



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3900 OF 2011

1. Kanishtha Mahavidyalayin Shikshan Annyay
Nivaran Kruti Samitee
[An unregistered Association through its
office bearers viz. Petitioner No.2 onwards]
Through its President
Shri Suryakant Maruti Jugdar
C/o. Smt. Kusumtai Rajaram Bapu-Patil
Kanya Mahavidyalaya, Islampur,
Taluka Walva, District Sangli.
Pin-415 409.
2. Shri. Suryakant Maruti Jugdar
Adult, Occ : Teacher,
C/o. Smt. Kusumtai Rajaram Bapu-Patil
Kanya Mahavidyalaya, Islampur,
Taluka Walva, District Sangli.
Pin-415 409.
3. Shri. Balasaheb Mahadeo Shahpure
Adult, Occ : Teacher,
C/o. D. R. Mane Mahavidyalaya,
Kagal, Taluka Kagal,
Kolhapur – 416 216.
4. Shri. Dashrath Shankar Patil
Adult, Occ : Teacher,
C/o. Azad Vidyalaya and Junior College,
Kasegaon, Taluka Walva,
District Sangli.
5. Shri. Babasaheb Dnyaneshwar Londhe
Adult, Occ : Teacher,
Willingdon College,
Sangli-416 416.

6. Shri. Dilip Ganpatrao Chavan
Adult, Occ : Teacher,
C/o. Karmaveer Bhaurao Patil Mahavidyalaya,
Urun, Islampur, Taluka Walva,
Sangli-415 409.

... Petitioners

Versus

1. State of Maharashtra
2. The Secretary,
School and Education Department,
Government of Maharashtra,
Mantralaya Annex,
Mumbai-400 032.

... Respondents

**WITH
WRIT PETITION NO. 7771 OF 2004**

1. Bhaskar Changoji Deotare
Age 53 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
2. Suhnu Ram Sharma
Age 58 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
3. Subhash Ramchandra Walimbe
Age 54 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
4. Pappy Kuzuvelil Thomas,
Age 57 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.

5. Gajanan Tatyaba Adgale,
Age 49 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
6. Subhangana Mukund Atre,
Age 54 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
7. Hari Shankar Balkrishna,
Age 40 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
8. Vinayak Parameshvara Bhatta
Age 56 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
9. Vinayak Sharad Bhatwadekar,
Age 56 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
10. Dnyaneshwar Kashinath Bhosale,
Age 46 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
11. Mandar Madhav Chavare,
Age 27 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
12. Pramod Prabhakar Dandwate,
Age 47 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.

13. Sushma Ganesh Deo,
Age 44 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
14. Agnelo Cartan Dias,
Age 50 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
15. Arati Deshpande-Mukherjee,
Age 38 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
16. Pradnya Shripad Deshpande,
Age 36 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
17. Bharat Baburao Dighe,
Age 38 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
18. Kishor Bajirao Gaikwad,
Age 32 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
19. Vaman Shripat Gavade,
Age 53 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
20. Nagesh Sayaji Gaware,
Age 50 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.

21. Rajendra Ramchandra Ghanekar,
Age 43 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
22. Vishwas Dattatrey Gogte,
Age 57 years, Occ: Service,
Residing at :- Deccan College,
Pune-411 006.
23. Anuradha Bhaskar Gohad,
Age 54 years, Occ: Service,
Residing at :- Deccan College,
Pune-411 006.
24. Pratibha Ganpat Hole,
Age 36 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
25. Kashi Nath Hota,
Age 44 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
26. Subhash Baban Humbre,
Age 53 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
27. Shreekant Suresh Jadhav,
Age 45 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
28. Sunil Suresh Jadhav,
Age 43 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.

29. Ujwala Baburao Jadhav,
Age 33 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
30. Urmila Lalbahadur Jagtap,
Age 32 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
31. Pramod Prabhakar Joglekar,
Age 44 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
32. Chandrashekhar Vishwanath Joshi,
Age 44 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
33. Mukund Dagadushet Kajale,
Age 54 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
34. Anupama Vilas Kelkar,
Age 57 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
35. Sharad Bhiku Kute,
Age 53 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
36. Manjiri Anand Karambelkar,
Age 38 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.

37. Baswant Sidram Kathare,
Age 37 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
38. Mandakini Ashok Kinjawadekar,
Age 55 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
39. Madhavi Bhaskar Kolhatkar,
Age 53 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
40. Shrikant Dattatray Kshirsagar,
Age 49 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
41. Manjiri Mangesh Kulkarni,
Age 45 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
42. Pradnya Suhas Kulkarni,
Age 32 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
43. Gouri Purushottam Lad,
Age 57 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
44. Krishna Rama Malap,
Age 50 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.

45. Girish Dattatray Mandke,
Age 38 years, Occ : Service,
R/at Deccan College, Pune-411 006.
46. Ashok Rajaram Marathe,
Age 54 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
47. Sheila Mishra,
Age 51 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
48. Rabindra Kumar Mohanty,
Age 52 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
49. Trupti Dattatraya More,
Age 30 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
50. Kevalapura S. Nagaraja,
Age 54 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
51. Ashok Dattatray Omble,
Age 54 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
52. Gajanan Vasantrao Pahade,
Age 34 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.

53. Viju Janardhan Pawar,
Age 38 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
54. Devadatta Dnyaneshwar Phule,
Age 33 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
55. Pratibha Mohan Pingle,
Age 57 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
56. Jayshree Dileep Sathe
Age 48 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
57. Vijay Gajanan Sathe,
Age 44 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
58. Raju Ramchandra Savale,
Age 35 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
59. Vandana Vishnu Selukar,
Age 45 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
60. Chandrakant Shankar Shendge,
Age 45 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.

61. Ramchandra Ratnu Shigvan,
Age 45 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
62. Vasant Shivram Shinde,
Age 48 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
63. Balaji Shivaji Gajul,
Age 39 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
64. Balasaheb Shankar Waghmode,
Age 40 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
65. Shrikant Vitthal Walunj,
Age 32 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
66. Sumati Balkrishna Kunte,
Age 57 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
67. Kishor Bhagan Shendge,
Age 35 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
68. Madan Kishan Pulellu,
Age 48 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.

