Satchikitsa Prasarak Mandal and Others Vs Maharashtra University of Health Sciences and Others

Court: Bombay High Court (Nagpur Bench)

Date of Decision: June 8, 2007

Acts Referred: Central Excises and Salt Act, 1944 â€" Section 2
Constitution of India, 1950 â€" Article 14, 21, 309
Maharashtra Educational Institutions (Management) Act, 1976 â€" Section 3, 3(1)
Maharashtra University of Health Sciences Act, 1998 â€" Section 16, 16(8), 2(21), 2(25), 2(26)
Penal Code, 1860 (IPC) â€" Section 34, 354, 468, 471, 506B

Citation: (2007) 5 ALLMR 499 : (2007) 5 BomCR 147

Hon'ble Judges: Dharmadhikari B.P., J; Devadhar J.P., J

Bench: Division Bench

Advocate: M.G. Bhangde, A. and R.M. Bhangde, in W.P. Nos. 1976/2006 and 1066/2007 and Z.A. Haq, in W.P. No. 865/2007, Z.A. Haq, in W.P. No. 1066/2007, for the Appellant; M.G. Bhangde, Sr. A. and R.M. Bhangde in W.P. No. 865/2007 for respondent Nos. 1, 2, 3, 4 and 5, Anand Parchure in W.P. No. 1976/2006 for respondent Nos. 3 and 4, Khade in W.P. No. 1976/2006 for respondent Nos. 1, 2 and 5 and in W.P. No. 865/2007 for respondent No. 3 and Wandile, A.G.P. in W.P. No. 1066/2007 for respondent sole and in W.P. No. 865/2007, for the Respondent

Judgement

This Judgment has been overruled by : Maharashtra University of Health Sciences and Others Vs. Satchikitsa Prasarak Mandal

and Others, AIR 2010 SC 1325 : (2010) 124 FLR 1082 : (2010) 2 JT 397 : (2010) 3 SCC 786 : (2010) 1 SCC(L&S) 894 : (2010) 3

SCR 91 : (2010) 2 SLR 482 : (2010) 3 UJ 1288

Dharmadhikari B.P., J.
Writ Petition No. 1976 of 2006 filed by Management/ Employer is to be considered along with Writ Petition No.

1066/2007 filed also by Management and Writ Petition No. 865/2007 filed by Employees. Criminal Writ Petition No. 163/2006 filed by

Employees was also heard along with these matters but in view of earlier orders passed in it, We could constitute committee as per directions of

Hon"ble Apex Court in case of Vishaka and others Vs. State of Rajasthan and Others, . Said Committee has been asked to complete enquiry into

complaints of sexual harassment within stipulated time and other prayers made therein were not pressed. Because of these complaints of sexual

harassment by two members of teaching staff and other grievances, Management Council on recommendations of Grievance Committee of

Maharashtra University of Health Sciences issued certain directions to Employer/Management which are questioned in W. P. No. 1976/2006.

Later on the Director Of Ayurveda, Maharashtra State issued a show cause notice u/s 3 of Maharashtra Educational Institutions (Management)

Act, 1976, hereinafter mentioned as 1976 Act; and it is challenged by the Employer in W. P. No. 1006/2007. W.P. No. 865/2007 is filed by

Employees seeking mandamus to said Director Of Ayurveda to take action for taking over management of educational institute from said Employer

i.e. petitioners in W.P. Nos. 1976 and 1966 by invoking Section 3 of Maharashtra Educational Institutions (Management) Act, 1976. Health

University for State of Maharashtra constituted under Maharashtra University Of Health Sciences Act, 1998, [hereinafter mentioned as 1998 Act]

is party respondent in W. P. Nos. 1976/2006 and 865/2007. Director of Ayurveda is sole respondent in W. P. No. 1066/2007.

2. We have heard Senior Advocate M.G. Bhangde with Advocate R.M. Bhangde for petitioners in W.P. No. 1976/2006 and W.P. No. 1066

/2007 and for respondents No. 4 and 5 in W.P. No. 865/2007; Advocate Anand Parchure for respondents 3 and 4 in W.P. No. 1976/2006,

Advocate Z. A. Haq for petitioners in W.P. No. 865/2007 and for intervenors in W.P. No. 1066/2007, Advocate Mrs. Khade for respondents 1

2 and 5 in W.P. No. 1976/2006 and for respondent No. 3 in W.P. No. 865/2007, learned AGP Mrs. Wandile for respondent sole in W.P. No.

1066/2007 and for respondent No. 1 and 2 in W.P. No. 865/2007.

3. Relevant facts show that petitioner No. 1 in W.P. No. 1976/2006 is public trust which runs petitioner No. 2 College. Petitioner No. 3 is its

Principal while petitioner No. 4 is working as Vice Principal. Petitioner No. 2 college is recognised by Central Council of Homeopathy and also by

State of Maharashtra. It is affiliated to Nagpur University and the Maharashtra University of Health Sciences i.e. respondent No. 1. Respondent

No. 2 is Grievance Committee constituted u/s 53 of 1998 Act while respondent No. 5 is Management Council to whom said Grievance

Committee makes recommendations for taking action. Respondent Nos. 3 and 4 are ex-lecturers working with petitioner No. 2 college.

Appointment of respondent No. 3 was not approved by respondent No. 1 University and it was duly communicated to petitioner No. 2.

According to College, respondent No. 3 resigned from her job as per letter dated 4.8.2005 which came to be accepted on 6.8.2005. According

to petitioner Nos. 1 and 2 respondent No. 3 in order to defame them lodged false report on 19.1.2006 in the office of Commissioner of Police,

Nagpur on the basis of which on 4.2.2006 Crime No. 22/2006 under Sections 468, 471, 354, 509, 506-B read with Section 34 I.P.C. was

registered and petitioner Nos. 3 and 4 were arrested at twelve o''clock in night on Saturday and were produced before Court on 5.2.2006 and

were remanded to police custody for period of two days. Their bail applications were allowed on 8.2.2006 and they were released on bail.

President of petitioner No. 1 got the anticipatory bail on 6.2.2006 which was confirmed on 23.2.2006. Petitioners or Employer also State that

appointment of respondent No. 4 was also not approved by respondent No. 1 and she was terminated on 18.2.2006. She had in anticipation

lodged a false report against petitioner No. 4 to police on 18.1.2006 and offence u/s 509 IPC came to be registered against petitioner No. 4. He

was also arrested on 18.1.2006 and thereafter was released on bail. Respondent No. 3 had made representation dated 7.8.2005 to respondent

No. 1 University which sought explanation from petitioners/Employer and this explanation was submitted on 31.8.2005. Respondent No. 3 made

another representation on 9.9.2005 which was forwarded to Employer by University on 19.9.2005 and Employer submitted explanation on

4.10.2005 and 8.11.2005. Petitioner No. 2 on 23.11.2005 submitted documents in support of explanation and respondent No. 1 University then

called petitioner for hearing on 13.1.2006 and Employer participated in said hearing.

