

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE ALPESH Y. KOGJE,
CHIEF JUSTICE**

&

HON'BLE SHRI JUSTICE VIVEK JAIN

WRIT PETITION No. 16358 of 2024

DR. ABHA AGRAWAL AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WITH

WRIT PETITION No. 24961 of 2023

DR. USHA TIWARI AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 24402 of 2024

DR. SARASWATI DUBEY AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Ravindra Kumar Gupta and Shri Brindawan Tiwari – Advocate for the petitioners.

Shri Bramhadatt Singh – Additional Advocate General for the State.

Shri Aditya Pachori – Advocate for the respondents.

ORDER

(Reserved on : 22.09.2026)

(Pronounced on : 06.10.2026)

Per: Hon'ble Shri Justice Vivek Jain, Judge

These batch of three petitions are filed by the working Lecturers as Guest Faculties in Government Degree/Post Graduate Colleges in Madhya Pradesh. The petitioners in these three petitions are working in different colleges, but have approached this Court seeking redressal of identical grievances.

2. WP No.22402 of 2024 has been filed by the petitioners therein seeking challenge to condition No.6.1 of Notification dated 05.10.2023 (Annexure P-1) with further direction to regularize the services of the petitioners and also to direct the State to comply UGC Regulations of 2018 as well as Notification dated 28.01.2019 in the matter of payment of salary/honorarium.

3. WP No.24961 of 2023 has been filed by the petitioners therein seeking relief of payment of salary as per the pay scales prescribed by the University Grants Commission ('UGC' for short) and to pay arrears thereon. Further relief is sought to grant permanent appointment to the petitioners on the post of Assistant Professor.

4. WP No.16358/2024 has been filed by the petitioners therein seeking quashing of order dated 06.10.2023 so also dated 05.10.2023 and advertisement of regular recruitment made vide Annexure P-3 to the post of Assistant Professors in Government Colleges in Madhya Pradesh. Further prayer has been made that the petitioners may not be forced to appear for selection through M.P. Public Service Commission ('MPPSC' for short) again and again as they have already appeared in MPPSC examination in the year 2017 and have passed the

same. Therefore, they be continued in their present job and further be regularized on the post of Assistant Professors.

5. Therefore, in sum and substance, the challenge that has been laid by the Guest Faculties working in Government Colleges under Department of Higher Education is identical in nature in all these three petitions, i.e., Clause 6.1 of the Circular dated 05.10.2023, whereby it has been laid down that the Guest Faculties shall be paid honorarium @ Rs.2000/- per day by enhancing the same from Rs.1500/- per day with a upper cap of Rs.50,000/- per month.

6. The Circular dated 06.10.2023 provides that for the advertisement issued on 26.09.2023 for regular recruitment to the posts of Assistant Professors/Sports Officers/Librarians in the Government Colleges, the already working Guest Faculties shall be entitled to 25% reservation horizontally across all vertical categories and they would be granted bonus marks as laid down in the said Circular. It has further been decided that age relaxation shall be granted to Guest Faculties @ 1 year of age per session of having worked as Guest Faculty subject to maximum relaxation of 10 years. Said relaxation would be applicable for three succeeding future recruitment advertisements.

7. Incidentally, the relaxations granted vide Circular dated 06.10.2023 have been incorporated in statutory rules vide amendment notification dated 31.12.2024, whereby Rule 11(8) has been substituted in M.P. Education Service (Collegiate Branch) Recruitment Rules, 1990.

8. Learned counsel for the petitioners have vehemently argued before this Court that the State Government has framed a policy framework for governing the service conditions of Guest Faculties working in government colleges, which is vide circular dated 05.10.2023. Clause 6.1 of the said circular provides that Guest Faculties shall be paid @ Rs.2000/- per day subject to monthly cap of Rs.50,000/-. This upper ceiling is challenged by the petitioners on the ground that it is contrary to law, because the same is contrary to what has been provided in *UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018* (for short referred to as UGC Regulations 2018).

