

S. C. JAIMIR  
GOVERNOR OF MAHARASHTRA



RAJ BHAVAN  
MUMBAI 400 035

July 29, 2009

## **ORDER**

**Subject :** Regarding election under Section 37 (2) (b) of the Maharashtra Universities Act, 1994 to the Board of Studies in Marathi in University of Pune

- Reference:**
1. Petition dated 5 October 2005 under Section 108 of the Maharashtra Universities Act, 1994 from Dr. Subhash N. Shekade.
  2. Letter No. ELN/1184 dated 2 December 2005 from the Vice-Chancellor, University of Pune.
  3. Letter No. ELN/103 dated 14 February 2006 from the Vice-Chancellor, University of Pune.
  4. Letter No. ELN/192 dated 20 & 31 March 2006 from the Vice-Chancellor, University of Pune.
  5. Letter No. ELN/305/MAR/223 dated 9 June 2006 from the Vice-Chancellor, University of Pune.
  6. Letter No. PUVINI/33 dated 31 March 2008 from the Registrar, University of Pune.
  7. Letter No. ELN/54 dated 15 May 2008 from the Registrar, University of Pune.

Dr. S. N. Shekade, Professor in Marathi Babuji Avhad Mahavidyalaya, Pathardi has submitted to me a petition dated 5 October 2005 under Section 108 of the Maharashtra Universities Act, 1994, (herein after referred as the "Act") challenging the election of 6 Heads of Departments to the Board of Studies in Marathi of the University of Pune. He had alleged that preference votes were not properly counted more particularly two votes which were mentioned the figure 1 in words against his name but were illegally declared invalid. Dr. Shekade has requested

for fresh counting of votes and to treat the result of the election as illegal and not in accordance with the law. He has also requested to count the said two invalid Votes in his favour and declare him as elected.

2. I called for detailed report from the Vice-Chancellor, University of Pune in the matter. The Vice-Chancellor and Registrar, University of Pune, have submitted the reports vide letters at Reference above, The facts in brief, as reported by them, are as follows:-

The election to the Board of Studies in Marathi was held on 21 August 2005 and counting of votes was done on 23 August 2005.

At the time of counting, scrutiny and counting of the Votes (Ballot Papers) was done as per provisions of Statutes 382 to 392.

Statute 357 is regarding treating voting paper as invalid and it reads as under :-

“Statute 357, A voting paper is invalid if,

- a) the figure 1 standing alone, indicating a first preference is not placed, OR
- b) the figure 1 standing alone, indicating a first preference is placed opposite the name of more than one candidate, OR
- c) the figure 1 standing alone, indicating a first preference and some figures placed opposite the name of the same candidate, OR
- d) it cannot be determined for which candidate the first preference of the voter is recorded, OR
- e) in an election by ballot any mark is placed by the voter by which he may afterwards be identified OR

- f) there is any erasure or alteration in the figures indicating the voter's preference. "

At the time of counting, the candidates and their representatives were informed about the provisions in the Statute and the same procedure was followed not only in this case but all the elections held in the year 2005. They were also informed that the Ballot Papers shall be treated as invalid in case the preferences are recorded in words.

Prof. Shekade got total 10 votes, 5 as per first preference at the first round, 3 votes at third round and 2 votes at fifth round. The total number of votes of the last elected candidate viz Shri B. V. Gane also got total 10 votes, 8 as first preference at the first round, 1 vote at fourth round and 1 vote at the fifth round and the Shri Gane was declared elected excluding Prof. Shekade (petitioner) as per provisions of Statute 387 (3).

The Statute 387 (3) reads as under:-

If, when a candidate has to be excluded two or more candidates have each the same number of votes and lowest on the poll, the candidates with the lowest number of votes at the first count at which the candidate in question have an unequal number of votes shall be excluded and when the number of votes credited to these candidates are equal at all counts, the Registrar, (shall draw lots and the candidate in whose name lot is drawn would stand excluded).

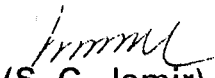
3. After carefully examining the contentions Dr. S. N. Shekade in the light of the facts of the case, I have found that :-

- (i) Even though, Prof. Shekade and Shri Gane had equal number of votes viz 10 at the last round, as Shri Gane

had more number of votes after first round, the action to declare him as elected by excluding a Prof. Shekade is as per the Statute 387 (3).

- (ii) As per the provisions in the Statute 357, the preference Votes recorded in words are to be treated as invalid. In view of this, the action of treating two ballot papers recorded in words against the name of Dr. Shekade as invalid is proper and valid.

In the light of the facts stated above, I have come to the conclusion that the counting of the Votes of the election of the Board of Studies in Marathi are legal and valid. I therefore, do not find any justification to interfere under Section 108 of the Act, with the election of Heads of Departments on the Board of Studies in Marathi,

  
(S. C. Jamir)  
Chancellor,  
University of Pune