4. Respondent No. 4 also made complaint to respondent No. 1 Health University and respondent No. 1 did not supply copy of said complaint to

Employer and on 28.2.2006 called them for hearing on 8.3.2006. Employer raised objections vide communication dated 2.3.2006, 7.3.2006 and

through Lawyer''s Notice dated 7.3.2006. In the meanwhile respondent No. 1 had constituted a Committee consisting of Mrs. Ganvir & Dr.

Subhash Thakare to inquire into the allegations made by respondent No. 3. Said committee conducted inquiry on 29.8.2005, 1.9.2005 and

2.9.2005. Committee then submitted its report to respondent No. 1 and according to Employer Committee reported that there was no merit in the

allegations made by respondent No. 3. Employer received communication dated 21.3.2006 from respondent No. 1 directing it to take disciplinary

action against petitioner Nos. 3 and 4 and also to suspend them. It also directed reinstatement of respondent No. 3 and froze approval granted to

appointment of petitioner Nos. 3 and 4. Immediately Employer sent reply dated 25.3.2006 pointing out that respondent No. 1 had no such

powers and power to take disciplinary action vested with Governing Body of Employer College. On 29.3.2006 they requested respondent No. 1

to supply copy of report of above Inquiry Committee. Petitioner Nos. 3 and 4 individually by letter dated 30.3.2006 also made similar request to

University. Governing body of Employer held meeting on 27.3.2006 and decided not to hold any disciplinary action against petitioner No. 3 and

No. 4. On 3.4.2006 Employer received communication dated 29/3/2006 from respondent No. 1 that vide para No. 25.2 of Direction No.

25/2001 approval granted to appointment of petitioner No. 3 and 4 has been frozen. Employer on next day replied to it and pointed out

incorrectness in that stand. Writ Petition 1976/2006 has been filed in this background seeking relief of quashing & setting aside of communications

dated 21.3.2006, 29.3.2006 and the proceedings of Grievance Committee held on 7/8th March 2006 and the decision of Management Council

dated 5.4.2006. Management Council has apart from accepting the recommendations of Grievance Committee has also suspended local inquiry

committee of Employer in relation to the grievance and recommended further action for cancellation of affiliation of College after taking legal

advice.

5. 18 Employees working with Employer have filed as petitioners Writ Petition 865/ 2007. They have pointed out the facts & state that Assistant

Director, Ayurveda at Nagpur visited College to make preliminary inquiry and submitted his report to respondent No. 2 Director. On 15.6.2006

State Government issued resolution directing respondent No. 2 Director to take action u/s 3(1) of 1976 Act and then Director of Ayurveda issued

show cause notice on 30.6.2006 to Institution/Employer. The Institution i.e. Trust and College then filed Writ Petition 3291/ 2006 in this Court and

challenged Government Resolution 15.6.2006 and show cause notice dated 30.6.2006. During hearing before this Court, State Government

realised its mistake and withdrew resolution dated 15.6.2006 and also show cause notice dated 30.6.2006 with liberty to respondent No. 2

Director to take appropriate action. Accordingly on 9.8.2006 State issued another resolution cancelling its earlier resolution dated 15.6.2006. In

the meanwhile some employees of respondent No. 5 College approached Human Rights Commission 8s State Women Commission who sought

explanation from respondent No. 2 Director. Employees have contended that by not taking action under pretext of matter being sub-judice,

respondent No. 2 Director was avoiding to exercise his powers and illegal activities and maladministration of respondent No. 5 College was

causing extreme hardship and violated Articles 14 and 21 of Constitution of India. Employees have therefore prayed for the Direction to

respondent No. 2 Director to take action u/s 3 of 1976 Act.

6. Institution and College have filed W.P. No. 1066/2007 challenging show cause notice dated 25.1.2007 issued by Director u/s 3 of 1976 Act. It

is their stand that said show cause notice is based upon directions issued by Health University on 21.3.2006 and 29.3.2006. They state that said

directions are already challenged in Writ Petition 1976/2006 and hence, till said petition is decided, Director cannot proceed further with the

inquiry. It is their stand that if these directions of Health University are set aside, show cause notice dated 25.1.2007 is bound to fall to ground.

Civil Application No. 2605/2007 is filed by 9 Employees seeking permission to intervene in this writ petition. These employees have also filed Civil

Application No. 2815/2007 for permission to place documents on record. First document is communication dated 26.12.2006 by Health

University to Employer to implement decision of Grievance Committee in case of petitioner No. 2 Dr. Smt. Haq in Writ Petition 865/2007 and to

reinstate her. Second document is communication dated 7.2.2007 by which fine of Rs. 500/ only has been inflicted upon Employer for not

implementing this direction. Last document is communication dated 22.3.2007 whereby further fine of Rs. 1000/ has been inflicted upon petitioner/

Employer for not implementing the directions in first two communications. Trust and College i.e. petitioners have not filed any reply opposing these

applications. It is apparent that all 3 writ petitions are interlinked and accordingly, We allow Civil Applications Nos. 2605 and 2815 of 2007. We

have heard Advocate for these intervenors even on merits of W. P. No. 1066/2007.

7. Senior Advocate for Employer has raised following points:

a) Approval was rejected to respondent No. 3 Dr. Smt. Anuprita Bhadage on 9.12.2003 and 20.9.2004 as she lacked necessary experience.

b) Grievance Committee therefore did not have jurisdiction to consider her grievance.

c) Grievance Committee considered her case on 12 and 13.1.2006 and thought it fit to refer matter to State Women Commission for inquiry.

d) Her case was not listed before Grievance Committee on 7th or 8th March 2006.

In case of respondent No. 4 Dr. Smt. Fauziya Salim, he has raised following issues:

e) She was not approved by Health University.

f) Grievance Committee therefore did not have jurisdiction to consider her grievance.

g) F.I.R. lodged by her was only against petitioner No. 4 for sexual harassment.

h) Employer demanded copy of her complaint on 2.3.2006.

i) Said copy was never supplied and hearing was taken up by Grievance Committee on 7/8th March 2006 in absence of Employer/petitioners in

W.P.No. 1976/2006.

j) Case of Dr. Bhadage was also taken up without any intimation thereof to Employer and ignoring the fact that her matter was already referred to

State Women Commission.

