

**K. Sankaranarayanan**  
GOVERNOR OF MAHARASHTRA



No: CS/PU/37/10K7072/3194.

**Raj Bhavan**  
**Mumbai 400 035**  
Tel. : 022-23632660  
Fax : 022-23680505

1<sup>st</sup> September 2010.

Subject : Petition under Section 108 of the Maharashtra Universities Act, 1994 from Dr. G. R. Ekbote, Chairman, Progressive Education Society, Pune and Prof (Mrs) S. H. Ogale, Principal, Modern College of B.Ed, Special Education (Hearing Impaired), Pune in the matter of withdrawal of approval of Prof. (Mrs.) S. H. Ogale as Principal of the said college by the Vice-Chancellor, University of Pune.....

### **ORDER**

I had received the representation dated 13.02.2010 from Dr. G. R. Ekbote, Chairman, Progressive Education Society, Pune under Section 108 of the Maharashtra Universities Act 1994. In his application, Dr. Ekbote had mentioned that the Progressive Education Society has established Modern College of B.Ed. Special Education (Hearing Impaired) in Pune, from the academic year 2004-05, which is affiliated to the University of Pune and is recognized by the Government of Maharashtra and Rehabilitation Council of India (RCI), New Delhi. This college was established with a view to serve the handicapped students. Prof (Mrs.) Shubhangi .H. Ogale has been appointed as Principal of the said College by the Progressive Education Society on the recommendations of the statutory Selection Committee constituted for the purpose as provided under the provisions of Statute 413(B)(2) of the University of Pune. The then Vice-Chancellor Dr. Narendra Jadhav gave approval to the appointment of Prof (Mrs.) S. H. Ogale as a Principal of the said College from 08.04.2009. The Rehabilitation Council of India, New Delhi, a statutory apex body in the field of Special Education has also given approval to the appointment of Prof. Ogale as the Principal of the said College.

Dr. Ekbote had further stated that the Pune University authorities issued a Show Cause Notice on 11.12.2009 to Progressive Education Society and Prof. Ogale regarding withdrawal of approval accorded to the appointment of Prof. Ogale as the Principal. Since Prof. Ogale was in U.S.A due to ill health of her daughter, she requested that the period of 'show cause notice' be extended by 1 ½ months. The University of Pune initially responded by extending this period by a period of one month i.e. 27.12.2009 to 27.01.2010. Prof.(Mrs.)S.H.Ogale, on 25.01.2010 again requested University authorities that because of ill health of her only daughter the period of 'show cause notice' be extended by further period of one month. The University of Pune responded that this request cannot be granted and she should appear for final hearing before University authorities on 11.02.2010. In view of this, Prof. (Mrs.)S.H.Ogale decided to leave her daughter in precarious medical condition and arrived in India on 04.02.2010. On airport itself, she sustained accidental injuries. She was brought to Pune on 05.02.2010 and was operated on emergency basis on the same day. Dr. Sagar Khadilkar, Orthopedic Surgeon gave a medical certificate advising her complete bed rest for one month w.e.f. 05.02.2010. Therefore, on 09.02.2010 Prof.(Mrs.) S. H. Ogale informed the University authorities that because of her precarious medical condition she will not be able to attend hearing on 11.02.2010 and requested the University authorities to arrange for her hearing after a period of one month. The representative of Progressive Education Society forwarded a detailed reply to the Vice-Chancellor, University of Pune as to why her approval cannot be withdrawn. Despite this the then Acting Vice-Chancellor Dr. Arun Adsool withdrew the approval given to the appointment of Prof. (Mrs) S. H. Ogale as the Principal of the above mentioned college.

Dr. Ekbote in his application under Section 108 of the Act, had therefore requested me to advise the authorities of the University of Pune on the following points : -

- a) Whether approval once accorded can be withdrawn, if the original selection process was followed as per statutory provisions.
- b) If an apex body, which is established under the act of Parliament, approved the appointment to the post of Principal as per the provision in the Act of Apex body, whether University authorities can withdraw the approval?

Dr. Ekbote had also requested to advise the University authorities by issuing direction to maintain the "status quo" in the matter.

In the mean time, Dr. Arun Adsool, the then Acting Vice-Chancellor by his letter dated 17.02.2010 informed me that, after taking into consideration the reply and representation of Progressive Education Society, UGC and RCI norms and the submissions made during the hearing by the Progressive Education Society, he issued Order on 01.02.2010 canceling the approval given to the appointment of Prof. Ogale as Principal of the said College on the ground that Prof. Ogale did not fulfill the qualification and experience required for appointment to the post of Principal as laid down by the UGC and RCI.

