No. CS/NU/37/08/ (6859)/2701.

CHANCELLOR

RAJ BHAVAN
MUMBAI 400 035
7th August 2009

ORDER

Subject : Regarding appointment of Shri Pradeep K. Butey as Reader in the Department of Computer Science, Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur.

Reference:
1. Petition dated 31 January 2009 submitted by Dr. Rakesh J. Ramteke, under Section 76 (7) of the Maharashtra Universities Act, 1994
2. Letter No. VC/C-8 (iii) /R/ 09/189 dated 7 July 2009 from the Vice-Chancellor, Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur.
3. Order dated 17 June 2009 passed by the Hon'ble High Court, Bench at Nagpur in Writ Petition No. 947/2009 filed by Dr. Rakesh J. Ramteke.
4. Show Cause Notice No. CS/NU/09/(6859)/ 2425 dated 16 July 2009 issued by the Secretary to the Chancellor to Shri Pradeep K. Butey.
5. Letter dated 23 July 2009 from Shri Pradeep K. Butey.
6. Letter dated 30 July 2009 from Dr. Rakesh J. Ramteke.

I had received a petition dated 31 January 2009 under Section 76 (7) of the Maharashtra Universities Act, 1994 (hereinafter referred as the "Act") from Dr. Rakesh Ramteke, challenging the appointment of Shri Pradeep K. Butey to the post of Reader in the Department of Computer Science of Rashtrasant Tukadoji Maharaj Nagpur University (hereinafter referred as the "University"). He has stated that :-

1) he does not have Post Graduate as well as Ph.D. Degree in concerned subject viz. Computer Science
2) he does not have 55% marks at the Post Graduate examination.
3) he is not qualified for the appointment as lecturer in Computer Science and therefore his teaching experience cannot be counted for the post of Reader.
4) eventhough as per the UGC guidelines, the Director, Higher Education is not ex-officio member of the Selection Committee, Dr. J. M. Khobragade, Nagpur attended the meeting of the Selection Committee.

Dr. Ramteke has further stated that he possesses the requisite qualifications and belongs to S. C. category and therefore injustice and casteism has happened in his case

2. Dr. Ramteke has also challenged the appointment Shri Butey by filing Writ Petition No. 947/2009 in the High Court Bench at Nagpur. The Hon. High Court by its Order dated 17 June 2009 disposed of the Writ Petition with observation since there is statutory remedy of appeal provided and the petitioner has already availed of the same, we are not inclined to show indulgences at this stage and dispose of the case. We expect the Chancellor to decide the said appeal on its own merit and in accordance with law within a period of two months from the date of communication of this order.

3. I had called for a detailed report from the Vice-Chancellor of the University. As reported by the Vice-Chancellor, the facts in brief, are as under:

The University had published advertisement on 13 July 2007 inviting applications for the various teaching posts including Reader in Computer

Science. As per the advertisement required qualifications for the post of Reader in Computer Science were as under:

"Good Academic Record with a doctoral degree or equivalent published work. In addition to this the candidates who join from outside University system shall also possess at least 55% marks or an equivalent grade 'B' in the 7 point scale with grade, O, A, B, C, D, E and F at the Master's degree level in the concerned subject.

And

Five years of teaching and / or research excluding the period spent for obtaining the research degrees and has made some work in the areas of scholarship as evidenced by quality of publications, contributions to educational innovation, design of new courses and curricula."

The qualifications and experience possessed by Shri Butey at the time of appointment were:-

i) He had passed B.Sc. degree with 53.48% Marks, M.Sc. in Statistics with 54.4% Marks and Diploma in Computer Science and Application.

ii) As approved teacher, he had 17 years of Under Graduate teaching experience. He has also 4 years Post Graduate teaching experience.

iii) He had published seven research publications.

iv) He had registered for Ph.D. under the University.

The University received 8 applications from the concerned candidates and of them 6 were found eligible for the post and were called for the interview on 8 November 2008.

The Selection Committee comprising of following members constituted under Section 76(2) of the Act, interviewed all 6 candidates:

i) Dr. S. N. Pathan, Vice-Chancellor (Chairman)

ii) Dr. A. V. Gomashe, Nagpur (Dean, Faculty of Science)

iii) Dr. N. V. Kalyankar, Nanded (Subject Expert)

iv) Dr. K. V. Kale, Aurangabad (Subject Expert)

v) Dr. P. S. Avadhani, Vishakhapatnam (Subject Expert)

vi) Dr. J. M. Khobragade, Nagpur (Representative of Director, Higher Education)

vii) Shri S. T. Belsare, Registrar (Secretary)

On the request of the Vice-Chancellor who is also the Chairman of the Selection Committee in its meeting held on 8 November 2008, three Subject Experts in the Selection Committee carried out the evaluation of the published work of Shri Butey and recommended his name for the post of Reader in Computer Science observing that research work of his following publications are of high quality, published in reputed journals and can be considered to be equivalent to Ph.D.