He further argues that Grievance Committee has not undertaken any adjudication inasmuch as it has not recorded any reasons as to how & why

termination of Dr. Bhadage & Dr. Salim is illegal and on what basis it possessed jurisdiction or could order their reinstatement or issue other

directions. He therefore argues that Section 53 of 1998 Act has been violated by Grievance Committee and also by Management Council as both

authorities have not recorded any reasons. He invites attention to provisions of Section 2(35) to state that both these employees are not approved

and hence are not covered by phrase ""teacher"". Their grievance therefore cannot be considered u/s 53. He further states that by impugned

communications action has been directed to be taken against petitioner Nos. 3 and 4 in W.P. No. 1976/2006 but they were never noticed by

Grievance Committee and as such impugned communications are void. He further points out defence raised by respondents and states that

provisions of Section 16(8) of 1998 Act confer an emergency power which can be utilised to issue general directions in absence of statutory

provision. Vice Chancellor cannot in exercise of these powers issue directions to operate in individual case as field is not unoccupied. Direction

No. 25/2001 or its Clause 25.2 is not attracted at all. He further states that Health University is not Competent Authority to initiate any disciplinary

action and it is Employer alone who can initiate it. He further states that there is no power to freeze approval given to petitioner Nos. 3 and 4 and

power to withdraw affiliation u/s 73 does not include these powers. He invites attention to Clause 28 of Direction No. 25 to state that Health

University is not Competent Authority and can not dictate Employer. He further points out Clause 9 of this Direction and states that College has to

make appointment accordingly and approval of Vice Chancellor as contemplated by Clause 9.2.8 thereof is exhausted once it is granted. He

further points out that there are no allegations having any sexual harassment angle against Principal. He further points out that approval has been

frozen during pendency of criminal complaint which would take years to get decided & therefore, power even if existed, ought to have been

exercised with due care and precaution. He relies upon judgment of Hon''ble Apex Court reported at Dilip Kumar Chaurasiya Vs. Ramesh

Chandra Sahu alias Bhaiji and others, to point out consequences when case is taken up by Court or authority on unscheduled date.

Learned Senior Advocate further points out that respondent No. 3 or respondent No. 4 have not filed any reply. He points out reply of respondent

No. 1 which states that provisions of Maharashtra Civil Services Rules are applicable but same has not been substantiated. He further states that

how Grievance Committee could get jurisdiction over unapproved teachers is also not explained. He further states that affidavit filed on 24.4.2007

clearly shows that all documents have been filed before Grievance Committee after passing of impugned orders. He further states that after W. P.

1976/2006 was considered by this Court on 4.5.2006, Grievance Committee conducted rehearing on 29.5.2006 but Employer did not participate

in it as impugned orders were not recalled. This was communicated by petitioners herein on 23.5.2006 to Health University with request to recall

those orders. Our attention is also invited to list of Annexures placed on record by Health University along with its affidavit dated 24.4.2007 to

point out that documents i.e. submission of Dr. Bhadage & Dr. Salim respectively dated 29.5.2006 and 25.5.2006 are received by Employer for

the first time along with said affidavit. It is further pointed out that grievance of the other employees like Dr. Smt. Haq is irrelevant and

unnecessarily sought to be introduced. To point out importance of language used in Section 53, he has relied upon the Divisional Personal Officer,

The Divisional Personnel Officer, Southern Railway and Another Vs. T.R. Chellappan and Others, and Mukhtiar Singh and another Vs. State of

Punjab, .

In W. P. No. 1066/2007, he argues that show cause notice dated 25.1.2007 issued therein is ex facie based on directions issued by Health

University on 21/3 and 29/3 2006. He therefore states that if W. P. No. 1976/ 2006 is allowed, said writ petition is also bound to be allowed. He

further states that as it is no material against petitioners in W.P. No. 1976/2006, Director of Ayurveda cannot be asked to take any action against

petitioners and W.P. No. 865/2007 filed by employees therefore needs to be dismissed.

8. Mrs. Khade, the learned Advocate appearing for Health University, Advocate Parchure, Advocate Haq and learned AGP Mrs. Wandile have

raised more or less same points to meet the arguments advanced by Employer. They have stated that the definition of word "" teacher"" in Section

2(35) of 1998 Act is wide and invited attention to words ""and other persons"" used in it. They also point out similar terminology used in Section

53(1) viz. ""and other employees"" and state that Grievance Committee has been given jurisdiction on all employees teaching or non-teaching and

approved or unapproved. This wide sweep deliberately given cannot be curtailed as it violates the legislative intent. Section 16 is also relied to

point out powers given to Vice Chancellor, Section 27(dd) is pointed out for powers of Management Council and its finality u/s 53. It is pointed

out that explanation submitted by petitioners and report of Surprise Committee dated 22.9.2005 are considered by the Grievance Committee on

13.1.2006 and matter was referred to the State Women Commission on 28.2.2006. Detention of petitioner Nos. 3 and 4 for more than 48 hours

in police custody in the meanwhile and receipt of identical complaints from Dr. Salim is pointed out to state that in such circumstances on 8.3.2006

Grievance Committee decided grievances of both lady doctors together. It is contended that reasonable opportunity has been given to petitioners

and there is no breach of principles of natural justice. Mrs. Khade has contended that University has acted within statutory limits and has invited

our attention to judgments reported at - M.G. Shirhatti Vs. University of Mumbai and Others, and - Apparel Export Promotion Council Vs. A.K.

Chopra, in support. Direction 1 of 2004 issued by University is also pressed in to service for that purpose. Mrs. Wandile, learned AGP has

pointed out orders of this Court dated 11.7.2006 in W.P. No. 3291/2006 and also earlier show cause notice. She argues that notice records

prima facie satisfaction about ingredients of Section 3 of 1976 Act and hence Employer/Institution/College cannot avoid filing of reply to it. It is

contended that W.P. No. 1066/2007 is premature and needs to be dismissed. In order to demonstrate jurisdiction with Grievance Committee,

respective Advocates have invited our attention to various provisions of 1998 Act.

9. In his brief reply, learned Senior Advocate has invited our attention to provisions of Section 2(26) to state that the specific categories mentioned

in Section 2(35) are not exhaustive and in certain contingencies Principal and Dean may also be required to be included as ""Teacher"". He argues

that rule of Ejusdem generis"" will apply squarely and in support relies upon - Siddeshwari Cotton Mills (P) Ltd. Vs. Union of India (UOI) and

Another, and - State of Karnataka and Others Vs. Kempaiah, .

10. Section 2(35) defines teacher as under:

teacher"" means full time approved Demonstrators, Tutors, Assistant Lecturers, Readers, Associate Professors, Professors and other persons

teaching or giving instructions on full time basis in affiliated colleges or approved institutions in the University;

The relevant portion of Section 53 of the 1998 Act. reads as follows:

1. There shall be a Grievances Committee in each university to deal with the grievance of teachers and other employees of the university, colleges,

institutions and recognised institutions and to hear and settle grievances as far as may be practicable within six months, and the committee shall

make a report to the Management Council.