9. It has been projected that as per Clause 13.0 of the said Regulations, appointments on contract basis should be given only when they are absolutely necessary and when the student-teacher ratio does not satisfy the prescribed norms. In no case, the number of such appointments should exceed 10% of total number of faculty positions in a college. The procedure for appointment should be the same as applicable to regularly appointed teacher and the fixed emoluments paid to such contract teacher should not be less than the monthly gross salary of a regularly appointed Assistant Professor.

10. Therefore, on the strength of aforesaid Clause 13.0, it is argued that the payment to be made to Guest Faculties should not be less than the minimum of the gross salary payable to a regularly appointed teacher and to that extent,

Clause 6.1 of the Policy dated 05.10.2023 is bad in law and deserves to be set aside being contrary to UGC Regulations, because it reduces the salary, which has been guaranteed by UGC Regulations.

11. By placing heavy reliance on judgment of the Hon'ble Supreme Court in case of ***Gambhirdan K. Gadhvi v. State of Gujarat, (2022) 5 SCC 179***, it is vehemently argued before this Court that the Hon'ble Supreme Court has conclusively held that UGC Regulations become part of the UGC Act, 1956 and therefore, in case of conflict between State Legislation and Central Legislation, the Central Legislation shall prevail by applying the principle of repugnancy as enunciated in Article 254 of the Constitution of India, because the subject of Education is in list III (concurrent list) of Seventh Schedule of the Constitution of India. Hence, it is argued that Clause 6.1 of the Policy dated 05.10.2023 is contrary to Para 13.0 of UGC Regulations and therefore, it has to be set aside, because in case of conflict between the Regulations framed by UGC and the State enactment or rules, the Regulations framed by UGC should prevail.

12. It is further argued before this Court that in view of judgment of the Hon'ble Supreme Court in the case of ***Jaggo vs. Union of India, reported in AIR 2025 SC 296***, regularization of services for long-term employees has to be made and their continuous services for over a decade cannot be discounted only because their initial appointments were labeled as contractual or part-time appointments. Once the nature of work is indispensable, there is no lack in performance, and duties are similar to those of regular employees, the work

being perennial and fundamental, then the employees have to be considered for regularization and they cannot be given the status of temporary employees for a long time.

13. Learned counsel for the petitioners have also vehemently argued that the Hon'ble Supreme Court in the case of *Shah Samir Bharatbhai v. State of Gujarat, 2025 SCC OnLine SC 1788* has held that the contractual employees in government colleges should be paid minimum pay scale admissible to Assistant Professors. Though the said order is in relation to Teachers of technical colleges, but the underlying principle is the same, which is also enshrined in Clause 13.0 of UGC Regulations, 2018.

14. Counsel for the petitioners have further vehemently argued that not only the petitioners are entitled to pay scale which is the minimum of the gross pay payable to a regular Assistant Professor, but they are also entitled to be retained in service continuously and they should not be permitted to be fallen out in case where a regular incumbent joins on fresh appointment or on transfer, because in that case, the services which are being rendered by the petitioners for a long time abruptly come to an end. This system should come to an end and the State in such event should consider their adjustment at a nearby place. However, though there is a policy of adjustment of Guest Faculties at nearby place, but very often it happens that either no offer is given, and even if such offer is given, then it is at a far-off place. This amounts to virtual dispensation of

services of the Guest Faculties, which system should also be streamlined and come to an end.

15. Learned counsel for the petitioners have further argued that the petitioners deserve to be regularized, because they have already qualified the PSC recruitment examination of the year 2017, though unfortunately since they could not attain the cut-off marks, they were not given the offer of appointment. However, for having missed the selection by a few marks, they cannot be made to appear in PSC recruitment again and again for the post of Assistant Professor and their performance in the PSC examination of 2017 should be given effect to even for future regular recruitments.