1) P. K. Butey, Karan Singh and S. S. Thakur, "Application of Vague sets in keyword proximity search in relational database", Ultra Sciences Journal, Vol.17(1)M. pp. 1-6(2005).
2) P. K. Butey, S. S. Thakur and M. La. 'Uncertainity management through vague rough set model", Ultra Science Journal, Vol. 17 (1)M, pp, 17-26 (2005).
3) Mukul Jain, P.K. Butey and Manu Pratap Singh, "Classification of fuzzy based information using improved backpropagation algorithm of Artificial Neural network", International Journal of Computational intelligence (IJCIR), pp 265-273.
4) T.M. Karade, K. T. Thommas and P. K. Butey, "Spherically symmetric quantities in higher dimensional space times", Post-Raag Reports research and memoranda of Applied Geometry, No. 340 November 199. p.p 27-36

The Selection Committee recommended following persons in order of preference for appointment of the post of Reader in Computer Science:

i) Shri Pradeep Kawduji Butey

ii) Dr. Rakesh J. Ramteke

As reported by the University Shri Butey was appointed as Lecturer in 1990 when the candidates having qualification of M.Sc. in Computer Science were not available and therefore candidates having Post Graduate Degree in Physics/Statistics/Mathematics were considered to be eligible for the appointment of Lecturer in Computer Science. As such the University approved the appointment of Shri Butey as Lecturer in Computer Science on 19 December 1990. The criteria of 55% of marks at the Master's Degree level is not applicable to Shri Butey as he is from within the University System. As per the directions of the State Government, the representative of the Director of Higher & Technical Education is an essential member of the Selection Committee and accordingly the said representative was present for the meeting.

4. After Scrutiny of the facts as reported by the University, I was prima-facie satisfied that the appointment of Shri Butey as Reader in the Department of Computer Science was not in accordance with the law at that time in force due to the following reasons:-

i) He does not fulfill the condition of Master's Degree in the concerned subject i.e. Computer Science as he possesses Master's Degree in the Statistics.

ii) He does not possess Ph.D. Degree. Further he was co-author of four published works considered to be equivalent to Pn.D. by the Subject Experts. As such, none of these published works can be considered as his own independent work. Therefore, the recommendation of the Subject Experts to consider his published work as equivalent to Ph.D. was not proper. As such he cannot

said to be fulfilling the condition of possessing Ph.D. or equivalent published work to his credit.

Therefore Shri Pradeep Butey was served with a Show Cause Notice under Section 76 (7) of the Act vide letter dated 16 July 2009 to explain within ten days of the receipt of the said letter, valid reasons why his appointment as Reader in Department of Computer Science should not be set aside.

5. I also gave Shri Pradeep Butey an opportunity of personal hearing. Accordingly, Shri Pradeep Butey, Dr. Rakesh Ramteke, Dr. S. N. Pathan, Vice-Chancellor of the University and Dr. Subhash Belsare, Registrar of the University appeared before me on Thursday, 30 July 2009 at 1130 hrs, at Raj Bhavan, Mumbai to put their arguments personally.

6. During the hearing, Dr. Rakesh Ramteke, made oral and written submissions. He submitted that :-

i) AS per UGC Notification dated 13 June 1983, for determining the good academic record for University Reader the following criteria is to be adopted:

a) A candidate holding Ph.D. Degree should possess atleast a second class Master's Degree,

OR

b) A candidate without a Ph.D. Degree should possess a higher second class Master's Degree and second class in the Bachelor's Degree,

OR

c) A candidate not possessing a Ph.D. Degree and not possessing second class Master's Degree should have obtained first class in the Bachelor's Degree.

Shri Butey is not having Ph.D. Degree and not having First Class at Bachelor's Degree and therefore he don't have the good academic record.

ii) Shri Butey does not have 55 % Marks at Master's Degree. Further he does not have Master's Degree in Computer Science

iii) Shri Butey did not have 55% Marks at Master's Degree at the time of appointment as Lecturer in Kamla Nehru Mahavidyalaya, Nagpur which was an eligibility criteria as per Government Resolution dated 27 February 1989.

iv) When the qualified candidates having Master's Degree in Computer Science are available the University cannot use its discretion and grant equivalence between the subject Computer Science and Statistics.

v) At the time of interview Shri Butey has attached only one research paper to his application form.

