CS/BAMU/37/07(C6776)/949.

CHANCELLOR

RAJ BHAVAN
MUMBAI 400 035

26, March 2009.

ORDER

Subject : Petition under Section 76 (7) of the Maharashtra Universities Act 1994 from Dr. Satish Dandge challenging the appointment of Dr. Pratibha Patil made by Dr. Babasaheb Ambedkar Marathwada University to the post of Professor in the Department of Public Administration.

Reference:

1. Petitions dated 9 September 2008 and 15 December 2008 from Dr. Satish Dandge.
2. Order dated 3 February 2009 of the Hon. High Court of Bombay, Bench at Aurangabad.
3. Letter No.ESTT/DEPT/SMW/2009/24006 dated 20 February 2009 from Registrar, Dr. Babasaheb Ambedkar Marathwada University.
4. Letter dated 26 February 2009 from Dr. Satish Dandge.
5. Show Cause Notice No. CS/BAMU/37/08/663 dated 2 March 2009, issued by the Secretary to the Chancellor to Dr. (Smt.) Pratibha Patil.
6. Letter No. ESTT /DEPT /SMW /2009/ 25367 dated 13 March 2009 from Registrar, Dr. Babasaheb Ambedkar Marathwada University.
7. Facsimile from Dr. (Smt.) Pratibha Patil received on 16 March 2009.
8. Letter dated 18 March 2009 from Dr. (Smt.) Pratibha Patil.

I had received two petitions dated 9 September 2008 and 15 December 2008 from Dr. Satish Dandge Department of Public Administration, Dr. Bababsaheb Ambedkar Marathwada University challenging the appointment of Dr. (Smt.) Pratibha Patil as Professor in the Department of Public Administration made by Dr. Bababsaheb Ambedkar Marathwada University. Dr. Dandge has alleged that Dr. (Smt.) Pratibha Patil is not eligible for the said appointment because she does not have the requisite teaching and/or research experience. He has also alleged that she has not produced any Ph.D and M.Phil student and have not indulged in any independent research activity or research work or had undertaken minor/major research projects provided by UGC or by any other institution in her long tenure. Further, he has alleged that Dr. (Smt.) Pratibha Patil has not published research papers/articles in any reputed national /international journals. He has also alleged that being Dean of the Faculty and Chairperson of Board of Studies Dr. (Smt.) Pratibha Patil had influenced the University authorities to finalise the specialization for the post and to include the Subject Experts of her choice in the Selection Committee.

2. Dr. Dandge has also challenged appointment of Dr. (Smt.) Pratibha Patil by filing Writ Petition No. 6941/2008 in the High Court Bench at Aurangabad. The Hon'ble High Court by its Order dated 3 February 2009 disposed of the Writ Petition and has asked me to decide the petition filed by Dr. Dandge under section 76(7) of the Maharashtra Universities Act (hereafter referred as the "Act") within a period of 2 months from the date of Order, after giving an opportunity to Dr. (Smt.) Pratibha Patil and Dr. Dandge of being heard. As such, I am required to take decision on the petition of Dr. Satish Dandge on or before 2 April 2009.

3. In response to my office letter, the Registrar, Dr. Babasaheb Ambedkar Marathwada University, Aurangabad submitted a report vide his reference dated 20 February 2009. The facts in brief, as reported by the Registrar, are as follows :-

(a) Dr. Babasaheb Ambedkar Marathwada University had issued an advertisement on 4 January 2008 inviting applications for various teaching posts including the post of Professor in the Department of Public Administration. The post was to be filled from the Open Category. As per the advertisement, required qualifications for the post of Professor in the Department of Public Administration were :-

"An eminent Scholar with published work of high quality, Actively engaged in research, with 10 years of experience in Post Graduate teaching and/or research at the University / National level institutions, including experience of guiding research at doctoral level

OR

An outstanding scholar with established reputation who has made significant contribution to knowledge.