16. *Per contra*, learned counsel for the respondents have vehemently argued that this system of Guest Faculty as is being followed in the State of Madhya Pradesh is not a new system and it is continuing since a long time. Looking to the need to engage Guest Faculties, the policy framework was put into place and order dated 05.10.2023 was issued by exercising the executive powers of the Government. Clause 6.1 of the said order does not violate the legal rights of the petitioners, because even as per the UGC Circular dated 28.01.2019 for the Guest Faculties, the maximum cap of salary is Rs.50,000/- per month that has been followed by the State. This UGC Circular dated 28.01.2019 has been issued after framing of the UGC Regulations. Clause 13.0 of the UGC Regulations, 2018 is for the contractual teachers and not for the guest faculties. The petitioners are wrongly connecting contractual teachers with

guest faculties. Even the petitioners have not fulfilled the requirements as per Clause 13.0 even if guest faculties are considered as synonyms to contractual teachers. They have not been appointed by the same process as is being followed for regular Assistant Professors, i.e. selection by PSC. The petitioners were locally appointed, though on merit basis, as per the local requirements of colleges. No competitive recruitment test like conducted by PSC was carried out while appointing the petitioners. Therefore, they cannot claim the benefit of Clause 13.0 of UGC Regulations, 2018, even if they claim to be at par with contractual teachers.

17. Learned counsel for the State has further argued that the questions concerning Guest Faculties were considered by the Division Bench of this Court in WP No.11080 of 2025 and a batch of petitions. In that batch of petitions, Clause 2.4 of the order dated 05.10.2023 was put to challenge, as per which the system of assessment of merit for appointment of Guest Faculty has been laid down. The Division Bench has decided the batch of petitions in view of the detailed directions contained in Para 11 thereof and those directions cover all the grievances of the petitioners.

18. It is further argued that in WP No.6159 of 2022 decided by a Division Bench of this Court, the Division Bench has granted limited relief to Guest Faculties that the Guest Faculties should continue till regular appointments are made subject to continuous requirement of their services based on the availability and necessity of such students in a particular stream.

The State can also take note that whether a particular Guest Faculty teacher is found unfit to teach. In that event, the State has a right to take a decision whether to retain or dispense with such Guest Faculty who is found unfit to teach.

19. Learned counsel for the State further argues that the order dated 05.10.2023 is a policy decision of the State and there is nothing therein that can be termed as unconstitutional or illegal or violative of fundamental rights enshrined in the Constitution of India. The scope of interference with policy matters of the State is limited in writ jurisdiction of this Court. There is nothing illegal or perverse in the said policy, which violates any constitutional provision or any vested legal rights of the petitioners and therefore, this Court should not interfere in the said policy decision and the said policy decision be confirmed by this Court.

20. This Court has heard learned counsel for the rival parties at length and perused the record.

21. Before proceeding to examine the arguments of the counsel for the rival parties on their merits firstly this Court has to consider the scope of interference in policy matters.

22. In the case of *State of Orissa Vs. Bihari Charan Khuntia reported in 2003 (10) SCC 144*, the Hon'ble Supreme Court has held that no interference in policy decisions should be made in writ jurisdiction unless it is shown to be

arbitrary. Similar was the view taken in the case of ***Union of India Vs. Pushpa Rani***, reported in **2008 (9) SCC 242**, wherein it was held as under :-

“37. Before parting with this aspect of the case, we consider it necessary to reiterate the settled legal position that matters relating to creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source/mode of recruitment and qualifications, criteria of selection, evaluation of service records of the employees fall within the exclusive domain of the employer. What steps should be taken for improving efficiency of the administration is also the preserve of the employer. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provision or is patently arbitrary or is vitiated due to mala fides. The court cannot sit in appeal over the judgment of the employer and ordain that a particular post be filled by direct recruitment or promotion or by transfer. The court has no role in determining the methodology of recruitment or laying down the criteria of selection. It is also not open to the court to make comparative evaluation of the merit of the candidates. The court cannot suggest the manner in which the employer should structure or restructure the cadres for the purpose of improving efficiency of administration.”