vi) The evaluation report was prepared by the Subject Experts on the interview day viz 8 November 2008. Other members of the Selection Committee were not aware of the said report 7 days in advance as envisaged in Section 76 (5) of the Act. As such his equivalence report cannot be considered. Further Subject Experts are not expected to grant any equivalence to any candidate. This exercise is to be done at the time of scrutiny and not at the time of interview.

vii) Shri Burey has Master's Degree in Statistics and therefore he is not even eligible to be appointed as Lecturer in Computer Science.

viii) Dr. Ramteke has the requisite qualification and presently working as Reader in the Department of Computer Science in the North Maharashtra University since 1 August 2008. He has presented 15 research papers in National and International level. He was selected as Reader in Swami Ramanand Teerth Marathwada University, Nanded on 21

January 2009. As such, how can the Selection Committee of the Nagpur University reject him?

ix) He belongs to S.C. Category. Injustice and casteism has been inflicted on him. Therefore his candidature may be considered for the post of Reader and selection of Shri Butey to the said post may be set aside.

7. During the hearing Shri Butey also made oral and written submissions. He submitted that :-

i) Alongwith Show Cause Notice he was not supplied any document and also was given only seven days to defend his case. This is violation of principles of Natural Justice because fair opportunity has been denied to him.

ii) The advertisement did not stipulate that the candidate should possess Master's Degree in the concerned subject. The term "concerned subject" can not be constituted rigidly and has to be construed with wide cannotation otherwise it would result in drastic and disastrous situation. When he was appointed as Lecturer in Kamla Nehru College, the required qualifications for the post of Lecturer in Computer Science as per the advertisement dated 5 May 1990 were:-

M. Sc. (Computer Science) / M.C.A

OR

"M. Sc. in Electronics / Physics/Mathematics/Statistics with Post B.Sc. Diploma in Computer Science and Application of recognized University".

In 1990, the condition of 55% at Master's Degree was not operative and only Second Class was the requirement. He has M.Sc. Degree in Statistics in Second Class and Post B.Sc. Diploma in Computer Science & Application. He is the only approved teacher in Computer Science and has

the experience more that 18 years of teaching to the Under Graduate and Post Graduate courses.

iii) He was the Head of Department in the Computer Science in the College and was also elected as member of Board of Studies in Computer Science of the University under Section 37 (2) (b) of the Act and further he was also elected as Chairman of the said Board of Studies.

iv) In view of the above, so far he is concerned the term Post Graduate degree in the concerned subject has to be construed in tune with the qualifications which were existed in 1990 and cannot be construed rigidly as claimed in the Show Cause Notice. If he was eligible for the appointment to the post of Lecturer in Computer Science, then he was always eligible for being appointed on higher posts of Reader / Assistant Professor in Computer Science. The approved qualification for the post of Lecturer in Computer Science in 1990 has been ignored while prima-facie concluding that he was not qualified for the post of Reader in Computer Science and therefore it is not correct. The Scrutiny Committee has evaluated all these issues while evaluating his application form and thereafter he was held eligible for appearing in the interview. As such he cannot be treated as not qualified for the post of Reader in Computer Science.

v) The observation that he is co-author alongwith two persons and hence none of his four publications can be accepted as his own independent work is totally misconceived, ill- founded and incorrect. All the four papers are his research papers and he had carried out the research work. The research work is a team work of one or two students under guidance of an approved Guide. When the original work is to be published the students who had carried out the work and the Guide all are

authors of the research paper. He has seven papers at credit. In five cases, two students including him and Guide have been involved. In one case two students including him have been involved while in the remaining case he and a Guide are involved.

vi) The evaluation of the research papers is the job of Subject Experts who are fully acquainted with the manner of and norms for publishing the research work. The observation that recommendation of the Subject Experts is improper which amounts to question the credibility of the experts who are the eminent personalities in the field. Even the Hon'ble High Court and Supreme Court cannot be appellate authority over the opinion of the experts. The same logic is applicable in his case also. All the research work is an individual and independent research contribution of him. As such, the issue raised in this regard in the Show Cause Notice is totally misconceived and ill-founded.

vii) In the light of above, there is absolutely no merit in the petition filed by Dr. Ramteke. He was fully eligible and entitled for appointment. Infact, Dr. Ramteke has taken chance of selection and has chosen to challenge his appointment which is not permissible, in view of law laid down by the Hon'ble High Court, he reserves to file additional reply after receipt of all the documents and to submit copies of authorities of Hon'ble Supreme Court and Hon'ble High Court in support of the contentions.