2. It shall be lawful for the Grievances Committee to entertain and consider grievances or complaints which are not within the jurisdiction of the

tribunal and report to the Management Council to take such action as it deems fit and the decision of the management Council on such reports shall

be final....

Apart from this, Health University and Employees as also learned AGP have also pointed out Direction 1/2004 which provides for procedure to

deal with grievances of teachers including Principal and other non-teaching employees of University, Colleges and Institutions. In Definition Clause

of this Direction No. 1, Clause 2 (ii) defines ""Appellant"" to mean a teacher including Principal/non-teaching employee. Sub-clause (xviii) defines

teacher to mean as defined in Section 2(35) of 1998 Act. These provisions along with words ""other employees"" in Section 53 and words ""other

persons"" in Section 2(35), according to Health University and Employees confer jurisdiction upon Grievance Committee to take cognizance of

grievance of unapproved teachers also. The fact that employees Dr. Bhadage & Dr. Salim, both lecturers are not approved and Health University

has rejected approval as they were not having required experience is not in dispute before us. The last communication rejecting approval is dated

20.9.2004. Question therefore is if Section 2(35) contemplates approved Lecturers whether words ""other persons"" can be interpreted to introduce

even unapproved Lecturers within its sweep. If both the above Lady Employees are excluded from first part of said definition, can they be said to

be included because of general words sed in its second part. To find out whether rule of ejusdem generis will apply, we have on both days during

which hearing continued inquired whether specific categories used in Section 2(35) cover the entire teaching staff or certain categories are still left

out. Whether such excluded categories were sought to be covered under the words ""other persons""? In his reply argument, Shri Bhangade has

pointed out Definition Clause Section 2(26) defining Principal or Dean and he stated that in certain circumstances, Principal or Dean may also have

full time teaching workload. This aspect was not denied by Advocates appearing for other sides. Position appearing from various provisions in

Direction 1 / 2004 mentioned above also show that Health University has treated Principal as teacher. Other question before us is whether words

teaching or giving instructions on full time basis"" qualify or govern words ""other persons"" only just preceding them. However, no arguments have

been advanced in this respect and We find that words at the end of this definition i.e. ""in affiliated colleges or approved institutions in the

University"" also govern specific categories mentioned in first part of the definition. It is to be noted that when unapproved Lecturer is excluded by

first part of the definition, his inclusion therein because of second part by Health University and words ""other employees"". In Section 53 renders the

words ""approved"" in first part superfluous. And in that case, it was not necessary for legislature to put the condition of approval in this definition. It

appears to us therefore that words ""other persons"" speak of only employees having approval of University but not covered by specific categories

mentioned earlier in said definition. Entire definition needs to be read as indivisible one to cover within it all teaching staff members having approval

as full-time employee and working full-time. All words in said definition need to be given their full effect and thus, We are not in position to accept

arguments of Health University or Employees. Section 53(1) permits Grievance Committee to deal with grievances of teachers and other

employees. The status of above-mentioned 2 Lady Employees as lecturers is not in dispute and hence, they have to show that they are covered by

word ""teachers"" in Section 53(1) and not by words ""other employees"" used in it. Here obviously the words ""other employees"" has been used to

denote the staff members/employees who are not teachers i.e. those who perform non-teaching jobs. Approval is an artificial concept and its

introduction in Section 2(35) has significance which can not be presumed to have been diluted or deleted by use of general words.

11. State of Karnataka and Others Vs. Kempaiah, is the judgment in which Hon''ble Apex Court considers the effect of residuary words ""in any

other manner"" used in Section 2(1) of Karnataka Lokayukta Act, 1984 and in paragraph 9 it is observed that when these general words follow

specific and particular words of the same genus, it has to be presumed that legislature used general words in limited sense to convey the meaning

implied by specific and particular words. Thus rule of ejusdem generis has been applied. Siddeshwari Cotton Mills (P) Ltd. Vs. Union of India

(UOI) and Another, is other judgment of Hon''ble Apex Court explaining the said concept. Question was whether process of plain calendering to

which the cotton fabric was subjected, though might, in itself, be a process in the larger and general sense of that term, whether it would fall under

any other process"" within the meaning of Section 2(f)(v) of Central Excises & Salt Act, 1944. The Hon''ble Apex Court while allowing the appeal

of Appellant manufacturer observed that said general words formed part of the scheme of the extended meaning of ""manufacturer"" 8s must also

share same characteristics i.e. of other previous expressions by applying rule of ejusdem generis. We find following reasoning of Hon''ble Court

worth quoting here:

7. The expression ejusdem generis -''of the same kind or nature'' - signifies a principle of construction whereby words in a statute which are

otherwise wide but are associated in the text with more limited words are, by implication, given a restricted operation and are limited to matters of

the same class or genus as preceding them. If a list or string or family of genus-describing terms are followed by wider or residuary or sweeping -

up words, then the verbal context and the linguistic implications of the preceding words limit the scope of such words. In ''Statutory Interpretation''

Rupert Cross says:

...The draftsman must be taken to have inserted the general words in case something which ought to have been included among the specifically

enumerated items had been omitted....'''' (page 116) The principle underlying this approach to statutory construction is that the subsequent general

words were only intended to guard against some accidental omission in the objects of the kind mentioned earlier and were not intended to extend

to objects of a wholly different kind. This is a presumption and operates unless there is some contrary indication. But the preceding words or

expressions of restricted meaning must be susceptible of the import that they represent a class. If no class can be found, ejusdem generis rule is not

attracted and such broad construction as the subsequent words may admit will be favoured. As a learned author puts it:

...if a class can be found, but the specific words exhaust the class, then rejection of the rule may be favoured because its adoption would make the

general words unnecessary: if, however, the specific words do not exhaust the class, then adoption of the rule may be favoured because its

rejection would make the specific words unnecessary.

(See: Construction of Statutes by E.A. Driedger p. 95 quoted by Francis Bennion in his Statutory Construction pages 829 and 830).

Francis Bennion in his Statutory Construction observed:

For the ejusdem generis principles to apply there must be a sufficient indication of a category that can properly be described as a class or genus,

even though not specified as such in the enactment. Furthermore the genus must be narrower than the words it is said to regulate. The nature of the

genus is gathered by implication from the express words which suggest it.... (p. 830)

It is necessary to be able to formulate the genus; for if it cannot be formulated it does not exist. ''Unless you can find a category'', said Farwell LJ,

''there is no room for the application of the ejusdem generis doctrine''. (p. 831)

In (SS. Magnhild (Owners)Vs. Mclntyre Bros. and Co)1920 (3) K.B. 321 Me Cardie J said:

So far as I can see the only test seems to be whether the specified things which precede the general words can be placed under some common

category. By this I understand that the specified things must possess some common and dominant feature.