23. In ***State of Punjab and others Vs. Ram Lubhaya Bagga and others*** (1998) 4 SCC 117, the Supreme Court has held that a judicial reviewing policy matter which is wisdom of the policy cannot be judicially scrutinized though the Court can consider whether the policy is arbitrary or violative of law. It was held as under :-

“25. so far as questioning the validity of governmental policy is concerned in our view it is not normally within the domain of any court, to weigh the pros and cons of the policy or to scrutinize it and test the degree of its beneficial or equitable disposition for the purpose of varying, modifying or

annulling it, based on howsoever sound and good reasoning, except where it is arbitrary or violative of any constitutional, statutory or any other provision of law. When Government forms its policy, it is based on a number of circumstances on facts, law including constraints based on its resources. It is also based on expert opinion. It would be dangerous if court is asked to test the utility, beneficial effect of the policy or its appraisal based on facts set out on affidavits. The court would dissuade itself from entering into this realm which belongs to the executive. It is within this matrix that it is to be seen whether the new policy violates Article 21 when it restricts reimbursement on account of its financial constraints”

24. The same has been reiterated in the case of ***State of Jharkhand and others Vs. Ashok Kumar Dangi (2011) 13 SCC 383*** and it has been held as under :-

“17. In framing of the policy, various inputs are required and it is neither desirable nor advisable for a court of law to direct or summarise the Government to adopt a particular policy which it deems fit or proper. It is well settled that the State Government must have liberty and freedom in framing policy. Further, it also cannot be denied that the courts are ill-equipped to deal with competing claims and conflicting interests. Often, the courts do not have the satisfactory and effective means to decide which alternative, out of the many competing ones, is the best in the circumstances of the case.”

25. We proceed to examine the validity of Clause 6.1 of the order dated 05.10.2023 in view of the settled limitations of Judicial review over administrative policy decisions.

26. The challenge to Clause 6.1 of the order dated 05.10.2023 has been made on the ground that it fixes a ceiling of Rs.50,000/- per month as honorarium to guest faculties which contravenes Clause 13.0 of UGC

Regulations, 2018. In the State of Madhya Pradesh, it is not so that the system of guest faculties is going on without there being any settled policy framework for the same. The State has framed a definite policy framework for regulating the conditions of engagement of guest faculties in Government colleges in the State and that prescribed policy framework is the order dated 05.10.2023 framed by the State Government under the name of Governor and it being within the realm of legislative power of the State, is an expression of executive action of the Government taken in the name of Governor as per Article 162 r/w Article 166(1) of the Constitution of India.

27. The counsel for the petitioners had heavily tried to rely on Clause 13.0 of UGC Regulations, 2018 which is an under :-

13.0 Appointments on Contract Basis

The teachers should be appointed on contract basis only when it is absolutely necessary and when the student-teacher ratio does not satisfy the laid-down norms. In any case, the number of such appointments should not exceed 10% of the total number of faculty positions in a College/University. The qualifications and selection procedure for appointing them should be the same as those applicable to a regularly-appointed teacher. The fixed emoluments paid to such contract teachers should not be less than the monthly gross salary of a regularly-appointed Assistant Professor. Such appointments should not be made initially for more than one academic session, and the performance of any such entrant teacher should be reviewed for academic performance before reappointing him/her on contract basis for another session. Such appointments on contract basis may also be resorted to when absolutely necessary to fill vacancies arising due to maternity leave, child-care leave, etc.

28. The aforesaid provision provides for a guaranteed emoluments to a contractual teacher in colleges/universities, that they would be entitled to fixed

emoluments not less than monthly gross salary of a regularly appointed Assistant Professor. However, the basic requirement as per Clause 13.0 for contractual teachers to be covered therein is that the selection procedure for appointing them should be the same as those applicable to a regularly appointed teachers. The petitioners admittedly have not been appointed after being selected by PSC. Though they appeared in examination conducted by MPPSC, but they could not get selected. They have been appointed at local level on merit basis as per the system of assessment of merit prescribed by the State. It is different from the system of appointment of regular Assistant Professors which necessarily mandates every candidate to appear in a competitive examination conducted by MPPSC. For appointment of a teacher as guest faculty he/she is not required to appear in any competitive examination either conducted by MPPSC or any other examination on competitive basis. The petitioners were simply appointed on basis of merit in the academic course undergone by them after getting bonus marks for their particular category or for experience. Therefore, they cannot claim to be covered under Clause 13.0 of UGC Regulations, 2018.

