

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 13th OF OCTOBER, 2025

WRIT PETITION No. 11080 of 2025

SUJATA NEMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Dinesh Kumar Upadhyay - Advocate for the petitioner.

Shri Anubhav Jain, learned Government Advocate for the
respondent/State.

.....
WITH

WRIT PETITION No. 4298 of 2024

PRIYANKA UPADHYAY AND OTHERS

Versus

*THE STATE OF MADHYA PRADESH DEPARTMENT OF HIGHER
EDUCATION AND OTHERS*

.....
Appearance:

Shri Dinesh Kumar Upadhyay - Advocate for the petitioner.

Shri Anubhav Jain, learned Government Advocate for the
respondent/State.

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WRIT PETITION No. 6124 of 2024

PRITIGYA TOMAR (BHADORIYA)

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Brindavan Tiwari - Advocate for the petitioner.

Shri Anubhav Jain, learned Government Advocate for the
respondent/State.

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WRIT PETITION No. 14238 of 2024

DR. MAYA YADAV AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Brindavan Tiwari - Advocate for the petitioner.

Shri Anubhav Jain, learned Government Advocate for the
respondent/State.

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WRIT PETITION No. 9741 of 2025

ANTIMA SINGH

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Dinesh Kumar Upadhyay - Advocate for the petitioner.

Shri Anubhav Jain, learned Government Advocate for the
respondent/State.

.....
WRIT PETITION No. 20603 of 2025

SMT. SAPNA TIWARI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Rajesh K. Sharma - Advocate for the petitioner.

Shri Anubhav Jain, learned Government Advocate for the
respondent/State.

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ORDER

Per. Hon'ble Shri Justice Vinay Saraf

1. This order will dispose of W.P.Nos.4298/2024, 6124/2024, 14298/2024, 9741/2025, 11080/2025 and 20603/2025 as the issue involved in all these petitions are in respect of the appointment of Guest Faculty Teachers against vacant posts of Assistant Professor.
2. In W.P.No.4298/2024, 9741/2025, 11080/2025, 20603/2025, the petitioners have challenged Clause 10.4 of the guidelines issued by the State Government for the purposes of appointments of Guest Faculty Teachers in Government Colleges of Madhya Pradesh on 05.10.2023, whereas in W.P.No.6124/2024 and 14238/2024, the petitioners have challenged Clause 2.4 of the said guidelines dated 05.10.2023.
3. The facts in brief are that the State Government has appointed Guest Lecturers of different subjects in Government Colleges against the vacant posts to teach the students in lieu of permanent employees. The appointments were made for a period of eleven months, thereafter the state government discontinued them and asked to apply once again for the purposes of appointment against regular faculty on the same posts, which was challenged by the various Guest Faculties before this Court in ***W.P.No.6159/2022 (Pradeep K. Yadav & Ors. Vs. State of M.P. & Ors.)***, which was decided by order dated 26.04.2022. The coordinate Bench of this Court has held that initially the appointments of the Guest Faculties were already made on the basis of eligibility criteria as applicable at the time of their appointment and once, they are found fit for appointment, there is no need to undergo the same process and documentation etc. and apply for fresh appointment after every eleven months. It is further held that so far as removing the teachers, who are found unfit to teach is concerned, the right of the State is always retained to that extent and the teachers those are not performing their duties cannot be allowed to continue, but the Guest Faculty those were already working cannot be replaced by the another set of temporary employees and they will be permitted to continue as Guest Faculty Teachers until and unless regular appointments are made and the State is always at liberty to call for the immediate fresh recruitment including appointment. The Supreme Court in ***Civil Appeal No.3084-3088 of 2022 (Manish Gupta & Ors. Vs. President, Jan Bhagidari Samiti & Ors.)*** by order dated 21.04.2022 has held that the Guest Faculties are entitled to continue to work on their respective posts, till regular selections are made and they will not be replaced by another set of temporary faculties.
4. By circular dated 05.10.2023, the Higher Education Department of State of M.P. issued guidelines for the purposes of appointment of Guest Faculties in Government Colleges of M.P., wherein the eligibility criteria was fixed for the post of Assistant Professor as Masters Degree in concerned/relevant subjects and clearance of National Eligibility Test (NET)/SLET/SET or Ph.D. degree. The procedure has been prescribed in Clause 2.4 for

preparation of merit list and Clause 4 provides that in case of regular appointment by way of recruitment or transfer of a permanent employee, the Guest Faculty of lowest merit will be treated as fallen out, however, he will be entitled to apply for appointment as Guest Faculty against the vacant post in any other college. Clause 10.4 provides that the Guest Faculty, who is fallen out will not be entitled for re-appointment or any reservation/exemption in age in case he has not qualified National Eligibility Test or SLET/SET or awarded the Ph.D. Degree.

5. Shri Dinesh Upadhyay, learned counsel appearing on behalf of the petitioners submits that the State Government had no authority to prescribe new qualification criteria for the post of Guest Faculty as the petitioners were working as Guest Faculties since long and they were eligible at the time of their initial appointment on the post of Guest Faculty as per the qualification criteria applicable at that time. He further submits that Guest Faculties those are working cannot be declared as fallen out and in case of appointment of regular employee, they should be permitted to work in any other college against the vacant post on the basis of the qualification criteria was applicable at the time of their initial appointment. He submits that Clause 10.4 of the guidelines dated 05.10.2023 is arbitrary, unjust, improper, illegal and against the fundamental rights of the petitioners. He further submits that some of the petitioners are working since 2013 and/or 2019 and they were eligible at the time, they cannot be left over by setting of different qualification criteria. He prays for quashment of Clause 10.4 of the guidelines dated 05.10.2023 and issuance of directions to appoint the petitioners against the vacant post as Guest Faculty without insisting upon the qualification criteria fixed by the Guidelines of 2023.

6. Shri Brindavan Tiwari, learned counsel appearing on behalf of the petitioners in W.P.Nos.6124/2024, 14238/2024 submits that when the State has already fixed the qualification criteria in accordance with the provisions of University Grants Commission Regulation, 2018, ineligible candidates should not be permitted to continue on the post of Guest Faculty and the candidates, those are possessing the qualification as prescribed by notification dated 05.10.2023 can only be appointed and/or be permitted to continue. He further submits that Clause 2.4 of the policy has prescribed different formulas for the purpose of preparation of merit list and the same is not in consonance with the UGC's guidelines and therefore, the same is liable to be struck down. He further submits that petitioners are eligible and possessing the qualification, but due to continuation of ineligible candidates, the petitioners could not get any appointment. He further submits that respondents be directed to comply with the UGC's regulation, 2018 and appoint the petitioners as Guest Faculty against the vacant post.

7. Shri Anubhav Jain, learned Government Advocate appearing for the respondent/State submits that Higher Education Department has not issued any direction to replace the Guest Faculties by another set of Guest Faculties and in compliance of the order passed by the Coordinate Bench of this Court in the matter of *Pradeep Kumar Yadav (supra)*, the State Government has not insisted to undergo a fresh process after every eleven months. He further submits that the Coordinate Bench has permitted the state government to carry out the process of recruitment for regular employees and the state government is entitled to appoint the regular employees after following due process of recruitment and in case appointment of regular employees either by recruitment or by transfer, the Guest Faculty has no right to continue on the post. He further submits that the Guest Faculty at lowest merit will have to leave the job first and the faculty will be treated as fallen out, however,

faculty will be entitled to apply against any other vacant post in other college subject to possessing the qualification as prescribed by guidelines dated 05.10.2023. He further submits that qualification criteria has been fixed in accordance with UGC Regulation, 2018 and also considering the necessity of a modern state. He further submits that guidelines are just and proper and the provisions of guidelines *inter alia* Clause 2.4 and 10.4 do not require to be quashed. He prays for dismissal of the petitions.

8. We have heard learned counsel for the rival parties and perused the documents available on record.

9. It is noted that the dispute is in respect of Guest Faculty Teachers already working at the time of issuance of the fresh guidelines dated 05.10.2023, has already been settled by the Coordinate Bench in the matter of **Pradeep Yadav (supra)** wherein the Coordinate Bench has held that there will be no requirement for the Guest Faculty to undergo once again the fresh recruitment process after expiry of the contract period and the Guest Faculty Teacher will be entitled to continue on the post till appointment of the regular employee and they cannot be replaced by another set of Guest Faculty Teachers. So far as the prayer of petitioners of W.P.Nos.6124/2024 and 4238/2024 for issuance of a directions that ineligible candidates as per the eligibility criteria fixed by the guidelines dated 05.10.2023 cannot be permitted to continue, has already been settled by the Coordinate Bench in the matter of **Pradeep Yadav (supra)** and the candidates those were appointed being eligible on the date of appointment as Guest Faculties has been permitted to continue till appointment of regular teachers despite not having required qualification prescribed by guidelines dated 05.10.2023 and therefore, no such direction can be issued to remove the Guest Faculties already working at the time of issuance of guidelines. However, if due to the appointment of regular teachers, they have been categorised as fallen out, they will not be entitled to get any benefit as per Clause 10.4 of the Guidelines 2023, in case they are not possessing the qualification as prescribed by the current guidelines.

10. The petitioner those are working as Guest Faculty are entitled to continue on the posts despite not possessing the qualification as per the Guidelines 2023 but, in case they are categorised as fallen out, they cannot claim any benefit, if they are not fulfilling the qualification criteria prescribed by the guidelines 2023.

11. In view of the above discussion, we deem it proper to dispose of all the above petitions with following directions:

(a) Clause 2.4 or Clause 10.4 of the Guidelines issued on 05.10.2023 for appointment of Guest Faculty Teachers against the vacant post in Government College are just, proper and do not require any interference.

(b) The Guest Faculty Teachers, those who are still working will be permitted to work till appointment of regular permanent employee either by way of recruitment or transfer despite not possessing qualification as prescribed by guidelines 2023.

(c) The Guest Faculty Teachers those who have already been declared as fallen out will not be entitled for any benefit or a claim, in case they do not possess the qualification as prescribed by Guidelines 2023 i.e. Masters Degree in concerned/relevant/allied subject and clearance of National Eligibility Test (NET)/SLET/SET or awarded Ph.D. degree.

12. With the aforesaid, the petitions are disposed of.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

P/-

(VINAY SARAF)
JUDGE