Specialization: Administrative Behavior OR Public Policy OR Administrative Theory"

(b) The qualifications and experience possessed by Dr. (Smt.) Pratibha Patil were :-

i) She had passed B.A. degree with 49.05%, M.A. degree with 50% marks and Ph.D. in Public Administrative Theory and Public Policy. Further she has 20 years of experience in Under Graduate teaching and 10 years Contributory/Honorary Post Graduate teaching experience in the subject of Political Sociology and Research Methodology. At the time of appointment 7 Students were registered for Ph.D. and 3 students for M.Phil from 2005 to 2007 under her guidance. However, no student has been awarded Ph.D. or M. Phil. Further she had published 4 research papers and two books, one under the title "Administration and Working of District Central Co-operative Bank of Maharashtra" which appeared to be a thesis of her Ph.D. and another book in Marathi unde the title "Vedha Mahila Unnaticha". And she had presented two papers one in the State level Conference and another in National Level Seminar and further participated /attended seminars/workshops/Conferences etc. at State Level.

ii) From three Subject Experts appointed on the Selection Committee, Prof. Kawalikar was Professor in Public Administration with specialization of "Administrative Theory OR Local Self Government" from Kolhapur. While Prof. Kittur was a Professor in Public Administration with specialization of "Public Administration, Administrative. Theory OR Local Self Government OR Public Relations" from Dharwad, Karnataka. And Prof. Bhupati was a Professor in Public Administration with specialization of "Local Self

Government, Human Resource Management" from Hyderabad.

(c) The Committee of Director BCUD, Dean of the Faculty and Head of the Department has decided the specialization which was accepted by the Academic Council and Management Council. The Selection Committee conducted interview. After examining the presentation at colloquium and personal interview the Selection Committee had selected Dr. (Smt.) Pratibha Patil for the post of Professor.

(d) Dr. (Smt.) Pratibha Patil, being a Dean of Faculty of Social Sciences and Chairperson of Board of Studies in Political Science, had participated in the process of finalization of the specialization for the post and submitted list of panel of Subject Experts. The Management Council has approved the panel of Subject Experts on the recommendation of the Academic Council.

4. As per the definition of the "teacher" in Section 2 (34) of the Act, a "teacher" is full time approved Professor, Associate Professor, Assistant Professor, Reader, Lecturer, Librarian, Principal, Deputy of Assistant Librarian and Documentation Officer in the University and College Librarian, Director or Instructor of Physical Education in any University Department, conducted, affiliated or autonomous College, autonomous institution or Department or recognized institution in the University.

5. It is clear from the definition that the contributory/ honorary Post Graduate teaching experience is not to be taken in to account

while counting the ten years of Post Graduate teaching experience for the purpose of making appointment as Professor. As the Post Graduate teaching experience of Dr. (Smt.) Pratibha Patil comprised only of contributory/ honorary teaching experience, her entire Post Graduate teaching experience cannot be considered for counting of Post Graduate teaching experience.

6. As Dr. (Smt.) Pratibha Patil was not having valid Post Graduate teaching experience, she should have the requisite research experience to qualify for being considered for the post. However, record showed that she had the experience of guiding research from 2005 at the post of doctoral level. She had to her credit 4 research papers published one in National Journal and three in Seminar from 2005 and two books published one in April 2003 and other in May 2008. Presentation of papers at Symposia/ Conference /Seminars is not considered as published research work. As such, she was not fulfilling the condition of research experience.

7. As she did not fulfill the basic conditions of teaching and research experience, it was necessary to come under the category of "Outstanding scholar with established reputation who has made significant contribution to knowledge". However, considering the documents on record, she do not come under the said category. Further, the records of the Selection Committee do not clarify that the Selection Committee has recommended her name under this or other category.

8. In the circumstances described above, I am prima-facie satisfied that at the time of appointment as Professor Dr. (Smt.) Pratibha Patil had

not fulfilled the basic requirement of "ten years of experience in Post Graduate teaching and/ or research at the University/ National level" and further she do not come under the category of "Outstanding Scholar ....." And therefore her appointment as Professor in Department of Public Administration was not in accordance with the law at that time in force. Therefore, Dr. (Smt.) Pratibha Patil was served with a Show Cause Notice to explain **within ten days** of the receipt of the said letter, valid reasons why her appointment as Professor in Department of Public Administration of Dr. Babasaheb Ambedkar Marathwada University **should not be set aside.**

9. I also gave Dr. (Smt.) Pratibha Patil an opportunity of a personal hearing. Accordingly, Dr. (Smt.) Pratibha Patil , Dr. Satish Dandge, Dr. Nagnath Kottapalle, Vice-Chancellor, Dr. Babasaheb Ambedkar Marathwada University and Dr. D. V. Muley, Registrar, Dr. Babasaheb Ambedkar Marathwada University appeared before me on Tuesday, 17 March 2009 at 1130 hrs. at Raj Bhavan, Mumbai to put their arguments personally.