29. The UGC itself is treating contractual teachers and guest faculties differently. Clause 13.0 is only for contractual teachers whereas for guest faculties, order dated 28.01.2019 has been issued whereby it has been provided that the guest faculties shall be entitled to Rs.1500/- per lecture subject to maximum of Rs.50,000/- per month. The State Government prescribing

honorarium of Rs.2000/- per day with cap of Rs.50,000/- per month is in consonance with UGC circular dated 28.01.2019 and there is no conflict with the UGC circular dated 28.01.2019. Therefore, this Court is of the considered opinion that the Clause 6.1 of order dated 05.10.2023 is not in conflict with Clause 13.0 of UGC, Regulations 2018. The said Clause is in consonance with circular dated 28.01.2019 issued by the UGC. The UGC circular dated 28.1.2019 provides as under :-

1. The Honorarium for Guest Faculty be enhanced to Rs.1500/- per lecture subject to a maximum of Rs.50,000/- per month.

2. The Guest Faculty be appointed only against sanctioned post. However, for the universities where the sanctioned posts are not adequate as per the teaching working load, the number of Guest Faculty to be appointed can be up to 20% over and above the sanctioned posts.

3. The qualification for Guest Faculty shall be the same as those prescribed for the regular Assistant Professors of Universities/Colleges in UGC Regulations.

4. The Selection procedure for appointing Guest Faculty shall be the same as those of regularly appointed Assistant Professors. However, the composition of the Selection Committee shall be as follows:

(i) The Vice-Chancellor or his/her nominee shall be the Chairperson of the - Selection Committee

(ii) One expert in the concerned subject nominated by the Vice-chancellor.

(iii) Dean of the concerned Faculty; wherever applicable

(iv) Head/Chairperson of the Department/School

(v) An academicians representing SC/ST/OBC/Minority Women Differently. ne abled categories to be nominated by the Vice-Chancellor or Acting Vice- - Chancellor, if any of the candidates representing these categories is the applicant and if any of the above members of the Selection Committee does not belong to that category.

At least four members, including one outside subject expert shall constitute the quorum.

5. Guest Faculty will not be treated like regular teachers for the purpose of voting rights or for becoming the members of the various statutory bodies of the university.

6. *The superannuated teachers may also be considered for engagement as Guest _ Faculty subject to a maximum age limit of 70 years.*

7. *The Guest Faculty will not be given the benefit of allowances, pension, gratuity and leave etc. as admissible to regular teachers.*

30. The learned counsel for the petitioners had heavily relied on the judgment of the Hon'ble Supreme Court passed in the case of ***Shah Samir Bharatbhai vs. State of Gujarat and Ors.*** reported in ***2025 SCC Online SC 1788***. In the aforesaid case it was directed by the Hon'ble Supreme Court that the contractually appointed Assistant Professor shall be entitled to minimum payscale admissible to Assistant Professors. However, in the aforesaid judgment in para 32 thereof the Hon'ble Supreme Court has carved out a comparative chart and has found out that mode of recruitment of regular Assistant Professors in technical colleges in State of Gujarat is same as of contractual teachers who were the petitioners before the Hon'ble Supreme Court, i.e through public advertisement against sanctioned post. The Hon'ble Supreme Court therefore, granted the minimum of the payscale admissible to regular Assistant Professors which is identical to Clause 13.0 of UGC Regulations, 2018. However, the present petitioners being guest faculties and their mode of engagement being different from regular Assistant Professors, as already held by us above, the petitioners are not covered within Clause 13.0 of UGC Regulations, 2018 nor can take benefit of Hon'ble Supreme Court in the case of ***Shah Samir Bharatbhai*** (supra).