In Tribhuban Parkash Nayyar Vs. The Union of India (UOI), the Court said:

...This rule reflects an attempt to reconcile incompatibility between the specific and general words, in view of the other rules of interpretation, that

all words in a statute are given effect if possible, that a statute is to be construed as a whole and that no words in a statute are presumed to be

superfluous....

(p. 740) (of S.C.R): (at p. 545 of AIR) In (U.P.S.E. Board v. Hari Shanker) 1978 DGLS 210 : AIR 1979 S.C. 65 it was observed:

...The true scope of the rule of ""ejusdem generis"" is that words of a general nature following specific and particular words should be construed as

limited to things which are of the same nature as those specified. But the rule is one which has to be ""applied with caution and not pushed too

far....."" (p. 73)

Neither Health University not Employees before us have contended that specific words in Section 2(35) exhaust the class representing teaching

staff and hence general words need to be given their full and natural meaning. In any case as already noticed above, the word ""approved"" qualifying

the class specified cannot be rendered nugatory by accepting that legislature intended to cover even unapproved lecturers by later general words.

It is therefore apparent that Grievance Committee could not have taken cognizance of grievances made by respondent Nos. 3 and 4 in W.P.

1976/2006 before it.

12. Health University or Employees have not disputed before us that Grievance Committee is quasi judicial authority and therefore has to adhere to

principles of natural justice. Facts clearly demonstrate that insofar as grievance of Dr. Bhadge is concerned, Grievance Committee held its

proceedings in this respect on 12th and 13th of January 2006. The proceedings of said meeting are not in dispute. On said Subject No. 15,

resolution passed is as Grievance Committee could not reach any definite opinion on the basis of records, matter should be forwarded to State

Women Commission with request to it to investigate and to find out truth. It was also resolved that after its report is received, it should be

considered by the Committee. FIR filed by respondent No. 3 is dated 4.2.2006 and arrests were made on 5.2.2006. In said complaint allegations

of sexual harassment are made only against the petitioner No. 4 Vice Principal Shri Gopal Bhutada. The grievance against petitioner number 3/

Principal and President of petitioner number 1 Trust Shri Panpalia is about obtaining forcibly her resignation and accepting it. But then said undated

resignation was obtained in June 2002 as alleged by her. President got anticipatory bail on 6.2.2006 while other two arrested on 5th February

were released on bail on 8.2.2006. Respondent No. 4 Dr. Salim has lodged FIR on 18.1.2006. Her complaint is in relation to incident dated

7.1.2006 in which she has made some grievance against petitioner No. 4 Vice principal Shri Gopal Bhutada. Health University states that after

28.2.2006 it received similar complaint from respondent No. 4 and hence it issued notice to Trust/Management/Employer and Vice principal Shri

Gopal Bhutada to appear on 8.3.2006. On 2.3.2006, petitioner number 3 Principal demanded copy of complaint made by respondent No. 4. On

7.3.2006, petitioners in response to fax message dated 4.3.2006 from Grievance Committee communicated that as matter is pending in Court and

criminal prosecution is going on, University should not have taken up the issue and in any case Grievance Committee had no jurisdiction. They have

stated that if any further communication is received from Health University, its cognizance would not be taken. They also forwarded communication

through their advocate to Grievance Committee on 7.3.2006 in which it was stated that complaint by Dr. Salim was an act of extortion,

blackmailing, and it was not possible for them to attend on 8/3/2006. They requested for dropping the proceedings or to keep it in abeyance till

conclusion of criminal trial. Grievance Committee has proceeded further on 7& 8.3.2006 and passed appropriate resolutions. The proceedings of

said meeting demonstrate that grievance of Dr. Bhadge & Dr. Salim both have been considered on said date. It also reveals that Health University

had received complaint forwarded on 23.1.2006 by Dr. Salim. Health University has noticed reply forwarded by Employer and also notices that

because of orders of Criminal Court, concerned office bearers of Employer were not permitted to leave city and their demand of copy of

complaint. It also mentions that President, Principal and Vice Principal were on 4.3.2006 directed to obtain in permission from Court and Police

and also states that Grievance Committee has noted letter of College dated 7.3.2006 and of its Advocate dated 7.3.2006. As grievance made by

both Lady Doctors was found to be similar and considering its serious nature, Committee clubbed both complaints together. It also mentions letter

dated 16.2.2006 written by Police Station, Kotwali informing arrest of petitioner Nos. 3 and 4. It then mentions the recommendations made by

grievance Committee vide its resolution No. 31/2006. It states that complaints of serious nature have been made by both Lady Doctors and

criminal offence has been lodged against the accused with Police and with Court, and accused were in police custody for more than 48 hours. It

further mentions that considering provisions of Section 16(8) of 1998 Act and Clause 25.2 of Direction 25/2001, it was felt that disciplinary action

was possible against concerned. It recommended that office of University should direct Society/ Employer to immediately suspend accused No. 1

Dr. Gopal Bhutada and accused No. 2 Dr. Ramesh Balpande. Recommendation further states that Teacher approval of both these accused should

be frozen till decision of Court. Employer should be directed to serve charge-sheet on concerned and to appoint Inquiry" Committee and submit its

report to University within three months. Employer/ society should be directed to immediately reinstate Dr. Bhadage. As concerned persons were

suspended, their ex officio working on any authority of University should be cancelled and examination department should be directed not to seek

their participation in any examination work. Grievance Committee further observed that its recommendations should be got approved from Vice

Chancellor in special rights as available to him on behalf of Management Council and should be communicated to all concerned. Grievance

Committee also recommended that its recommendations should be placed before meeting of Management Council for ex post facto sanction.

Accordingly on 21.3.2006 Health University communicated the recommendations and issued corresponding directions to Society/Employer. On

29.3.2006, Health University communicated decision to freeze approval of petitioner Nos. 3 and 4. Management Council on 5.4.2006 has vide its

resolution 36/2006 approved the recommendations of Grievance Committee mentioned above.