10. Dr. (Smt.) Pratibha Patil submitted her reply vide her facsimile received on 12th March 2009, in which, she has stated that:-

i) At the time of the interview she had 20 years of teaching experience in Under Graduate teaching and 10 years Contributory/Honorary Post Graduate teaching experience. She was lecturer from 26 September 2007 till she was designated as Reader in September 2000.

ii) The definition of teacher in the Section 2(34) of the Maharashtra Universities Act 1994 does not differ or

discriminate between the Post Graduate teaching or Under Graduate teaching and therefore it can not be applied to her case.

iii) As per the UGC's qualifications in exceptional cases, the teachers with 15 years or Under Graduate teaching/research experience could be considered. In view of this her experience as Under Graduate teacher w.e.f. 26th September 1987 can be considered as 15 years of Under Graduate teaching /research experience.

iv) The requirement of 10 years Post Graduate teaching experience does not indicate that the candidate should be teacher appointed in the Post Graduate Department. As such, she possesses 10 years Post Graduate teaching experience.

v) As per Supreme Court Order in the matter of G. N. Nayak Vs. Goa University reported in 2002 AIR SCW 442 the pre-doctoral research experience is to be considered as research experience therefore her pre-doctoral research from December 1992 and guiding students from July 2005 from Ph.D. and M.Phil can be considered as research experience.

vi) Since her registration for . Ph.D. degree in the year December 1992 she has been actively engaged in research work. From 1999 to 2007 she has published 4 Research Papers and participated/presented papers in various Seminars/Conferences. She has published following 2 books:

a) "Administration and working of District Central Co-operative Banks in Maharashtra".

b) "Vedha Mahila Unnaticha"

Prior to her appointment as Professor 7 students were registered for Ph.D. and 3 students for M.Phil from 2005-2007. These activities should be considered as research activities.

vii) She has been elected as Dean, Faculty of Social Sciences in the year 2006. Whenever the University administration asked her opinion in matters of the subjects belonging to the said Faculty, she had submitted the same for consideration of appropriate authorities of the University. Accordingly she had submitted some names of University teachers in all the subjects belonging to Faculty of Social Sciences within Maharashtra and outside Maharashtra. Her opinion/ remarks are not mandatory. As per the requirements of the posts to be filled, is considered and submitted by the Departmental Committee or by the concerned Head of the Department. Being a Dean she has to simply opine and forward the same to the appropriate authorities for consideration and decisions.

In the present case the Departmental Committee also suggested specialization of the post and the name of the Experts; in fact all the candidates called for the interview including Dr. Satish Dandge were members of the Departmental Committee. The specialization of the posts to be filled up and the Panels of the Subjects Experts are considered and recommended by the Academic Council and finally decided by the Management Council. Such Panels are considered as confidential and the Dean has no access to influence to get approved the names of Subject Experts of

her choice on the panel. By virtue of her being Dean, she had to act as member on the Selection Committee as provided under Section 76 of the Act. However, as she was giving interview, she kept herself away from acting as member of the said Selection Committee and did not attend and participate in the meeting of the Selection Committee.

viii) As she fulfilled the basic condition of teaching and research experience, the Selection Committee considered her as qualified and recommended for the appointment.

ix) As per the Supreme Court Order in case of Dr. Kumar Bar Das Vs. Utkal University reported in AIR 1999 SC 669 it is necessary to take into account not only the teaching experience but also the research experience. With regard to the high qualifications of the experts and the reasons furnished by the Syndicate as being the basis of the experts opinion, the Supreme Court has observed that the Chancellor ought not to have interfered with the views of the experts. In such case, it could not be said that even 9 years and 1 month does not amount to "about 10 years" as it could not be measured on the basis of a purely mathematical formula.

11. The Registrar, Dr. Babasaheb Ambedkar Marathwada University vide his letter dated 13 March 2009 has submitted that the Academic Council at its meeting held on 29 May 2007 has accepted the specialization suggested by Committee and Head of the Department. It is usual practice to call the names of Subject Experts from Chairman of Board of Studies, Dean and Head of Department and other members of the Academic Council. The

Management Council has approved the panel on the recommendation of the Academic Council. As per the Hon. Supreme Court judgment in Civil Appeal No. 4908 of 2008, degree holder in Political Science is eligible to become lecturer in Public Administration and vice-versa and it holds well in the appointment of Dr. Kawalikar as Subject Expert. Dr. (Smt.) Pratibha Patil has been selected to fill up the backlog of Women.

