-F in W.P. No. 3005/1998) and respondent No. 4's decision dated 1-8-1998, Annexure G in W. P. No. 3252 of 1998, so also the notices terminating the petitioners' services dated 1-9-1998 and 29-9-1998, Annexures E and E-I in these petitions respectively, with a further direction to the respondent No. 4 to consider afresh the aspect of grant of approval to these petitioners on obtaining afresh necessary instructions in this regard, if required from the Education Officers and the Government, and further to consider and grant all the benefits admissible to the petitioners treating them to be trained teachers, at the earliest.

(vii) Writ Petition No. 254 of 1999 is allowed with no order as to costs, by making rule absolute in terms of prayer clause (i), by setting aside the communication dated 3-12-1998 (Annexure-F), insofar as it relates to the petitioners, and leaving it open for the concerned authorities to decide the aspect of the petitioner's eligibility for being appointed as primary teachers and their entitlement to continue in service and benefits admissible to them as trained teachers as such even without obtaining the certificate of D.Ed.

25. Rule is made absolute in all these petitions in the above terms with no order as to costs.