13. It is therefore clear that Employer/Society was never informed by Health University or by Grievance Committee that case of Dr. Bhadge was

also to be considered on 7.3.2006 and 8.3.2006. Notice for appearance to them is for date 8.3.2006 and not for 7.3.2006. Said notice is only in

relation to complaint of Dr. Salim. It is accepted position that copy of said complaint was never made available to Employer. It appears that

Grievance Committee advised Employer to seek appropriate relaxation from Police authorities and from Court to enable them to appear at

Nashik. However this was on 4.3.2006 i.e. just three days prior to date on which matter was taken up. It further appears that petitioners were not

ready and willing to cooperate and accordingly had informed Grievance Committee by letter dated 7.3.2006. Provisions of Section 53 reproduced

above require Grievance Committee to deal with, to hear and settle grievances and to make report to Management Council. It has to entertain and

consider such grievances. Decision of Management Council on report of Grievance Committee is made finale. The power is therefore quasi judicial

and decision by Management Council on report of Grievance Committee is made final. We have specifically asked learned Counsel representing

University & Employees about applicability of principles of natural justice to these proceedings and none of them has contended that principles of

natural justice are not attracted. Significance of the words/ phraseology used in Section 53 can be understood by referring to The Divisional

Personal Officer, Southern Railway v. T.R. Chllappan (supra) and Mukhtiar Singh and Anr. v. State of Punjab (supra). In latter judgment, Hon"ble

Apex Court states that a ''decision'' does not merely mean the ""conclusion"" - it embraces within its fold the reasons which form the basis for

arriving at the ""conclusion"". In that case there was no mention in the judgment of trial Court under Terrorist Affected Areas (Special courts) Act as

to what various witnesses deposed at the trial, except for the evidence of the medical witness. The judgment did not disclose as to what was

argued before it on behalf of the prosecution and the defence. The judgment of the trial Court contained only the ""conclusions"" and nothing more.

The judgment of the trial Court therefore was set aside & the matter was remanded to the trial Court for its fresh disposal by writing a fresh

judgment in accordance with law. In first judgment Hon''ble Apex Court considers the meaning of word ""consider"" and in paragraph 21 states that

it merely connotes that there should be active application of the mind by the Disciplinary Authority after considering the entire circumstances of the

case in order to decide the nature and extent of the penalty to be imposed on the delinquent employee on his conviction on a criminal charge. Here,

We find that Employer/Society had on 7.3.2006 expressly communicated that the proceedings before the Grievance Committee should be

discontinued and if any further communication/letter was received from Health University, its cognizance would not be taken. It also mentions that

matter ended at that stage itself. The Grievance Committee has mentioned even this communication in its proceeding. In view of earlier police

complaint by respondent No. 4 Dr. Salim and bails obtained respectively by President, Principal and Vice Principal one cannot say that

Society/Employer was not aware of the nature of her Complaint received by Health University. However, demand for supply of copy of said

complaint was made by petitioners and noted by Grievance Committee. Admittedly its copy was not served upon petitioners and also Grievance

Committee never informed them that it had reviewed its earlier decision taken on 13.1.2006 in case of Dr. Bhadge to refer matter to State Women

Commission which was already implemented on 28.2.2006 itself. It is obvious that this recommendation dated 13.1.2006 must have been

accepted by Management Council as per procedure and become final. How therefore Grievance Committee could go back on such decision and

take up grievance of Dr. Bhadge for its consideration on 7th or 8th March 2006 without report of State Women Commission?. Minutes or

proceedings recorded on 7 or 8 March reveal that the decision to take up grievance of Dr. Bhadge also was taken for the first time in meeting of

Grievance Committee. However as minutes recorded for both days are common, it is not clear whether said decision was taken on 7th or 8 of

March 2006. It is to be noted that petitioners had no notice of any meeting of Grievance Committee scheduled on 7.3.2006. Petitioners were

never informed that grievance of Dr. Bhadge was also to be considered in said meeting. After receipt of report of preliminary or surprise enquiry

and after hearing all, Grievance Committee found itself unable to take any decision on 13.1.2006. It has recorded need of further investigation and

hence referred matter to State Women Commission. Even if it is presumed that Grievance Committee proceeded ex parte against petitioners

because of their refusal to cooperate, and therefore did not record any reasons in support of its conclusions still in view of above lacunae, its

recommendations impugned before us cannot be sustained. Direction number 1/2004 issued by Health University deals with procedure to be

followed by Grievance Committee. Its Clause No. 10 states that after entertaining complaint, Grievance Committee has to direct both parties to

remain present before it. If both parties remain absent without any valid reason, Complaint can be dismissed and if one of the party remains

present, Grievance Committee can take ex parte decision. Thus Grievance Committee has to record reason that petitioners were absent without

any valid reason before proceeding ex parte against them. We do not find any such consideration by Grievance Committee. Even otherwise, in the

facts of case, there was no need to push the matter on 7th & 8th March. A reasonable opportunity ought to have given to Employer with notice of

decision to club case of Dr. Bhadge with case of Dr. Salim and of not awaiting report of State Women Commission. In fact it was argued by Adv.

Khade that receipt of second complaint from Dr. Salim making identical grievance induced Grievance Committee to act fast and to consolidate

both complaints together. Employer Institution has stated that report of preliminary committee or surprise committee is in their favour. Said report

is dated 22.9.2005 and none of the parties have placed it before us. Grievance Committee considered this report with other material on 13.1.2006

and found it insufficient to implicate Employer or others. How subsequent arrests by police or similar complaint by Dr. Salim enabled Grievance

Committee to reach a definite but different opinion is not recorded anywhere either by Grievance Committee or Management Council. Moreover

recommendations of Grievance Committee are common and inseparable in both cases. In this background, We are not in position to uphold the

proceedings or business transacted by Grievance Committee on 7th and 8th March 2006.

14. Under Clause 27 of Direction No. 25/ 2001 prescribes authorities competent to inflict penalties and according to it, power to inflict penalties

on Principal, Dean, Director and Teacher vests in Governing Body of College. The Competent Authority i.e. Governing Body has as per Clause

28 to first record a finding about existence of prima facie case against such Officer for infliction of either major or minor penalty. We are unable to

appreciate argument of Adv. Parchure that phrase ""Competent Authority"" has not been defined anywhere. As per Clause 28.2.1, if such Officer is

alleged to be guilty of an offence of criminal nature involving moral turpitude and if there are reasons to believe that in the event of offence being

proved he would deserve to be removed or dismissed, Competent Authority has to first decide whether to suspend him or not. Competent

Authority has to hold departmental inquiry by appointing an Officer or Committee for that purpose. It has to prepare charge-sheet. Thus all these

powers are with Employer/Management and no provision has been pointed out by Health University enabling Grievance Committee to issue such

directions to Employer in relation to above two Lecturers. It needs to be pointed out that on 27.3.2006 the management of Employer Society has

in its meeting of Governing Body resolved not to suspend or hold any departmental inquiry against petitioner Nos. 3 and 4, and also not to

reinstate Dr. Bhadge. Correctness or validity of this resolution is not in dispute before us and it was never question even before Health University

or Director of Ayurveda who happens to be respondent in W. P. 1066/2007. It is also to be noted that allegations of moral turpitude appear

against only one person viz. Dr. Gopal Bhutada, petitioner No. 4 and there are no such allegations at least before Grievance Committee against

President & Principal Parchure and Advocate Haq have also invited our attention to provisions of Section 4(d) of 1998 Act to point out objects

behind establishing Health University. Section 5(v) and (w) read with Section 2(21) are also pointed out to urge that University can take action

against Employer Society in the matter. Similar effort is made by Advocate Khade by inviting attention to provisions of Section 16 and Section

27(dd) thereof. However, We find that impugned action against petitioners has been taken upon recommendations of Grievance Committee.