69. Anita Dilip Sonawane,
Age 35 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
70. Mahindra Vitthal Kamble,
Age 28 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
71. Vitthal Shridhar Lonkar,
Age 52 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
72. Jagannath Govindrao Kulkarni,
Age 38 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
73. Shrihari Vasant Sathe,
Age 56 years, Occ :Service,
Residing at :- Deccan College,
Pune-411 006.
74. Mukund Manik Londhe,
Age 36 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
75. Deepali Vitthal Kachi,
Age 49 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
76. Hanumant Sonba Bhandare,
Age 39 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.

77. Pandurang Shankar Dhanapune
Age 52 years, Occ : Service,
Residing at :- Deccan College,
Pune-411 006.
78. Gyani Lal Badam,
Age 64 years, Occ : Retired,
Residing at :- Flat No.4, Building No.26/1,
Herms Paras 3 Kalyaninagar,
Pune 411 006.
79. Ganpat Kondiba Dhumal,
Age 63 years, Occ : Retired,
Residing at :- Bungalow No. 1, Servant Qtr.,
Deccan College Campus,
Pune-411 006.
80. Aparna Jha,
Age 62 years, Occ : Retired,
Residing at :- 468 Sadashiv Peth,
Pune-411 030.
81. Prakash Shankarrao Joshi,
Age 58 years, Occ : Retired.
Residing at :- Flat No. 1,
“Vidisha”, Survey No. 27/7
Dahanukar Colony, Kothrud,
Pune-411 029.
82. Anupama Arvind Kshirsagar,
Age 61 years, Occ : Retired,
Residing at :- 4-Krishna 1363
Shivajinagar, Pune-411 005.
83. Shouri Joseph Mangalam,
Age 63 years, Occ : Retired,
Residing at:- E-7, B-Wing,
Ganga Park, Mundhwa Road,
Pune-411036.

84. Virendra Nath Misra,
Age 69 years, Occ : Retired,
Residing at :- G-2, B Wing,
Ganga Park, Mundhwa Road,
Pune-411 036.
85. Srinivas Shivanna Nayak,
Age 63 years, Occ : Retired,
Residing at :- T-18, B-Area,
Deccan College Campus, Pune-411 006.
86. Sadashiv Vishnu Omble,
Age 66 years, Occ : Retired,
Residing at :- Servant Qts. No. 11,
Deccan College Campus, Pune-411 006.
87. Shuddhadevi Hukamchand Patyal,
Age 62 years, Occ : Retired,
Residing at :- D-6 Kasturbawadi, Society,
Vishrantwadi, Pune-411 015.
88. Janardhan Bhiku Pawar,
Age 66 years, Occ : Retired,
Residing at :- T-11 B Area,
Deccan College Campus, Pune 411 006.
89. Mohan Krishnaji Kulkarni,
Age 64 years, Occ : Retired,
Residing at :- D-2, Vihar Society,
30/2/4 Erandawana, Pune-411 004.
90. Vijay Chintamani Namjoshi,
Age 60 years, Occ : Retired
Residing at :- Atma Anant Appt.
Plot No. 20, Survey No. 114/3,
Vishrantwadi, Pune-411 015.
91. Meera Mohan Kulkarni,
Age 66 years, Occ : Retired,

Residing at :- D-2 Vihar Society,
30/2/4 Erandwana, Pune-411 004.

92. Katragadda Paddayya,
Age 61 years, Occ : Retired,
Residing at :- D-14, Amrapali Appt,
Nagar Road, Pune-411 006.
93. Shivdas Tulshiram Barne,
Age 63 years, Occ : Retired,
Residing at :- B-1/102,
Silveroak, Floriana Estate, Kalyaninagar,
Pune-411 014.
94. Girija Ramkishan Shendge,
Age 66 years, Occ : Retired,
Residing at :- 176 U.P. Hotel,
Deccan College Road, Pune-411 006.
95. Dhananjay Shankarrao Shetty,
Age 58 years, Occ : Retired,
Residing at :- 250-Rastapeth, Pune-411 011.
96. Sulochana Maruti Dhumal,
Age 60 years, Occ : Retired,
Residing at :- T-25 Deccan College Campus,
Pune-411 006.
97. Roshan Beck,
Age 64 years, Occ : Retired,
Residing at :- Flat No. B-205,
Lakshmi Township - 2, Kalas,
Pune 411 015.
98. Sonpal Tikaram Chavan,
Age 68 years, Occ : Retired,
Residing at :- Near Khandoba Mandir,
Deccan College Campus,
Pune-411 006.

99. Madhav Gangadhar Abhyankar
Age 61 years, Occ : Retired,
Residing at :-1310, Vasudeo Smruti,
Shivajinagar, Pune-411 005.
100. Usha Ramkrishna Ranade,
Age 63 years, Occ : Retired,
Residing at :- Apali Society, 42/481,
Parvati Darshan, Pune-411 009.
101. Kamal Krishnarao Chavan,
Age 63 years, Occ : Retired,
Residing at :- 28 Rag-Venue Apartment,
I.C.S. Colony, Bhosale Nagar,
Pune-411 007.
102. Sadique Zainuddin Ansari,
Age 61 years, Occ : Retired,
Residing at :- Bombay Sappar Colony,
Survey No. 46/718, Vadgaonsheri,
Pune 411 014.
103. Ramesh Vaman Dhongde,
Age 61 years, Occ : Retired,
Residing at "Shampannya" Plot No. 47,
Shwet Ganga Housing Society,
Varje, Pune-411 052.
104. Anant L. Narayanan
Age 66 years, Occ : Retired,
Residing at :- 38/576, Lokmanyagar,
Pune-411 030.

... Petitioners

Versus

1. State of Maharashtra
2. The Secretary,
Higher and the Technical Education

Department, Government of Maharashtra,
Mantralaya, Mumbai 400 032.

3. Director,
Deccan College, Post Graduate and Research
Institute [Deemed to be University]
Pune 411 006.

... Respondents

**WITH
WRIT PETITION NO. 7842 OF 2009**

Shri. Shivdas Tulsiram Barne
Age-68 years, Occ : Retired,
Residing at :- B-1/102,
Silver Oak Floriana Estate,
Kalyani Nagar, Pune-411 014.

... Petitioner

Versus

1. State of Maharashtra
2. The Secretary,
Higher Education and Technical Education
Department, Government of Maharashtra,
Mantralay Annex, Mumbai-400 032.
3. The Directorate,
Higher Education
Government of Maharashtra, Pune-411 001.
4. Deccan College
Post Graduate and Research Institute,
[Deemed University], Yerwada,
Pune-411 006.
India
E.mail – dakshina@pn2.vsnl.net.in
Fax – 020-26692104, 26613253
Tel No.- Deccan College-EPABX
26692113, 26693794

... Respondents

WITH
WRIT PETITION NO. 10368 OF 2004
WITH
CIVIL APPLICATION NO. 2178 OF 2010
IN
WRIT PETITION NO. 10368 OF 2004

Tilak Maharashtra Vidyapeth Padvyuttar
Shikshak Sangh,
Pune.

