

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12306 OF 2025

Vandana Jayant Damle.

... Petitioner.

V/s.

The Society for Computer
Technology and Research & Ors.

... Respondents.

Mr. Vaibhav Kulkarni, a/w. Mr. