

 **GONDWANA UNIVERSITY, GADCHIROLI.**

**Direction No. 8 of 2019**

**PRESCRIBING THE PROCEDURE TO BE FOLLOWED BY THE UNIVERSITY FOR GRANT OF APPROVAL TO ISSUE NOTICE OF TERMINATION UNDER STATUTE 53, DIRECTION, 2019.**

(Issued u/s 12(3) of the Maharashtra Public Universities Act, 2016)

**Whereas**, the Maharashtra Public Universities Act, 2016 (Maharashtra Act No. VI of 2017) has come into force w.e.f. 1<sup>st</sup> March 2017;

**AND**

**Whereas**, the Maharashtra Universities Act, 1994 came to be repealed as per the provisions of section 147 (1) of the M.U. Act, 1994, however, by virtue of the provisions of section 147(2)(I) of the Maharashtra Public Universities Act, 2016, it is provided that all Statutes made under the repealed Act will be in force to the extent to which they are not inconsistent with the provisions of the Maharashtra Public Universities Act, 2016;

**AND**

**Whereas**, as per the provision of Statute 53 framed under the Nagpur university Act, 1974, prior approval of the Executive Council of Nagpur University was made mandatory for issuing notice of termination to a confirmed teacher in affiliated college;

**AND**

**Whereas**, the Maharashtra Public Universities Act, 2016 does not contemplate the existence of the Executive council, however, under Section 30 (4) of the Act, Management Council is constituted with regard to the powers and duties prescribed under section 31 of the said Act;

**AND**

**Whereas**, in terms of the provision prescribed under section 72 (20) of the Act, the power is vested with the Management Council for prescribing and recommending by the colleges affiliated to the university and also to prescribe the terms and conditions of their service and rules & procedures for their

appointments and therefore granting of approval for termination of a confirmed teacher would fall within the ambit of terms & conditions of the services of the teachers of the affiliated colleges;

**AND**

**Whereas**, after coming into force the Maharashtra Public Universities Act, 2016 keeping in view the letter and spirit of the provisions of section 71 (20) of the Act, it would be necessary that the decisions with regard to grant of approval for issuing notice of termination to a confirmed teacher contemplated under para 5 of Statute 53 are taken by the Management Council in its collective wisdom;

**AND**

**Whereas**, the Vice-Chancellor Nagpur university, Nagpur on 9/8/2002, under provision of section 14 (8) of the Maharashtra Universities Act, 1994, had issued Direction No. 22 of 2002 in respect of Direction prescribing the procedure to be followed by the university for grant of approval to issue notice of termination under Statute 53;

**AND**

**Whereas**, Direction No. 22 of 2002 of Nagpur university, Nagpur was applicable to Gondwana University, Gadchiroli as per provision made under Maharashtra universities Act, 1994;

**AND**

**Whereas**, after coming into force of the Maharashtra Public Universities Act, 2016, from 1/3/2017, the Direction No. 22 of 2002 automatically lapsed as per provision made under the proviso of section 12 (8) of the said Act;

**AND**

**Whereas**, it is expedient to prescribe procedure for grant of approval to issue notice of termination to the confirmed teachers of affiliated colleges as per para 5 of Statute 53,

**Now**, therefore, I, Dr. N. V. Kalyankar, Vice-Chancellor, Gondwana University, Gadchiroli do hereby issue the following Directions by exercising powers vested in me under provision of section 12 (8) of the Maharashtra Public Universities Act, 2016: -

1. This Direction may be called, "prescribing the procedure to be followed by the university for grant of approval to issue notice of termination under Statute 53, Direction, 2019."
2. This Direction shall come into force from the date of its issuance.

Provided that in those cases where final action by the Management /College Development committee/Principal on the basis of the university approval has not come in force, shall also be covered by the present Direction.

3. In this Direction, unless the context otherwise requires:-
  - a) "Act" means the Maharashtra Public Universities Act, 2016.
  - b) "College Development Committee" means the committee duly constituted as per Section 97 (1) of the Maharashtra Public Universities Act, 2016
  - c) "Management" means the management as defined as per section 2 (37) of the Maharashtra Public Universities Act, 2016;
  - d) "Management Council" means the Management Council constituted under section 30(4) of the Maharashtra Public Universities Act, 2016;
  - e) "Statute 53" means Statute 53 framed by the university under the provisions of N.U. Act, 1974 which is being in force by virtue of the provisions of section 147 (2)(l) of the Maharashtra Public Universities Act, 2016;
4. Every proposal submitted by the Management/college Development Committee/ Principal of the affiliated college for grant of approval for issuing notice of termination to a confirmed teacher as contemplated under para 5 of Statute 53 shall be placed for consideration of the Management Council and the decision in that behalf will be taken by the Management Council of the University.
5. In order to evaluate the proposal, the Management Council shall constitute a sub-committee of not less than 3 persons(total number of members of the committee shall, however, be an odd number) and after receipt of the proposal by the university, every such proposal shall be placed for consideration by the Registrar before the sub-committee constituted by the Management Council.

6. The sub-committee shall evaluate the proposal with regard to the following issues.
  - a) Whether the action initiated against the confirmed teacher by the Management/College Development Committee/Principal of the college was bonafide and was not actuated by malice.
  - b) Whether the requisite opportunity was granted by the enquiry officer to the teacher in the proceeding so as to comply with the minimum requirements of the principals of natural justice, and
  - c) Whether the proposed punishment is proportionate to the degree of misconduct proved against the teacher.
7. It would be competent for the sub-committee to issue notice to the Management/College Development Council/Principal as well as to the teacher concerned for producing on record any additional document, if felt necessary, and it would also be within the authority of the sub-committee to hear the parties in case it is felt necessary by it.
8. After evaluating the proposal and after collecting such additional material as would be deemed necessary by the sub-committee, the sub-committee shall make recommendations in writing to the Management Council with regard to the said proposal clearly stipulating their in whether the university should not grant approval to the proposed action along with the requisite reasons there for.
9. The recommendations of the sub-committee shall be placed for consideration before the Management Council and the Management Council shall take the final decision on the basic of the recommendations of the sub-committee. It would be competent for the Management Council to over-rule the recommendations of the sub-committee for the specific reasons to be recorded in that behalf.
10. After the decision of the Management Council in the matter, the Registrar of the University shall communicate the decision of the Management Council to the concerned Management/Principal under his signature.
11. The university shall Endeavour to decide the proposal finally within a period of six months from the date of receipt of the proposal, as far as possible.
12. If the university finally refuses the approval for the proposed action, it would be obligatory on the concerned Management/Principal to revoke the action initiated against the concerned teacher within 15 days from the date of receipt of the communication from the university.

Gadchiroli.

Date :

14/02/2019

  
(Dr. N. V. Kalyankar)  
Vice-Chancellor