Sections 5(v) and (w) read with Section 2(21) permit University to prescribe general norms or code for uniform application and that too by making

provision therefore in Statute or Ordinance or Rule on Regulation as per Section 2(25). Admittedly that has not been done. Similarly reference to

Section 16 in defence appears to be clearly by way of afterthought and in view of provisions already made in Section 53 and Direction No.

25/2001, there can not be any recourse to powers of Vice Chancellor u/s 16. No. Direction issued in such matter by Vice Chancellor in exercise

of powers u/s 16(8) has been pointed out to us. Neither any direction issued u/s 27(dd) is pleaded anywhere nor it is produced on record.

Similarly impugned directions cannot be correlated with powers available to respondent No. 1 u/s 73 of 1998 Act. The way in which Health

University or its Grievance Committee has dealt with serious Grievance made by both Lady Doctors and undue haste shown clearly reveal that

both these authorities were not serious and had only made a show of taking cognizance thereof. It is to be noted that one of the contention is of

Health University during arguments has been that after preliminary hearing of writ petition before this Court, it again called petitioners for hearing on

29.5.2006 by issuing notice on 17.5.2006 but they did not appear & hence Committee has proceeded as per Direction No. 24/2001. However

no orders passed subsequent to this hearing are produced on record. Petitioners had pointed out to them on 23.5.2006 that impugned orders

dated 21.3.2006 and 29.3.2006 were already challenged in High Court and hence fresh hearing on same subject was not possible unless and until

Health University withdrew these two orders. Petitioners had sought early confirmation from it. Health University did not forward any reply to them

and even before this Court, during arguments was uncertain about the effect of hearing conducted on 29.5.2006. Proper amends which could have

been made in May 2006 therefore were not made and grievance made by Lady Doctors was kept hanging by it. Not only this, affidavit in reply

along with documents has been filed on 24.4.2007 after this Court was assigned all matters by Hon''ble Chief Justice for decision. Affidavit and

additional affidavit in reply were already filed and this affidavit dated 24.4.2007 mentions that certain material facts essential to be pointed out to

this Court to justify the decision taken by Grievance Committee needed to be placed on record. This affidavit is about four pages and documents

placed with it for the first time run in to about 388 pages. Most of the documents are subsequent to impugned orders of Grievance Committee. In

the circumstances, We find that grievance made by 2 lady doctors has not been properly dealt with by Health University. We have already held

that Grievance Committee lacked jurisdiction to take its cognizance.

15. No provision inviting application of Maharashtra Civil Services Rules and effect of detention by police for 48 hours is pointed out to us and

said argument has not been substantiated by Health University. Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 containing powers

to suspend pending enquiry are framed under Article 309 of Constitution of India and ipso facto can not apply to employees of Colleges. Direction

No. 25 of 2001 issued by University contemplates suspension pending departmental enquiry vide its Clause 28.2.1 only when Principal, Dean,

Director or Teacher is alleged to be guilty of an offence of criminal nature involving moral turpitude and there are reasons to believe that in the

event of offence being proved he would deserve to be removed or dismissed from service. In such cases said clause casts obligation upon

Competent Authority to first decide whether person concerned should be placed under suspension or not. It also makes provision for payment of

subsistence allowance to such suspended employee. There is no other provision regarding interim suspension in Direction No. 25. Hence, We find

it difficult to accept the argument of applicability of State Service Rules to employees of recognised private colleges.

16. Health University has relied upon judgments -M.G. Shirhatti v. University of Mumbai, Apparel Export Promotion Council v. A.K. Chopra

(supra) and Vishaka and others Vs. State of Rajasthan and Others, . Said effort is misconceived in as much as facts in dispute in present matters

are still not settled by holding appropriate enquiry by Competent Authority. Division Bench of this Court in (M.G. Shirhatti v. University of

Mumbai) records that there was circular dated 31st August 2004 and its Clause No. 7 empowered Committee to be constituted by Vice

Chancellor to look into these kind of grievances and to recommend whether delinquent should be placed under suspension or not. Its Clause No.

5 required management to comply with direction issued by Committee. Hence Constitution of Committee and its decision to suspend delinquent

Principal was found with authority of law. Division Bench also noticed that large number of petitions were coming up before Court and Court was

issuing directions as per Vishaka v. State of Rajasthan (supra). Vice Chancellor issued directions because of urgency which dealt with only subject

of sexual harassment. Thus general directions issued by Vice Chancellor were accepted by High Court. No such general directions on subject are

pointed out to us by Health University. As issue whether any other Authority functioning under Chapter IV of 1998 Act has got powers to

entertain grievance of respondent Nos. 3 and 4 does not arise in these petitions, We are not making any observations about it. If University finds

and feels that either it or any of its other Authorities has any such powers it is free to proceed further to examine and redress grievance of above

two lecturers strictly in accordance with law. However, in the circumstances We cannot be silent spectators to abuse of its position and power by

Health University to the detriment of 2 lady doctors. Hence We direct it to pay cost of Rs. 5000/ each to Dr. Bhadge & Dr. Salim for not

considering their grievance appropriately and said costs be paid within period of eight weeks from today. If Health University intends to take any

action as per law upon grievance made by them before it, it shall do so after issuing previous notice in writing to all concerned and in accordance

with provisions of 1998 Act within period of three months from the date of receipt of copy of this order.

17. This brings us to consider the legality or otherwise of freezing of approval as teacher of Principal and Vice Principal. It is not in dispute that

appointment of both has been made as per selection procedure and thereafter, Vice Chancellor has given his approval to their appointment in

terms of Clause 9.2.8 of Direction No. 25/2001. Said Clause states that The appointing authority, with the approval of the Vice Chancellor, shall

appoint the number of person/persons required, in order of merit from amongst the persons so recommended."" It is therefore apparent that

approval is condition precedent to the legal appointment and once given, incumbent becomes an employee validly appointed. The scrutiny while

giving approval is therefore about the selection procedure and hence, the power to grant approval is exhausted after it is exercised. No provision in

1998 Act has been pointed out to us which enables Health University to freeze approval once it is granted. If some defect in selection procedure is

noticed latter on, exercise of power to withdraw or cancel such approval will pose entirely different questions. However, when such power is

sought to be exercised to inflict punishment upon petitioner Nos. 3 and 4 whose appointment is already approved, it is to be noted that effect is to

push both of them out of definition of ""teacher"" in Section 2(35). Indirectly it constitutes their dismissal from service. If ultimately allegations are not

proved, the consequences suffered by them in the meanwhile would be irreparable. In any case, in view of discussion above, We find that there

can not be any interim dismissal in this matter. Hence, in the facts of present case after noticing the lack of jurisdiction in Grievance Committee and

also defective procedure followed by it, We hold that the direction to freeze approval given to petitioner No. 3 and 4 in W. P. 1976/2006 is

unsustainable.

