

## **THE SECRETARY, ALL INDIA SHRI SHIVAJI MEMORIAL SOCIETY (AISSMS) AND ORS. VS. THE STATE OF MAHARASHTRA AND OTHERS**

### **BACKGROUND**

The case involves nine teachers who are the respondents in this case and were appointed between 1995-2009 by a private educational society in technical institutes affiliated with different universities. These teachers had Master's degrees approved by the concerned universities. However, barring one teacher, the rest failed to get their Ph.D. degrees within seven years of their appointments, a requirement that was mandatory after the 15.03.2000 notification from the All India Council for Technical Education (AICTE). The AICTE is a legal body under the AICTE Act 1987 and has the authority to prescribe rules and qualifications for technical education, including those for teachers. As per their rules, a Ph.D. is mandatory for the post of Assistant Professor as of 15.03.2000.

The appellant society challenged a Bombay High Court Order which had directed the Society to give revised pay scales to teachers under the 6<sup>th</sup> Central Pay Commission. In this case, the teachers had filed the original writ petition and were now the respondents. They were all teaching in technical and engineering colleges, run and managed by the appellant society, a private body operating without government funding. The society recently filed civil appeals before the Supreme Court.

Of the nine teachers, four were hired before this date and five after. The issue placed before the Supreme Court was to ascertain whether the AICTE's rules about teacher qualifications and the revised pay scale were applicable to private institutions not aided by the government. The AICTE had again released a notification on 28.11.2005 repeating the rules prescribed in 2000. Thus, there is no doubt that a candidate could be appointed as Assistant Professor after 15.03.2000 if they had a Ph.D. with a first class at Bachelor's or Master's level in their chosen branch of engineering and two years of teaching experience. A candidate could also be appointed Assistant Professor if they had a first class at Master's level in their chosen field of engineering and five years of teaching experience. However, the condition was to get a Ph.D. degree within seven years of being hired.

After the initial two notifications by the AICTE on the above-mentioned dates, there was a third circular on 05.03.2010 stating the required qualifications for teachers in technical institutes. However, in this notification it introduced a new pay structure for different positions in the teaching faculty. Another noteworthy point was that the job-title of lecturer was officially changed to Assistant Professor. Henceforth, the teaching positions were to be categorized into 3 categories:

- Assistant Professor
- Associate Professor
- Professor

### **ARGUMENTS AND PRECEDENCE**

The respondents (teachers) argued that the 2016 AICTE clarification allowed promotions even without a Ph.D., as the circular only mentioned stopping increments after seven years, if Ph.D. is not obtained, and does not deny promotion. The Counsel quoted the case of *Sanjay S. Surwase v. S.V. College of Engineering (2017) 16 SCC 703*, where teachers without a Ph.D. were allowed benefits under similar circumstances.

The appellant (AICTE/Society) gave the rebuttal that the 2010 AICTE notification clearly stated Ph.D. as a prerequisite, or appointment before 15.03.2000 for promotion. They cited *Gelus Ram Sahu v. Surendra Kumar Singh (2020) 4 SCC 484*, where the Supreme Court held that the 2016 clarification was not a statutory amendment, but just a reiteration of the laws that were already existing. The Counsel stressed that qualifications which had been prescribed by the expert bodies, like the AICTE, should be respected unless proven in Court that they are unfair, discriminatory or unreasonable.

### **JUDGEMENT**

Clarifying the rules of promotion by AICTE, the Supreme Court delivered its verdict, upholding that teachers without a Ph.D. degree are not entitled to a promotion as Associate Professors or a higher pay scale as per the notification issued by AICTE in 2010. Only those appointed before 15.03.2000, when Ph.D. became mandatory, or those with an existing Ph. D. were qualified for a promotion or a higher pay grade. The Court held that the 2016 AICTE clarification only explained existing rules and did not permit new rights like promotion without a Ph.D. It directed payment of arrears with an interest of 7.5%, including for those who have obtained a Ph.D., while the teachers who later completed their Ph.D. could apply for promotion, and their requests must be considered as per the law.