31. The Hon'ble Supreme Court in the case of ***Manish Gupta vs. President, Jan Bhagidari Samiti*** reported in ***2022 (3) MPLJ 262*** was considering the cases of guest faculties working in Government colleges in Madhya Pradesh and in the aforesaid judgment, the Hon'ble Supreme Court has held that the appellants therein would be entitled to continue on their respective posts till they are replaced by regularly selected candidates provided that sufficient number of students are available for particular post for which the appellants therein were appointed and they would be entitled to honorarium at the rate of Rs.1000/- per hour as has been paid to them presently. The Hon'ble Supreme Court issued the following directions:-

16. Accordingly, we pass the following order:

A. The appeals are partly allowed.

B. The impugned judgment and order dated 8th February, 2017 passed by the Division Bench of the High Court of Madhya Pradesh, Gwalior Bench in Writ Appeal No. 386 of 2016 along with companion matters is quashed and set aside;

C. The judgment and order dated 29th September, 2016 passed by learned single judge of the High Court is modified as under:

(i) The writ petitioners - appellants herein would be entitled to continue on their respective posts till they are replaced by regularly selected candidates;

(ii) The writ petitioners - appellants herein would be continued on their respective posts provided that a sufficient number of students are available for the particular course(s) for which the writ petitioners -appellants herein are appointed.

(iii) The writ petitioners - appellants herein would be entitled to honorarium at the rate of Rs. 1,000/- per hour as is being paid to them presently.

32. The impugned policy circular/order dated 05.10.2023 is in consonance with the aforesaid directions issued by the Hon'ble Supreme Court. A Division Bench of this Court *in W.P No.6159/2022(Pradeep Kumar Yadav vs. State of M.P & Ors.)* and batch of cases has also held that guest faculties would continue till they are replaced by a regular teacher provided that they are found fit to teach and there is requirement of their work. The Division Bench in the aforesaid case issued the following directions:-

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. A teacher who does not perform his duties properly, cannot be allowed to continue in service. Therefore, that clause in the agreement entitling them to discontinue in the Guest Faculty for reasons of incompetence cannot be interfered with by this Court.

Since the learned Government Advocate submits that at present there does not seem to be a proposal by the Government to go in for regular appointment, it is only just and necessary that the petitioners continue as Guest Faculty Teachers until and unless regular appointments are made. However, the terms and conditions as applicable to the Guest Faculty Teachers will continue to remain unaffected.

The further submission of the learned Government Advocate that they require to balance the Lecturers in view of the requirement of such a Lecturer, is also left to the discretion of the State based on the availability and necessity of such students which would mean that in case there are few or no students in a particular stream, the State is entitled not to continue a Guest Faculty for that particular stream for that particular college. If, however, in a particular stream, there are more number of students or in a particular college, more Guest Faculty Teachers are required, the State is always at liberty to call for fresh appointment for the said purpose.

33. Another Division Bench of this Court recently had the occasion to consider the matter wherein challenge to clause 2.4 of the policy/order/circular

dated 05.10.2023 was made and the Division Bench in ***W.P No.11080/2025***

(Sujata Nema vs. State of M.P & Ors.) issued the following directions.

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.

34. The aforesaid judgment of the Division Bench has been confirmed by the Hon'ble Supreme Court in ***SLP (Civil) Diary No.11922/2026 (Vipin Singh Rajput & Ors. Vs. State of M.P & Ors.)***. The Hon'ble Supreme Court granted limited liberty to the guest faculty teachers to approach the Higher Education Department of Madhya Pradesh for extending the benefit of age relaxation and reservation. It was held by the Hon'ble Supreme Court that it is a policy decision which has to be taken at Governmental level and it may not be prudent on the part of the Court to rewrite the clauses relating to eligibility. The Hon'ble Supreme Court held as under:-

3. The High Court of Madhya Pradesh by the order impugned has spurned the challenge of the petitioners (guest faculties) to certain

eligibility clauses for appointment as Professors framed by the State Government.

4. Having heard Mr. Nikhil Nayyar, learned senior counsel appearing for the petitioners and in view of the limited nature of relief claimed in the special leave petitions, we grant liberty to the petitioners to approach the Higher Education Department of the Government of Madhya Pradesh for extending the benefit of age relaxation and reservation. After all, it is a policy decision which has to be taken at the governmental level and it may not be prudent on the part of the Court to re-write the clauses relating to eligibility.