201, Dhanvantari, Teachers' Quarters,
Tilak Maharashtra Vidyapeeth,
Gultekdi, Pune-411 037.

[A Trade Union registered under the
provisions of Trade Union Act,
Bearing Registration No.PN2168
having its office at :-

Tilak Maharashtra Vidyapeeth,
Gultekadi,
Pune-411037.]

Through the Secretary
Dr. Shraddha Kumbhojkar

... Petitioner

Versus

1. State of Maharashtra
2. The Secretary
Higher and Technical Education Department
Government of Maharashtra, Mantralaya,
Mumbai-400 032.
3. The Director
Higher and the Technical Education,
Maharashtra State, Pune.
4. Tilak Maharashtra Vidyapeeth,
[Summons to be served on the Registrar

Tilak Maharashtra Vidyapeeth, Gultekadi,
Pune 411 037.

5. Union of India

6. University Grants Commission
Bhaddurshah Jafar Marg,
New Delhi-10067.

... Respondents

Mr. Anil Anturkar, Senior Advocate a/w. Mr. Amol Gatne i/b
Mr. Sugandh Deshmukh, for the petitioners.

Mr. N. R. Prajapati a/w. Mr. Y. S. Bhate, for Respondent No.5 in
WP/10368/2004.

Mr. Kedar B. Dighe, Addl. GP a/w. Mr. V. G. Badgujar, AGP for the
Respondent-State in WP/3900/2011.

Mr. Kedar B. Dighe, Addl. GP a/w. Mr. S. H. Kankal, AGP for the
Respondent-State in WP/7771/2004.

Mr. Kedar B. Dighe, Addl. GP a/w. Smt. P. B. Chavan, AGP for the
Respondent-State in WP/7842/2009.

Mr. Kedar B. Dighe, Addl GP a/w. Smt. R. A. Salunkhe, AGP for the
Respondent-State in WP/10368/2004.

Mr. S. R. Nargolkar a/w. Mr. S. S. Nargolkar, for Respondent No.3 in
WP/7771/2004.

CORAM : **M. S. KARNIK AND**
SANDESH D. PATIL, JJ.

DATED : **16th SEPTEMBER, 2026.**

JUDGMENT (PER M. S. KARNIK, J.) :

1. Detag Writ Petition No.7842 of 2009 from the present
group of writ petitions, since additional issues are involved. List Writ
Petition No.7842 of 2009 on 24th September 2026.

2. All these writ petitions are being decided by a common judgment since common issues are involved regarding the applicability of the Fifth Pay Commission benefits to the teachers in the Deemed Universities from 1st January 1996 as per the claim made by the petitioners, instead of 1st March 2000 / 1st April 2002 granted by the State Government.

3. We refer to the facts in Writ Petition No.7771 of 2004 filed under Article 226 of the Constitution of India for convenience.

The petitioners pray for the following reliefs :-

“[A] That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction or order under Article 226 of the Constitution of India, 1950, directing the Respondent Nos.1 and 2 to take the necessary measures, for the purpose of removing the discrimination in making benefits of the Fifth Pay Commission available to the teaching and the Non teaching serving employees as well as employees retired after 1st January 1996, of the Respondent No.3 Deemed University on par with the benefit already given to the teaching and the non teaching employees of the Non Agricultural Universities and/or the Colleges Affiliated thereto and be pleased to further direct the Respondents No.1 and 2 to give this benefit to the teaching and the non teaching employees of the Respondent No.3, with effect from the same date (1st January 1996) with effect from which, the benefit of the Fifth Pay Commission was made available to the teaching and the non teaching employees of the Non Agricultural Universities and the Colleges Affiliated thereto.”

4. The petitioner Nos.1 to 77 are teaching and non-teaching staff members of respondent No.3 - Deccan College, Post Graduate and Research Institute (Deemed to be University) and the petitioner Nos.78 to 104 are former employees (teaching and non-teaching) of respondent No.3, who are now retired on superannuation between 1st January 1996 and 31st March 2002.

5. The respondent No.3- Deccan College, Post Graduate and Research Institute has been granted the status of a Deemed University and is one of the oldest educational institutions in India. The Institute offers M.A., P.G. Diploma and Ph.D. courses in the subjects of Archaeology and Linguistics. By a Government Resolution ("GR") dated 27th February 1989, the Fourth Pay Commission recommendations came to be implemented. The said GR is about the teachers in the Non-Agricultural Universities, Affiliated Colleges, Government Institutes of Sciences/Management Studies/Social Sciences; revision of the pay scale of the teachers and for maintenance of the standards in the Higher Education. By this GR, the benefit of the Fourth Pay Commission is made available to the teachers in the Non-Agricultural Universities, Affiliated Colleges, Government Institutes of Sciences/Management Studies/Social

Sciences etc. The benefit however, under this GR was given only to the teachers and not to the non-teachers.

6. So far as the non-teaching employees are concerned, the petitioners invited our attention to another Notification issued on 27th July 1989. The said notification provides for the Maharashtra Non-Agricultural Universities and the Affiliated Colleges Standard Code (Revised Pay of Non-Teaching Employees) Rules, 1989. In short, whatever benefit was given by the Fourth Pay Commission to the teachers in the Non-Agricultural Universities, Affiliated Colleges, Government Institutes of Science/Management Studies/Social Sciences, the same has also been given to all the non-teaching employees in Maharashtra working in Non-Agricultural Universities and the Affiliated Colleges by the aforesaid Rules of 1989 contained in the Notification dated 27th July 1989.

7. In case of teaching and non-teaching employees of the Non- Agricultural Universities and Affiliated Colleges, the benefit of the Fourth Pay Commission has been given with effect from 1st January 1986. Although by the GR dated 27th February 1989 and the Government Notification dated 27th July 1989, the benefit of the

Fourth Pay Commission was given to the teachers and non-teachers in the Non- Agricultural Universities and the Affiliated Colleges and not to the respondent No.3 College, a separate GR was issued by the Education and Employment Department. By the GR dated 19th November 1991, the benefit of Fourth Pay Commission has been given to the teaching and non-teaching employees of the respondent No.3 from 1st January 1986, that is, from the very same day with effect from which the teaching and the non-teaching employees working in the Non- Agricultural Universities and the Affiliated Colleges have been given the benefit of the Fourth Pay Commission as per the Resolution dated 27th February 1989 and the Notification dated 27th July 1989.