18. In the result We find that impugned orders dated 21.3.2006 and 29.3.2006 are unsustainable. Same are accordingly quashed and set aside.

Therefore consequential resolution of Management Council dated 5/4/2006 to the extent it approves the same is also set aside. However we

permit respondent No. 1 Health University to reconsider complaints made to it by respondent Nos. 3 and 4 and to place it before any other

appropriate authority for taking decision or for initiation of action in accordance with provisions of 1998 Act. It will also be in the interest of

petitioners to get themselves exonerated instead of killing time and raising technical objections so as to establish their credence and reputation. We

therefore direct petitioners to cooperate with respondent No. 1 in any fresh exercise, if it is undertaken and, respondent No. 1 is directed to take

appropriate decision in this respect immediately and to complete such fresh exercise as mentioned above within period of three months from the

date of receipt of copy of this order by it.

19. W.P. Nos. 865 and 1066 of 2007 can be considered together. Necessary facts in both these petitions have already been narrated. Employees

want Director of Ayurveda to take action u/s 3(1) of 1976 Act and their anxiety can be understood in view of nature of their grievance, orders

passed by this Court in earlier Writ Petition 3291/2006 and challenge by management to show cause notices. Communication dated 10.1.2007 by

Deputy Director, Homeopathy to Human Rights Commission and State Women Commission reveals that Director of Ayurved has already decided

not to take any action as matters are pending before courts. Employer Society has filed W.P. No. 1066/2007 challenging show cause notice dated

25.1.2007 issued by Director of Ayurveda u/s 3 of 1976 Act. It is their stand that said show cause notice is based upon directions issued by

Health University respectively on 21.3.2006 and 29.3.2006 which they have questioned in W. P. No. 1976/ 2006. Communication dated

10.1.2007 by Deputy Director, Homeopathy to Human Rights Commission and State Women Commission is also relied upon by them to point

out and contend that show cause notice issued is without any purpose. After hearing parties about their respective stands, We find that purpose of

action u/s 3 of 1976 Act is entirely different. The 1976 Act is aimed at making provision for taking over management of property of certain

educational institutions for limited period. Section 3 permits Director to take steps as mentioned therein if he is satisfied that Management of any

educational institution has neglected to perform any of the duties imposed on it and public interest as also interest of education imparted in such

institution necessitates taking over of its management. Director has to give a reasonable opportunity to such educational institution of showing cause

against action proposed and thereafter he can make order taking over its activity relating to imparting of education for limited period not exceeding

three years. We are not concerned with remaining portion of this Section 3 because challenge is only to show cause notice. Perusal of show cause

notice dated 25.1.2007 reveals reference to complaints made by Dr. Bhadge & Dr. Salim, cognizance of these complaints by police and arrest of

Principal and Vice Principal, action taken by Health University by issuing directions on 21.3.2006 and 29.3.2006, failure on part of

Institution/Employer Society to implement those directions. It also records that manner of conduct of Management is detrimental to public interest

and adversely affecting education being imparted by it. It also states that though it was necessary to maintain public confidence in the teaching and

of teaching staff and of students, particularly female students, still Institution/Employer has failed and neglected to perform its duties under the 1998

Act and also under general law. Said Director therefore proposed to take over management for period of two years. It is therefore at least prima

facie apparent that entire material has been independently considered by Director of Ayurveda and he has recorded his own independent

satisfaction. We therefore find it unnecessary to consider at length challenges being raised by learned Senior Advocate on behalf of

Institution/Employer. It cannot be said that action of issuing show cause notice by Director of Ayurveda is out and out without jurisdiction or

without any application of mind or mala fide. Effect of our order in W. P. 1976/2006 on the show cause notice issued by him can be considered

by said Director in his own wisdom. Institution/Employer petitioners in W.P. 1066/2007 can also place their reply raising all possible defences

including grounds raised before this Court to oppose proposed action by said Director. Considering the facts & circumstances in its entirety, We

find it unnecessary to interfere in the matter in writ jurisdiction at this stage. W.P. No. 1066/2007 is accordingly dismissed. However it is made

clear that all challenges raised in it are kept open for consideration at appropriate stage and respondent Director of Ayurveda is also free to

consider and decide the same as per law on the point. Said Writ petition is accordingly dismissed. Petitioners therein i.e. Institution/Employer are

given time of two weeks to file a reply to show cause notice dated 25.1.2007. Respondent Director of Ayurveda to proceed to take appropriate

decision thereafter as per provisions of 1976 Act within further period of three months as per law. In view of this direction, relief claimed in prayer

clause 1 in W.P. 865/2007 stands granted and allowed only to extent sated above. We order no costs in both these matters.

20. Accordingly We pass following orders:

(a) Writ Petition No. W.P. No. 1976/2006 is partly allowed. Impugned orders dated 21/3/2006 and 29/3/2006 are held to be unsustainable.

Same are accordingly quashed and set aside. Resolution of management Council dated 5.4.2006 to the extent it accepts these orders is also set

aside. Respondent No. 1 Health University is permitted to reconsider complaints made to it by respondent Nos. 3 and 4 and to place it before any

other appropriate Authority for taking decision or for initiation of action in accordance with provisions of 1998 Act. We direct petitioners to

cooperate with respondent No. 1 in any fresh exercise, if it is undertaken; and respondent No. 1 or Authority taking action is directed to take

appropriate decision in this respect immediately and to complete such fresh exercise if undertaken as mentioned above within period of three

months from the date of receipt of copy of this order by it. Respondent No. 1 Health University shall pay cost of Rs. Five thousand each to

respondent Nos. 3 and 4 respectively within period of 8 weeks from today.

(b) Writ Petition No. 1066 of 2007 is accordingly dismissed leaving all challenges therein open. Petitioners therein i.e. Institution/Employer are

given time of two weeks to file reply to show cause notice dated 25.1.2007. Respondent Director of Ayurveda to proceed to take appropriate

decision on it as per provisions of 1976 Act within further period of three months thereafter as per law. In view of this Writ Petition No. 865/2007

is also allowed only to the extent of above direction to Director of Ayurveda. We order no costs in both these matters.