5. If any approach is made by the petitioners, we have no doubt in our mind that the government at the appropriate level shall consider and decide the same at an early date.

35. The State Government has already issued an executive instruction dated 06.10.2023 whereby experience marks, 25% reservation and age relaxation in regular recruitment has been allowed to guest faculty teachers which has been followed by amendment in the Rules known as M.P Education Service Collegiate Branch Recruitment Rules, 1990 by substituting Rule 11(8) thereof. By the substituted Rule 11 (8), 25% horizontal reservation across all vertical categories has been provided to all those guest faculties who have completed atleast one year academic teaching in Government colleges and further granted age relaxation of one year for each academic session taught in Government colleges as guest faculties subject to ceiling of 10 years of relaxation. These relaxations are valid for next 3 recruitment advertisements.

36. The petitioners have failed to establish any vested right of regularization before this Court. They were appointed as guest faculties and it is well settled that guest faculties only have a right to continue till the regular

incumbents take charge either on appointment or transfer. This Court could have given some sympathetic consideration to the case of the petitioners, if the State of Madhya Pradesh had not been carrying out regular recruitment for the position of Assistant Professors in Government colleges. It is not disputed by any of the rival parties that the State Government has been carrying out regular recruitment to the regular posts of Assistant Professors in the State by issuing successive advertisements through MPPSC from time to time. Therefore, it is not the case where the guest faculties have been engaged for a long time without they being given a chance to appear in the regular recruitment. Infact, the guest faculties have been given a chance to appear in regular recruitment which are being regularly advertised in the State of Madhya Pradesh from time to time.

37. So far as the system of falling out of the guest faculties on joining of regular incumbents on appointment or transfer is concerned, the said system does not need any interference of this Court because once a regular incumbent is appointed and joins on the post then the requirement of the guest faculty naturally comes to an end. If the guest faculty teachers are also retained in that condition, then there would be no work left for the regular Assistant Professors who have joined the post after being selected by MPPSC. Even in the case of ***Manish Gupta*** (supra) it has been categorically held by the Hon'ble Supreme Court that the guest faculties would continue on their respective posts till they are replaced by regularly selected candidates and also subject to availability of work for them in view of the student strength in the institution.

38. So far as the other relief claimed in the matter of quashing the advertisement of regular recruitment is concerned, since this Court has already held that guest faculty teachers have no vested right of regularization, there arises no question of quashing the advertisement of regular recruitment. The State has already carved out sufficient relaxations and reservations for the incumbent guest faculty teachers in regular recruitment and it would be for the petitioners to take benefit of such relaxations and reservations given to them in regular recruitment which has been found to be reasonable by this Court. The said relaxations do not suffer from vice of arbitrariness or discrimination, nor they fail the test of proportionality.

39. Another the grievance of the petitioners is that whenever they fall out then either they are not considered for engagement on vacant post and even if they are considered for such then engagement, then they are given offer at far away places which they may not be able to avail because of the distance from their home town and the miniscule salary being paid to them. Some of them are even nearing age of retirement of regular Assistant Professors.

40. To that extent, the grievance of the petitioner may have some substance and may require some directions to the State looking to the fact that some of the petitioners are nearing superannuation age of regular incumbents.

41. Therefore, to that extent, we direct the State Government to ensure that upon being fallen out, the petitioners are given offer at the nearest place where position is available for his/her subject. This would reduce the heart

burning of the petitioners and extinguish the complaints of discrimination in giving offers in alternative colleges to the petitioners upon being fallen out.

42. We are of the opinion that the interest of justice would be met by granting the limited relief that we have granted in the preceding para. The petitioners are not held entitled to any of the other reliefs as have been claimed by them.

43. The petitions stand **disposed of** in the aforesaid terms.

(ALPESH Y. KOGJE)
CHIEF JUSTICE

(VIVEK JAIN)
JUDGE

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