8. By a Notification dated 4th February 1999, the benefit of the Fifth Pay Commission has been given to the non-teaching employees who are working in the Non-Agricultural Universities and Affiliated Colleges. This has been done by the notification issued by the Higher and Technical Education Department of the Government of Maharashtra. The said notification has been issued under the provisions of Section 8 of the Maharashtra Universities Act, 1994. The notification includes the Maharashtra Non-Agricultural

Universities and the Affiliated Colleges Standard Code (Revised Pay-Scale of the Non-Teaching Employees) Rules, 1999. Though these Rules were passed in the year 1999, they are given with effect from 1st January 1996. In other words, the benefit of the Fifth Pay Commission has been given, in case of the non-teaching employees working in the Non-Agricultural Universities and the Affiliated Colleges from 1st January 1996, although the notification to that effect was issued on 4th February 1999.

9. This notification did not include the “teachers” and therefore, so far as the teachers working in the Non-Agricultural Universities, Affiliated Colleges, Government Institutes of Science/Management Studies/Social Sciences are concerned, the revision of the Pay-Scale of the teachers and the other measures for maintenance of the standards in the Higher Education were taken by the Government of Maharashtra, by issuing the GR dated 11th December 1999. By this GR dated 11th December 1999, the benefit of the Fifth Pay Commission has been given to the teachers in the Non-Agricultural Universities, Affiliated Colleges, Government Institutes of Science/Management Studies/Social Sciences from 1st January 1996. In this manner, so far as the teachers and the non-teaching

staff working in the Non-Agricultural Universities and Affiliated Colleges are concerned, have been given the benefit of the Fifth Pay Commission with effect from 1st January 1996.

10. It is the petitioners' case that by a GR dated 1st June 2002, the benefit of the Fifth Pay Commission has been made applicable to the teaching and non-teaching employees working with the respondent No.3-Deccan College. Thus, unlike the Fourth Pay Commission, in the case of the Fifth Pay Commission, for the implementation of the benefit of the Fifth Pay Commission, different dates are prescribed. The date, 1st January 1996, is prescribed for giving the benefit to the teaching and non-teaching employees of the Non-Agricultural Universities and Affiliated Colleges, whereas in the case of respondent No.3 University, the date which has been chosen is 1st April 2002.

11. It is a matter of record that for the First, Second and Third Pay Commission, like the Fourth Pay Commission, the date which was chosen by the respondent Nos.1 and 2 for giving the benefit of the First, Second and Third Pay Commissions was the very same date with effect from which the benefit of the respective Pay

Commissions were given to the teaching and non-teaching employees working in the Non-Agricultural Universities and Affiliated Colleges therein.

12. It is the contention of the petitioners that so far as the First to Fourth Pay Commissions are concerned, no discrimination was made by respondent No.1, but such discrimination has been made for the first time while implementing the recommendation of the Fifth Pay Commission to the employees of respondent No.3.

13. Some of the aggrieved teachers therefore made a representation to the concerned. In a communication received under the Right to Information Act, the respondent admitted that for those who had retired between 1st January 1996 and 31st March 2002, no benefit has been given by virtue of the GR dated 1st April 2002, but it was promised that, soon the Government will take the decision for those people who have retired between 1st January 1996 to 31st March 2002, as to whether the said scheme can be made applicable to them. The petitioners, as well as respondent No.3 on their behalf, made several representations seeking parity. It is the case of the petitioners that though the non-teaching staff of the respondent No.3

were given the benefit from 1st January 1996, the teaching staff of the respondent No.3 was deprived of the benefits. All other Non-Agricultural Universities except the respondent No.3 deemed University got the benefit of the Fifth Pay Commission from 1st January 1996. Learned Senior Advocate submits that the petitioners deserve to be treated at par and the State is not justified in depriving the petitioners these benefits.

14. We have heard the learned Additional Government Pleader for respondent Nos.1 and 2 who strongly opposed the writ petitions. An affidavit-in-reply affirmed by Mr. Ashok N. Sarote, Superintendent in the office of the Joint Director, Higher Education, Pune Region, Pune has been filed on their behalf. In the additional affidavit, it is stated that the same shall be treated as an additional affidavit-in-reply in Writ Petition No.10368 of 2004. We therefore refer to the stand of the respondent Nos.1 and 2 in Writ Petition No.10368 of 2004. The following is the stand taken by the respondent Nos.1 and 2 :-

(A) The respondent No.3 was granted the status of Deemed University by the Central Government. The Government of

Maharashtra has provided the grants for teaching and non-teaching staff to the sanctioned posts of the abovesaid institutions and not to any other posts which have not been sanctioned by the State Government. The Government of India has simply issued a notification regarding the grant of status of deemed university to the concerned colleges, but how much grant would be available to the university has not been mentioned therein. The Government of Maharashtra has sanctioned approximately 69 posts, thereby giving salary grants to those sanctioned posts. The Government of Maharashtra has been releasing salary grants to 69 sanctioned posts and not to other unsanctioned posts.

(B) The Government of Maharashtra made the Fifth Pay Commission benefits applicable to all Non-Agricultural Universities and colleges affiliated to it with effect from 1st January 1996. However, in respect of the Respondent No.3 deemed university, the Fifth Pay Commission has been made applicable with effect from 1st April 2002. Considering the budgetary resources and the prevailing financial position of the State Government, it is purely a policy decision of the State Government, and the State Government has not made any discrimination in the application of the said policy decision

to others. The petitioners are making a grievance regarding the application of the Fifth Pay Commission and its benefits to the employees with effect from 1st January 1996 and not from 1st April 2002. The application of the Fifth Pay Commission and its benefits is purely a policy decision, considering the budgetary resources of the State and the prevailing financial position of the State Government, and therefore the Government is not making any discrimination to any other institution. In view of the representation made by the respondent No.3-Deemed University Pune, the Government considered those representations and accordingly, an appropriate decision has been taken, by confirming the earlier decision, that is application of the Fifth Pay Commission with effect from 1st April 2002.

15. The grant of Fifth Pay Commission to the non-teaching staff with effect from 1st January 1996 is purely an administrative and policy decision of the Government, considering the prevailing budgetary resources of the State Government. However, the State Government has also considered the problems of the teaching staff; considering its budgetary resources, the Government has granted the Fifth Pay Commission with effect from 1st April 2002. On the

representations made, the State Government has taken a policy decision, and therefore the issue need not be considered again. The State Government has decided the issue sympathetically.

16. In the additional affidavit-in-reply affirmed by Mr. Prakash Dhondu Bachhav, Administrative Officer (Higher Education), Directorate of Higher Education, Maharashtra State, Pune in the Civil Application No.2178 of 2010 in Writ Petition No.10368 of 2004, a stand has been taken, which is similar to the one stated above. Additionally, the stand is :-

(A) The Human Resource Development at the centre has directed the Education Secretary, State of Maharashtra vide its letter dated 27th July 1998, wherein it is clearly stated that the State Government after taking local conditions into consideration, may also decide in their discretion to introduce scales of pay different from those mentioned in the Scheme and may give effect to the revised scales of pay from 1st January 1996 or at a later date. As per the directions given in the said letter, considering the budgetary resources and the prevailing financial position of the State Government, the State Government of Maharashtra took a conscious

decision to implement Fifth Pay Commission's benefits to the petitioner from 1st April 2002.

(B) The University Grants Commission ("UGC", for short) has made available 80% salary grant amount, only for the first five years i.e. 1st January 1996 to 31st March 2000 for the Government sanctioned posts of teachers in the State towards reimbursement of Fifth Pay Commission. Since the financial position of the State Government was not sound, the State Government was not in a position to sanction the Fifth Pay Commission's scale from the beginning, i.e. from 1st January 1996 for the teaching staff of any of the Deemed Universities in the State. The State Government sanctioned the Fifth Pay Commission's pay scales to the teaching posts of Non- Agricultural Universities in the year 1999, and as per the UGC Notification, a demand was made to the UGC for the reimbursement. The State Government had sanctioned the pay scales to the teaching posts of the Deemed Universities on the basis of Non-Agricultural Universities teachers' pay scale. As the Fifth Pay Commission had been implemented in 2002 and 2004 for the Deemed Universities, the claim for the 80% reimbursement from the UGC did not arise.

(C) The sanctioning of the pay scales to the posts sanctioned by the State Government is the subject matter of the State Government, and it depends on the financial position of the State Government. While the Fifth Pay Commission was sanctioned to the teaching staff of the Deemed Universities, the State Government was not in a position to implement the Fifth Pay Commission from the beginning i.e. from 1st January 1996, for the teaching posts approved by the State Government in the Deemed Universities, and it was a conscious decision. The amount received was only for the Non-Agricultural Universities established under the State Universities Act from the UGC for the period from 1st January 1996 to 31st March 2000. The pay scales of the petitioner in Writ Petition No.10368 of 2004 (Tilak Maharashtra Vidyapeeth) are sanctioned from 1st April 2002; therefore, the question of asking for 80% reimbursement for the first five years, i.e. 1st January 1996 to 31st March 2000, from UGC does not arise.

(D) The Non-Agricultural Universities are established under the Maharashtra University Act, 1994. The Deemed Universities are established under the University Grants Commission Act, 1956 ("UGC Act, 1956", for short). Therefore, these Deemed Universities

are not Non-Agricultural Universities. The same is a Deemed University established under the UGC Act, 1956.

17. The Deemed Universities are under the control of the UGC. However, as a special case, the financial burden of some employees of Deemed Universities has been taken by the State Government. These Deemed Universities are :- (1) Deccan College Post Graduate and Research Institute, Pune, (2) Tilak Maharashtra Vidyapeeth, Pune, (3) Gokhale Institute of Politics and Economics, Pune in the State of Maharashtra.

18. Learned Additional Government Pleader on the basis of the aforesaid stand taken in the various affidavits filed on behalf of the State Government, was at pains to point out that a conscious decision was taken to sanction the pay scales for the staff of the Tilak Maharashtra Vidyapeeth from 1st April 2002. It is further submitted that the decision is a policy decision having regard to the financial implications, and since it was found that it was not financially viable considering the prevalent financial position of the State, the aforesaid decision was taken by the State which cannot be said to be arbitrary or irrational.

19. We have heard Mr. Anturkar, learned Senior Advocate for the petitioners and Mr. Kedar B. Dighe, learned Additional Government Pleader for the respondent-State. We have perused the writ petitions, the affidavit-in-replies and the materials on record.

CONSIDERATION :

20. The petitioner Deemed Universities, as well as the petitioners teaching staff of the Deemed Universities pray that the State Government should implement the Fifth Pay Commission from 1st January 1996, to the teaching posts approved by the State Government in the Deemed Universities. The State Government has sanctioned the following teaching and non-teaching posts to all three Deemed Universities, i.e. Gokhale Politics & Economics Institute, Pune, Tilak Maharashtra University, Pune and Deccan College Post Graduate & Research Institute, Pune. The following chart provides the details of the sanctioned teaching and non-teaching staff for the three Deemed Universities :-

Sr. No.	Name of the University	Teaching post	Non Teaching Post	Total
1	Deccan College Post Graduate & Research Institute, Pune	53	109	162

2	Tilak Maharashtra University, Pune	17	52	69
3	Gokhale Politics & Economics Institute, Pune	27	24	51

21. The benefits of the Fifth Pay Commission were made applicable to the teaching and non-teaching employees of Deccan College Post Graduate and Research Institute, Pune, vide the GR dated 1st June 2002 with effect from 1st April 2002.

22. The Government of Maharashtra, vide its Resolution dated 27th February 1989, implemented the pay scales of the Fourth Pay Commission to the teachers in Non-Agricultural Universities, Affiliated Colleges, Government Institute of Sciences/Management Studies/Social Sciences for maintenance of the standard in higher education. The same was extended to non-teaching employees also with effect from 1st January 1986. The benefit of the Fourth Pay Commission has been given to the teaching and non-teaching employees working in the Deemed Universities with effect from 1st January 1986. Thus, teaching and non-teaching staff of the Deemed Universities were treated at par with those of the other Non-Agricultural Universities, Affiliated Colleges, Government Institute of

Sciences/Management Studies/Social Sciences for the purpose of benefit of Fourth Pay Commission with effect from 1st January 1986.