Section 108 of the Maharashtra Universities Act 1994 reads as under :-

**“If any question arises regarding the interpretation of any provision of this Act, or any Statutes, Ordinance, Regulation Or Rule, or whether a person has been duly elected or appointed or nominated or co-opted as or is entitled to be a member of any authority or body of the University, the matter may, be referred, on petition by any person or body directly affected, or suo motu by the Vice-Chancellor to Chancellor, who shall after taking such advice as he thinks necessary, decide the question and his decision shall be final”**

It was observed that the Section 108 of the Act provides for the interpretation of the Act or any Statutes, Ordinances, Rules and Regulation of the University or whether person has been duly elected, appointed or nominated or is entitled to be a member of any authority or body of the University. Since, Dr. Ekbote had not mentioned in his application specific provisions of the Act/Statutes of the University of which interpretation was necessary and since the issue raised was of a nature of grievance, which could have been taken up by the applicant for redressal before the appropriate forum as provided in the Act such as Tribunal etc., Dr. Ekbote was informed by this office vide letter dated 16.04.2010 that the subject matter of his application does not come within the purview of provisions of Section 108 of the Maharashtra Universities Act 1994. Being aggrieved by this, the Progressive Education Society, Pune filed the Writ Petition No. 2961/2010 in the Bombay High Court. The High Court, Mumbai after hearing has passed the following Order on 8<sup>th</sup> July 2010 : -

*“While considering the provisions of Section 108 a question arising regarding the interpretation of any provisions of this Act or of any statute, ordinance....including appointment can be considered by the Chancellor. The issue undoubtedly pertains to the appointment of the Petitioner and withdrawal of approval at the latter point of time on the*

*ground that the Petitioner does not possess Ph.D, qualification. It is in these circumstances, there is no reason why the reference cannot be maintainable before the Chancellor.*

*For the reason stated hereinabove, we expect the Chancellor to decide the reference in accordance with the law and procedure applicable in this regard as early as possible. With these directions, writ petition disposed of. All contentions raised in this Writ Petition by all the parties are kept open”.*

I therefore called the Petitioners namely Dr. G. R. Ekbote and Prof (Mrs)S. H. Ogale, for the hearing on **16.08.2010 at 11.00 hrs at Raj Bhavan, Pune**. I had also called Dr.R.K. Shevgaonkar, Vice-Chancellor, and Dr. M.L. Jadhav, Registrar of the University of Pune. On his request I granted leave of absence to Dr. R.K. Shevgaonkar as he was to attend the meeting Selection Committee at IIT, Mumbai which was prefixed. He however, deputed Dr. W. N. Gade, Director, Board of College and University Development, University of Pune for the hearing.

During the hearing Dr. G. R. Ekbote, submitted the facts before me what he had already submitted in his written submissions. Dr. Ekbote said that as a social commitment, the Progressive Education Society has started the Modern College of Special Education (H.I) from 2005 for the benefit of deaf and mute students. Prof. (Mrs) S. H. Ogale has devoted her life to this College of Education and very few people are available as Lecturer in this field. Dr. Ekbote further clarified that RCI prescribes the qualification for appointment of teachers in Special Education and Ph. D is not a requisite qualification for appointment of Principal in College of Special Education. Dr. G. R. Ekbote further submitted that the then Acting Vice-Chancellor, Dr. Arun Adsool passed

the order withdrawing her approval without giving an opportunity of being heard personally to Prof. (Mrs.) Ogale and that too the then Acting Vice-Chancellor took this decision in hurried manner without waiting for the new Vice-Chancellor to join his office.

Prof. (Mrs.) S. H. Ogale submitted her written submission in the matter vide her letter dated 16.08.2010. During the hearing she said that, her entire career as an educationist has been devoted to the cause of Special Education and rehabilitation of the Hearing Impaired. In recognition of the same the Rehabilitation Council of India, New Delhi and Pune Municipal Corporation, Pune have applauded her. She was working as a Lecturer in this College w.e.f June 2004. Her approval as a Lecturer in P.E. Society's Modern College of Special Education (H.I.) was approved by the authorities of the University of Pune w.e.f from 22.08.2005. The Modern College of Special Education imparts education in B. Ed (H.I), with the intake capacity of only 30 students per year, as the duration of B. Ed (H.I.) course is of one year. The results of this College are 100% for last 5 years and the placement of the students is approximately 95%. This College is affiliated to University of Pune, recognized by Government of Maharashtra and approved by the Rehabilitation Council of India, New Delhi. Prof. (Mrs.) Ogale further said that there is a lack of teachers in this field of Special Education (H.I).