8. During the hearing Prof. S. N. Pathan, Vice-Chancellor stated that:-

i) The Scrutiny Committee presumed that the publications of Shri Butey are equivalent to Ph.D and therefore held him eligible to call him for the interview

ii) On the interview day i.e. 8 November 2008, he referred the publications of Shri Butey to the three Subject Experts of the Selection Committee for evaluation of publications. They carried out evaluation of his four research papers and in their report they opined that the published work of Shri Butey can be considered to be equivalent to Ph.D. When he differed to the opinion, they said he is eligible for the post as approval to his appointment of Lecturer in Computer Science has already been given. After that they left the meeting saying that they will put dissent note. Then he accepted the report of the Subject Experts.

iii) Shri Butey had been designated as Reader under Career Advancement Scheme. As such he was considered as eligible for the post.

iv) The University has never appointed an Equivalence Committee to verify to determine the published works of candidates to be equivalent to Ph.D. The appointments are being made in all these years in this particular way.

9. After submission of the Vice-Chancellor, when asked whether unqualified person appointed in lower post could be held as eligible for the appointment to the higher post eventhough he is not fulfilling the basic criteria of educational qualifications, as prescribed in the advertisement, the Vice-Chancellor replied in negative. I further asked the Vice-Chancellor that whether such improper appointments are being made in the University. Then the Vice-Chancellor contended that the instant case is a first case. As there is no practice of appointing Equivalence Committee to determine whether the published work of the candidate/s is equivalent to Ph.D. or not in the University, I told the Vice-Chancellor to appoint such Equivalence Committee comprising of members as per the relevant norms as early as possible.

10. After hearing the Vice-Chancellor and the records made available to me, I am of the view that the Vice-Chancellor has not acted in a transparent manner. Further his act to ask the Subject Experts on the day of the interview itself to verify the equivalence of published work of Shri Butey in spite of that not being the mandate of the Selection Committee and to obtain their report on the same day shows that the Vice-Chancellor has shown undue favour to Shri Butey. In fact verification of equivalence of published work by the Equivalence Committee should have been done much before he was declared eligible by the Scrutiny Committee. Inspite of being in doubt about his eligibility the Scrutiny Committee's decision to hold Shri Butey eligible for the post and call him for the interview and further to select him gives room to believe that selection of Shri Butey was pre-decided. Therefore it was ensured that he was called for the interview and was selected. The Vice-Chancellor is Academic and Executive Officer of the University. Further being a Chairman of the Selection Committee, the Vice-Chancellor is supposed to act in fair and transparent manner to select a suitable candidate for the appointment to any post in the University. Thus, the Vice-Chancellor being Chairman of the Selection Committee appears to be mainly responsible for selection of un-qualified person in the instant case. I therefore record my displeasure with the actions of the Vice-Chancellor and therefore advise him not to repeat such mistakes and ensure that all the appointments in the University are made in fair and just manner by strictly adhering the provisions in the relevant law and Rules.

11. I have carefully examined the submissions made by Dr. Rakesh Ramteke, Shri Pradeep Butey and Dr. S. N. Pathan, Vice-Chancellor of the University and facts on the records of this case. I have now come to following conclusions :-

i) As per the advertisement, the basic requirement of educational qualification was Master's Degree in the concerned subject i.e. Computer Science with atleast 55% Marks and Ph.D. degree or equivalent published work. As Shri Butey is possessing Master's Degree in Statistics, he is not eligible for the post of Reader in Computer Science. And therefore the contention of Shri Butey that the term "concerned subject" should be interpreted and construed with wide connotation is not acceptable.

ii) Being an approved Lecturer in Computer Science since 1990 and a Chairman and member of Board of Studies in Computer Science does not make him eligible by overlooking the basic requirement of Master's Degree in Computer Science for the post of Reader in Computer Science.

iii) The Vice-Chancellor had asked the Subject Experts of the Committee to evaluate the published work on the day of the interview. It is, therefore, clear that the scrutiny of application was done on an ad-hoc basis and Shri Butey was presumed to be having published work equivalent to Ph.D. Degree. The evaluation should have been done well in advance before the interview by the Equivalence Committee. The procedure adopted at the time of selection shows undue favourtism with the particular candidate and therefore selection of Shri Butey cannot said to be has been made in a fair and transparent manner.

12. Taking in to account of all these facts above, I am satisfied that the appointment of Shri Pradeep Butey to the post of Reader in Department of Computer Science of the University was not in accordance with the law in force at the time of his appointment.

13. Therefore, I, S. C. Jamir, Chancellor, Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur in exercise of power conferred upon me under Section 76 (7) of the Maharashtra Universities Act, 1994, direct the Vice-Chancellor, Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur to terminate the appointment of Shri Pradeep Butey as Reader in Department of Computer Science after giving him one month's notice.

(S. C. Jamir)
Chancellor,
Rashtrasant Tukadoji Maharaj Nagpur University.