23. By the GR dated 11th December 1999, the Government of Maharashtra extended the benefit of Fifth Pay Commission to teaching and non-teaching employees in Maharashtra working in Non-Agricultural Universities and Affiliated Colleges, Government Institute of Sciences/Management Studies/Social Sciences with effect from 1st January 1996. However, so far as Deemed Universities are concerned, the benefits of the Fifth Pay Commission are made applicable to a set of employees, mostly teachers, not with effect from 1st January 1996 as in the case of other Universities, but with effect from 1st April 2002.

24. The status of Deemed University is being granted by the Central Government and not by the State Government. The petitioner University (in respective writ petitions) is Deemed to be a University. The Non-Agricultural Universities are established under the Maharashtra University Act, 1994. The petitioner Universities are Deemed Universities established under the UGC Act, 1956. The Deemed Universities are under the control of UGC. However, as a

special case, the financial burden of some employees of Deemed Universities has been taken by the State Government, viz. (1) Deccan College Post Graduate and Research Institute, Pune, (2) Tilak Maharashtra Vidyapeeth, Pune and (3) Gokhale Institute of Politics and Economics, Pune. The State Government thus has taken the liability of maintenance grant to be allotted to the Deemed University. The State Government had given an assurance to the Central Government to provide adequate development and maintenance grant to the Deemed University; the State Government has made applicable Fifth and Sixth Pay Commission recommendations to the concerned University.

25. The Human Resource Development of the Central Government has directed the Education Secretary vide its letter dated 27th July 1998 wherein it is clearly stated that the State Government, after taking local conditions into consideration, may also decide in their discretion to introduce scales of pay different from those mentioned in the scheme and may give effect to the revised scales of pay from 1st January 1996 or a later date. In terms of such a letter, considering the budgetary resources and the prevailing financial position of the State Government, the State

Government of Maharashtra took a conscious decision to implement the Fifth Pay Commission pay scale to the Deemed Universities from 1st April 2002 in respect of one category of employees viz. mainly teachers.

26. The UGC made available 80% of the additional expenditure involved in the implementation of the Fifth Pay Commission for the period from 1st January 1996 to 31st March 2000. Since the benefit of the Fifth Pay Commission is made applicable to the concerned Deemed Universities with effect from 1st April 2002, according to the State Government, the question of 80% of additional expenditure reimbursement from UGC now did not arise.

27. It is the stand of the State Government that implementation of pay scales to the posts, which are sanctioned by the State Government, is the subject matter of the State Government and depends on the financial position of the State Government. While the Fifth Pay Commission was sanctioned to the teaching staff of these Deemed Universities, the State Government was not in a position to implement the Fifth Pay Commission from the beginning, i.e. from 1st January 1996. Hence, a decision was taken to implement

the Fifth Pay Commission to Deccan College with effect from 1st April 2002. The Deemed Universities are under the control of UGC; however, in respect of these three Deemed Universities, the State Government has taken financial liabilities of teaching and non-teaching posts which are sanctioned by the State Government in the University. The Fifth Pay Commission was made applicable to teaching and non-teaching employees of the Deemed Universities with effect from 1st April 2002 vide GR dated 1st June 2002.

28. Thus, so far as Tilak Maharashtra Vidyapeeth (Writ Petition No.10368 of 2004) is concerned, for the teaching staff the pay scales of the Fifth Pay Commission are made applicable from 1st April 2002 and for non-teaching staff it is made applicable with effect from 1st January 1996. So far as Writ Petition No.3900 of 2011 is concerned, except for teaching staff of 11th and 12th standard Junior College, the benefit of Fifth Pay Commission is given with effect from 1st March 2000 whereas all other employees are given with effect from 1st January 1996.

29. No doubt the status of Deemed University is granted by the Central Government. However, the State Government had taken

the liability of maintenance grant to be allotted to these Deemed Universities. As per the provision, an assurance was given by the State Government to the Central Government to provide adequate development and maintenance grant to the Deemed University; the State Government made the applicable Fifth and Sixth Pay Commission recommendations to the concerned Deemed University. It is seen that the Human Resource Development directed the Education Secretary vide its letter dated 27th July 1998, wherein it is clearly stated that the State Government, after taking local conditions into consideration, may also decide in their discretion to introduce scales of pay different from those mentioned in the scheme and may give effect to the revised scales of pay from 1st January 1996 or a later date.

30. It must appreciated that the State Government has taken the liability of maintenance grant to be allotted to the University. There is no manner of doubt that the Deemed Universities which are before the Court are institutes of repute, imparting education for a considerable long number of years and even the State Government does not dispute this position. On the contrary, the State Government had taken the liability of maintenance grant to be

allotted to the University. Undoubtedly, it is well within the discretion of the State Government to introduce scales of pay different from those mentioned in the scheme and may give effect to the revised scales of pay from 1st January 1996 or a later date. However, such decision has to be rational and not discriminatory.

31. The State Government has taken a stand that since a decision was taken to implement the pay scales with effect from 1st April 2002, the question of seeking financial assistance from the UGC for the five years period does not arise. In this context, to the extent of providing 80% financial assistance, it would be material to refer to the communication dated 27th July 1998 addressed by the Director, Human Resource Department to the Education Secretaries of all the States. The contents of the letter are of some significance, and therefore the same is reproduced reading thus :-

“Madam/Sir,

I am directed to say that in fulfillment of the constitutional responsibility for coordination, determination and maintenance of standards in higher education, the Central Government and the University Grants Commission (UGC) have taken, from time to time, several measures. As a part of these efforts, the Central Government has revised the pay scales of teachers in Central Universities and Colleges thereunder in order to attract and retain talent in the teaching profession. A copy of the letter addressed to the UGC giving details of the revised scales of pay and other provisions of the Scheme of revision of pay scales is enclosed.

2. In discharging its constitutional responsibility, the Central Government has decided to continue to provide financial assistance to the State Governments who wish to adopt and Implement the Scheme of revision of pay scales subject to the following terms and conditions :-

(a) The Central Government will provide financial assistance to the State Governments which have opted for these revised pay scales to the extent of 80% of the additional expenditure involved in the implementation of the revision.

(b) The State Governments will meet the remaining 20% of the expenditure from their own sources.

(d) The financial assistance, indicated above, would be provided for the period from 1.1.1996 to 31.3.2000.

(e) The entire liability on account of revision of pay scales, etc., of university and college teachers would be taken over by the State Governments w.e.f. 1.4.2000.

(f) The Central assistance would be restricted to revision of pay scales in respect of only those posts which were in existence and filled up on 1.1.1996.