12. During the hearing, Dr. Satish Dandge reiterated what he had stated earlier in writing. He further said that Dr. (Smt.) Pratibha Patil has 3 years of Contributory Post Graduate teaching. She had not produced single Ph.D. and has no research experience. As such, she was not eligible for the appointment to the post of Professor.

13. During the hearing of Dr. (Smt.) Pratibha Patil also reiterated the same arguments that she has put forward in her reply to the Show Cause Notice. In addition, she contended that she had been appointed as Reader in the subject of Public Administration w.e.f. 26 September 2000. She got Guideship in 2005 from Dr. Babasaheb Ambedkar Marathwada University and since then 10 students have registered with her for research. She further contended that the experience of teaching whether it is as contributory/honorary/full time teacher, is a teaching experience. As such she has 10 years of P.G. teaching experience. She also contended that she has more than 10 years of research experience. Further she also contented that she has more than 20 years of Under Graduate teaching experience and it is also to be considered and therefore she is eligible for appointment as per the

UGC norms 1998 and Government Resolution under category of **"In exceptional cases, 15 years Under Graduation teaching /research experience could also considered"**

14. During the hearing, the Vice-Chancellor explained that prescribed procedure has been followed while finalizing the specialization for the post and also Panel of Subject Experts. He further said that Dr. (Smt.) Pratibha Patil had done her M. Phil. in 1986 and was Reader since September 2000 and guiding students of Ph. D. and M. Phil. since 2005. Therefore she has research experience for the post of Professor.

15. Dr. (Smt.) Pratibha Patil also submitted a letter dated 18 March 2009, in which she has clarified that,

(i) her research experience at the time of interview is as under :

(a) Pre M. Phil.	1 year& 7 months (July 1995 to February 1997)
(b) Pre-doctoral (Ph.D.)	3 years & 4 months (December 1992 to April 1996)
(c) As Designated Reader	4 years & 9 months. (September 2000 to June 2005)
d) As Designated Reader & Ph.D. Guide	3 years & 1 month (June 2005 to August 2008)
	Total : 12 years & 9 months.

(ii) **Details of her research work are as under :**

(A) **Research papers published /presented**

(a) Paper on "Good Governance and citizens Character presented in the conference / symposia organized by UGC & Vivekanand College, Aurangabad.	January 2005
(b) Article on "Transparency in Public Administration and Right to Information March 2005" published in "Vicharmanthan" Research Journal during Maharashtra State Political Science & Local Administration Conference sponsored by Deogiri College.	March 2005
(c) Article regarding participation of Women in Parliamentary Democracy in "Yojana" Marathi Monthly Magazine published by D.L. Narayan Rao on behalf, Director, Publication Division.	January 2006
(d) Article regarding "Women's Reservation and position of Women in Panchayat Raj" in a State level conference on "Role of Women's in politics of Maharashtra" organized by R. B. Attal Arts, Science & Commerce College, Georai, Dist. Beed with the co-operation of UGC.	January 2006
(e) Paper published in Book on "Good Governance" published by Dr. S. T. Shirsat and Dr. Prashant Amrutkar.	December 2007

(B) Books Published.

a) Administration & Working of District Central Co-operative Bank published by Sanvedan Publishers, Aurangabad.	April 2003
b) Vedha Mahila Unnaticha (Marathi) published by Chinmaya Publishers.	May 2008

(C) Personal Research activities.

Paper on "Mahilavaril Atyachar Aani Kaydyavishayak Jagrukata (Violence against Women & Awareness about Law)" and worked as Investigator in this project. (However this is not a independent research work but with Dr. Sham Shirsat).	December 2006

17. I have carefully considered the submissions made by Dr. (Smt.) Pratibha Patil with reference to the Supreme Court rulings (i) in Civil Appeal No.821 0f 2002 of G. N. Nayak Vs Goa University reported in 2002 AIR SCW 442 and (ii) in Civil Appeal No. 830 of 1994 Dr. Kumar Bar Das Vs Utkal University & others to indicate that the required research experience could include pre-doctoral research experience.