Dr. W.N. Gade, during the hearing mentioned that Mrs. Ogale has five years of experience as a lecturer but she does not have the qualification and experience required for the post of Principal even as per the guidelines of RCI. Selection Committee relied on the approval letter of RCI and did not look into the qualification and experience of the Candidate. Selection Committee committed mistake by recommending

the selection of Mrs. Ogale as a Principal. Based on the recommendation of the Selection Committee, approval was given to Mrs. Ogale as the Principal. However, the Dean, Education Faculty raised this issue with then Vice-Chancellor and also in the Academic Council during October, 2009. Her contention was that Mrs. Ogale does not have the required qualification and experience necessary for the post of Principal. Hence, her approval must be withdrawn.

The University then initiated the process of withdrawal of approval by first asking the parent Education Institute and Prof.(Mrs) Ogale to explain their position. After considering the facts and establishing that Prof. (Mrs) Ogale does not have necessary qualification, her letter of Approval as a Principal was withdrawn by the then Vice-Chancellor.

Section 108 of the Maharashtra Universities Act 1994 provides for interpretation of any provision of the Act, Statutes, and Ordinances of the University. The Statute No. 413 (B) (2) of the University of Pune provides that the appointment of Principal of Colleges shall be made by the competent authority on the recommendation of the Selection Committee constituted as per the provision of this statute. The recommendation of the Selection Committee shall be subject of the approval of the Vice-Chancellor. There is no specific provision of "withdrawal of approval in the relevant statutes of the University". However as per the provision of clause 21 of General Clauses Act, 1897, power to issue notification, orders, rules or bylaws includes power to add, to amend, vary or rescind notifications, orders, rules or bylaws. Thus, the power to issue order or approval includes power to rescind or cancel the same.

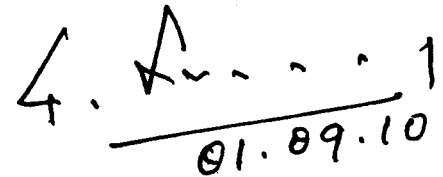
It was also pointed out that the Rehabilitation Council of India, being the apex body in the field of Special Education, prescribes qualifications and gives approval to the appointment of teachers in the field of Special Education. However, in this case, the RCI was neither consulted for clarification with regard to the qualification nor was given an opportunity to Prof. Ogale to make representation by the acting Vice-Chancellor with regard to the approval accorded to the appointment of Prof (Mrs) Ogale, as Principal of the said College. It was pointed out that the Acting Vice Chancellor had not given an opportunity of being heard to Prof (Mrs) Ogale, before issuing the Order withdrawing the approval to her appointment as Principal of the said College despite Mrs. Ogale informing the then Acting Vice-Chancellor about her inability to attend the hearing due to ill health.

Considering all the above facts, written and oral, submissions made by Dr. G. R. Ekbote, Prof (Mrs) Ogale, and the Director BCUD, and Registrar, University of Pune, I observe that even though the power of withdrawal of approval are not specifically mentioned in the Statute 413 of the University, these powers are inherent in view of Clause 21 of the General Clauses Act 1897 and that Vice-Chancellor was well within his power to withdraw the approval. However, I also observe that the then Acting Vice-Chancellor has not given an opportunity of being heard to Smt. Ogale before issuing an Order withdrawing the approval to her appointment as Principal of the said College in order to meet the Principles of natural justice. It is also clear that the RCI has not laid down any norms and eligibility condition for the post of Principal and it may not be appropriate to apply the guidelines of UGC in this case



without consulting the RCI. However, the then acting Vice-Chancellor, instead of making efforts to seek clarification from the RCI in this regard, issued the Order withdrawing approval granted to the appointment of Mrs. Ogale as Principal of the said College. It would therefore be appropriate to re-consider this matter by the present Vice-Chancellor after giving an opportunity of personal hearing to Mrs. Ogale and after seeking necessary clarification from the RCI with regard to the qualifications and eligibility conditions for the post of Principal in the Modern College of B.Ed. Special Education (Hearing Impaired) in Pune and then take appropriate decision in the matter.

With these observations, I dispose of the petitions filed by Dr. G. R. Ekbote and Prof (Mrs) S. H. Ogale accordingly.

4.   
01.09.10

**(K. Sankaranarayanan)**  
Chancellor  
University of Pune.