3. The State Governments after taking local conditions into consideration, may also decide in their discretion to introduce scales of pay different from those mentioned in the Scheme, and may give effect to the revised scales of pay from January 1, 1996, or a later date. In such cases, the details of the modifications proposed either to the scales of pay or the date from which the Scheme is to be implemented, should be furnished to the Government of India for its approval and, subject to the approval being accorded to the modifications, Central assistance on the same terms and conditions as indicated above will be available to the State Governments for implementation of the Scheme with such modifications, provided that the modified scales of pay are not higher than those approved under the Scheme.

4. The payment of Central assistance for implementation of the Scheme is also subject to the condition that the entire Scheme of revision of pay scales, together with all the conditions to be laid down in this regard by the UGC by way of Regulations, is implemented by the State Governments as a composite scheme without any modification except to the date of implementation and scales of pay as indicated above.

5. It shall be necessary for the Universities and Managements of Colleges to make necessary changes in their statutes, ordinances, rules, regulations, etc., to incorporate the provisions of this Scheme.

6. The detailed proposal for implementation of the Scheme on the lines indicated above, may kindly be formulated immediately and sent to the Department of Education in the Ministry of Human Resource Development for examination so that Central assistance to the extent indicated above can be sanctioned for the implementation of revised scales of pay.

7. Anomalies, if any, in the implementation of the Scheme may be brought to the notice of the Department of Education in the Ministry of Human Resource Development for clarification.

8. The Scheme applies to teachers in all Universities (including Agricultural Universities) and colleges (excluding Agricultural, Medical and Veterinary Science Colleges) admitted to the privileges of the Universities.”

(emphasis supplied)

32. It is thus seen from the aforesaid communication that in fulfillment of the constitutional responsibility for coordination, determination and maintenance of standards in higher education, the Central Government and UGC have taken from time to time several measures. As a part of these efforts, the Central Government has revised the pay scale of teachers in Central Universities and Colleges thereunder in order to attract and retain talent in the teaching profession. It is in discharge of its constitutional responsibility that the Central Government decided to continue and provide financial assistance to the State Government who wish to adopt and

implement the scheme of revision of pay scales, which is of course subject to the aforementioned conditions. The Central Government thus had agreed to provide financial assistance to the State Governments which have adopted the revised pay scales to the extent of 80% of the additional expenditure involved in the implementation of the revision. The State Government was to meet the remaining 20% of the expenditure from their own sources. The financial assistance was to be provided for the period from 1st January 1996 to 31st March 2000. The entire liability on account of revision of pay scales, etc. of university and college teachers was to be taken over by the State Governments with effect from 1st April 2000.

33. No doubt the letter states that the State Government, after taking local conditions into consideration, may also decide in their discretion to introduce scales of pay different from those mentioned in the Scheme, and may give effect to the revised scales of pay from 1st January 1996 or a later date. In such cases, the details of the modifications proposed either to the scales of pay or the date from which the Scheme is to be implemented, had to be furnished to the Government of India for its approval and, subject to the approval

being accorded to the modifications, Central assistance on the terms and conditions as indicated above would be available to the State Governments for implementation of the Scheme with such modifications, provided that the modified scales of pay are not higher than those approved under the Scheme. The Scheme applies to teachers in all Universities (including Agricultural Universities) and colleges (excluding Agricultural, Medical and Veterinary Science Colleges) admitted to the privilege of the Universities. As indicated earlier the State Government had as a special case took the financial burden of some employees of Deemed Universities.

34. It is pertinent to note that the benefit of the Fourth Pay Commission has been given to the teaching and non-teaching employees of the Deemed Universities with effect from 1st January 1986, which is similar to the benefit in respect of all other Non-Agricultural Universities, Affiliated Colleges, Government Institutes of Sciences/Management Studies/Social Sciences.

35. Learned Additional Government Pleader was at pains to point out that the question of 80% expenditure of reimbursement from UGC did not arise since the benefit of the Fifth Pay Commission

is made applicable to the concerned Deemed Universities with effect from 1st April 2000 / 1st April 2002. The aforesaid communication dated 27th July 1998 mentions that the State Government, after taking into consideration local conditions, may decide in the discretion to introduce scales of pay different from those mentioned in the scheme and may give effect to the revised scales of pay from 1st January 1996 or a later date. In our opinion, the discretion which was exercised by the State Government ought to have been based on settled principles of policy making. In a given case, even pleading financial constraints with supporting materials may be a factor to give effect to the revised pay scale from a later date. In matters of policy decisions of State, this Court would be extremely slow to interfere except when the same is arbitrary or irrational shocking the conscience of the Court.

36. The State Government has not introduced scales of pay different from those mentioned in the scheme but has given effect to the revised pay scales not from 1st January 1996 but from a later date viz. 1st April 2000 / 1st April 2002. The State Government, having taken the responsibility of the Deemed Universities, has maintained parity with other Universities so far as the applicability of pay scales

at least till the implementation of the Fourth Pay Commission recommendations with effect from 1st January 1986. However, so far as non-teaching staff of Deemed University are concerned, the Fifth Pay Commission was granted from 1st January 1996. The State Government says it is a pure administrative and policy decision, considering the prevailing budgetary resources of the State Government. The State Government says that it has also considered the problems of teaching staff, and considering its budgetary resources, the Government has made applicable the Fifth Pay Commission with effect from 1st April 2002.

37. The only reason cited for denying the benefits is prevailing budgetary resources. In view of the communication dated 27th July 1998, the State Government in its discretion may introduce the scales of pay different from those mentioned in the scheme, taking local conditions into consideration. However, the exercise of such discretion must be based on a sound rationale.

38. The Central Government, conscious of its constitutional responsibility for coordination, determination and maintenance of standards in higher education, has taken from time to time several

measures for revision of the pay scales of teachers in Central Universities and Colleges thereunder in order to attract and retain talent in the teaching profession. The Central Government in discharging its constitutional responsibility, decided to continue to provide financial assistance to the State Governments who wish to adopt and implement the scheme of revision of pay scales on certain terms and conditions. The State Government had already taken on to itself the task of discharging its constitutional responsibility by providing financial assistance for the maintenance of these Deemed Universities, having regard to the importance of education.

39. The Hon'ble Supreme Court in **Avinash Nagra vs. Navodaya Vidyalaya Samiti and Others**¹ observed that the success of the educational process depends considerably on the teacher, for it is the teacher who has to implant aims and to build the character of the students. Borrowing the observations of Their Lordships, according to Laski, at the bottom of education, the quality of a university is always in direct proportion to the quality of its teacher. The Indian society has elevated the teacher as 'Guru Brahma, Gurur Vishnu Guru Devo Maheswaraha'.