18. Regarding Dr. (Smt.) Pratibha Patil's role in finalising the specialization and proposing a panel of Subject Experts, being a Dean of the Faculty of Social Science, she was one among others involved in the process of recommendation. As Dr. (Smt.) Pratibha Patil was aware that she would be one of the candidates for the post, she could have kept herself away from the said process as

she had done by avoiding her participation in the proceedings of the Selection Committee to avoid doubts in the minds of the contenders that she is influencing the University authorities for appointment to the post. However, there is no evidence to suggest that she had in fact used her influence to decide the specialization and panel of Subject Experts.

19. I have considered the submissions made by Dr. (Smt.) Pratibha Patil with reference to the Supreme Court ruling in Civil Appeal No. 830 of 1994 Dr. Kumar Ban Das V/s Utkal University and others. The qualifications prescribed for the post in that case was **"about 10 years"** of experience and therefore, the Supreme Court held that 9 years and one month could not be said as not amounting to **"about 10 years"**. However, in the present case, the total experience required was not of **"about 10 years" but of "10 years".**

20. Regarding whether Dr. (Smt.) Pratibha Patil was qualified for the post, my finding are as follows :-

i) As per the condition regarding experience, laid down for the post of Professor in the present case, a candidate was required to possess 10 years of experience in Post Graduate teaching and / or research experience. However, Dr. (Smt.) Pratibha Patil, at the time of appointment, had 10 years experience of contributory / honorary Post Graduate teaching and therefore it cannot be taken into consideration as Post-Graduate teaching experience within the meaning of Section 2 (34) of the Act. It was therefore necessary that she should have had the 10 years research experience to qualify for being considered for the post. However in 12

years & 9 months research experience claimed by her, the following research experience cannot be considered:-

a) Her experience of 1 year and 7 months for M. Phil. cannot be considered as pre-doctoral experience as the said experience was for "Master of Philosophy" and not for "Doctor of Philosophy".

b) Experience of 4 years 9 months as Reader cannot be considered as research experience only on the ground that teacher engaged in research activity is appointed as Reader. As per Section 2 (34) of the Act, the definitions of "teacher" include Reader. Therefore being only a Reader means he / she has the teaching experience. The Reader has to do the research activities for claiming the research experience. Her research publications are from April 2003. She is guiding students for Ph.D. / M. Phil. from June 2005 and yet to produce a Ph.D. students under her guidance. Therefore, her pre-doctoral experience and her research activities period from April 2003 could be considered as research experience. This period would be as under :-

(I) pre doctoral experience — 3 years & 4 months
(only 3 years is to be considered)

(II)Research activities
from April 2003 to August 2008 — 5 years & 4 months

Total : 8 years & 8 months.

Further presentation of papers at symposia / seminars is not considered as published works. She was co-author of one article published in a Book "Good Governance". Further jointly with Dr. Sham Shirsat she had done a project in December 2006. Taking in to this account, she did not have 10 years research experience at the time of appointment.

21. Dr. (Smt.) Pratibha Patil's contention that her Under Graduate experience w.e.f. 26 September 1987 can be considered as 15 years for the appointment under alternative category **"In exceptional cases teachers with 15 years of Under Graduate teaching / research experience could be considered"** prescribed by UGC and State Government, is not acceptable as qualifications mentioned in advertisement published by the University did not have the said alternative qualification for the fact that it would be injustice upon other candidates coming under that category who have not applied in absence of the said provision in the advertisement.

22. Taking in to all these facts and circumstances mentioned above, I am satisfied that appointment of Dr. (Smt.) Pratibha Patil was **not in accordance with the Law in force at the time of her appointment and therefore liable to be terminated under Section 76 (7) of the Act.**

23. Therefore, I, S. C. Jamir, Chancellor, Dr. Babasaheb Ambedkar Marathwada University, in exercise of powers conferred upon me under Section 76 (7) of the Maharashtra Universities Act, 1994, direct the Vice-Chancellor, Dr. Babasaheb Ambedkar Marathwada

University, to **terminate** the appointment of Dr. (Smt.) Pratibha Patil as Professor in Department of Public Administration, after giving her one month's notice.

(S. C. Jamir)
Chancellor,
Dr. Babasaheb Ambedkar
Marathwada University.