¹ (1997) 2 SCC 534

40. The State of Maharashtra has taken the responsibility of liability of maintenance grant to be allotted to the University and assured the Central Government to provide adequate development and maintenance grant to the Deemed University. It is with this objective in mind that the State Government made applicable the Fourth Pay Commission to the Deemed University teachers at par with other universities.

41. The Hon'ble Supreme Court in *Avinash Nagra* (supra) observed that the State has taken care of the service conditions of the teacher and he owed dual fundamental duties to himself and to the society. The observations of the Hon'ble Supreme Court in *Avinash Nagra* (supra) are relevant in the context of a teacher discharging his/her duty in the noble teaching profession, and it is his duty to nurture Constitutional ideals enshrined in Article 51A so as to make the students responsible citizens of the country. It is a State which has to take care of the service conditions of the teachers and ensure that the teachers do not get a feeling that they have been meted out discriminatory treatment.

42. Of course, a claim for parity may not arise between a

teaching and non-teaching staff, but when it comes to the applicability of pay scales, there has to be a semblance of uniformity and some rationale in its application. Two sets of employees viz. the non-teaching staff are granted the Fifth Pay Commission from 1st January 1996; while the teaching staff is granted the benefit with effect from 1st April 2002, citing financial constraints. We find it difficult to accept the reason in the present backdrop. Policy decisions are best left to the State Government. Even the communication dated 27th July 1998 gives discretion to the State Government to introduce scales of pay different from those mentioned in the scheme or give effect to the pay scales from a later date. However, in case of applicability of pay scales to teachers, more so when the non-teaching staff has been given the benefit of pay scale with effect from 1st January 1996, the discretion exercised in applying different dates has to be based on well established principles of policy making.

43. The State Government has taken the responsibility of providing maintenance grants to the Deemed Universities. The Central Government had assured 80% of financial assistance of the additional expenditure for the period from 1st January 1996 to

31st March 2000. The State Government, except saying that there are financial constraints without anything more, does not seek 80% of the financial assistance from the Central Government for the period from 1st January 1996 to 31st March 2000 and instead makes the scales applicable from 1st April 2002 and, in some cases from 1st April 2000. The non-teaching employees are, however granted pay scales from 1st January 1996. The present is a fit case where for the fulfillment of the constitutional responsibility for coordination, determination and maintenance of standards in higher education, in discharge of its constitutional responsibility, the pay scales of the teaching staff in respect of the aforesaid Deemed Universities ought to have been made applicable from 1st January 1996, as the justification provided by the State Government militates against the constitutional responsibility to be discharged by the State.

44. The following circumstances, in our opinion, far outweigh the justification of financial constraints cited by the State Government, for otherwise we would have been slow in interfering with a policy decision taken by the State Government in the exercise of its discretion. The State has taken the responsibility of providing maintenance grants to the Deemed Universities; the Fourth Pay

Commission is made applicable with effect from 1st January 1986 to the teaching as well as the non-teaching employees at par with other Non-Agricultural Universities/Colleges; the non-teaching employees of the Deemed Universities are granted the Fifth Pay Commission benefits from 1st January 1996 whereas the same is made applicable to teachers from 1st April 2000 in some cases and from 1st April 2002 in respect of the others; the Central Government in discharge of its constitutional responsibility decided to continue to provide financial assistance to the State Governments who wish to adopt and implement the scheme of revision of pay scales to the extent of 80% of the additional expenditure involved in the implementation of the revision subject to certain terms and conditions; the State on its part instead of granting the Fifth Pay Commission benefits from 1st January 1996 to the teachers of the Deemed Universities says that due to financial difficulties as the pay scales are made applicable from 1st April 2002, the question of seeking reimbursement from the Central Government does not arise; it is not that the State has introduced scales of pay different from those mentioned in the scheme but it has given effect to the revised scales of pay at a later date.

45. It is significant to note that 80% of the financial assistance could have been availed by the State Government, which it did not, in view of the decision to apply the scales from a later date. The liability of the State for five years was therefore only 20%. We do not find the justification good enough to deprive the 'Teachers' of Deemed Universities the benefits from 1st January 1996.

46. The State has taken care of service conditions of the teachers and taken over the responsibility of providing maintenance grants to the Deemed Universities. Granting the benefits of the Fifth Pay Commission to the teaching and non-teaching staff from different dates in the present case, citing the ground of financial constraints, in our view, is not a sound exercise of discretion. The State could have well considered granting the benefits of the pay scales to the teachers of the Deemed Universities in respect of which the State Government is providing the maintenance grants with effect from 1st January 1996, and so far as arrears are concerned, the same could have been paid over a period of time in case it faced financial constraints during the relevant period. It is made clear that we may not be understood to have observed that the State Government, in its discretion, cannot make the pay scales applicable

from a later date in a given case, but it is in the facts of this case that we are interdicting with the decision of the State Government in granting the benefits from 1st April 2000 / 1st April 2002 instead of 1st January 1996. Writ Petition Nos.3900 of 2011, 7771 of 2004 and 10368 of 2004 are accordingly allowed. Hence, the following order :-

ORDER

(i) It is declared that the date of applicability of the benefits of Fifth Pay Commission pay scales would be 1st January 1996 instead of 1st April 2000 / 1st April 2002 as granted by the State Government in respect of the eligible petitioners/non-teaching staff of the Deemed Universities.

(ii) The eligible teachers/non-teaching staff of the Deemed Universities are entitled to the consequential benefits pursuant to the grant of pay scales from 1st January 1996 instead of 1st April 2000 / 1st April 2002.

(iii) The arrears be paid within a period of eighteen months from today.

(iv) It is open for the State Government to apply to UGC to claim reimbursement as permissible. If a representation is made, the same be considered expeditiously in accordance with the policy. We express no opinion on merits of such representation.

(v) So far as Career Advancement Scheme, including financial burden on the State Government, appropriate decision be taken by the State Government expeditiously, if not already taken. A fresh proposal or revised proposal if any, be submitted within a period of six weeks from the date of uploading of this order, if not already submitted and acted upon.

47. The Writ Petition Nos.3900 of 2011, 7771 of 2004 and 10368 of 2004 are disposed of. Civil Application No.2178 of 2010 is also disposed of.

(SANDESH D. PATIL, J.)

(M. S. KARNIK, J.)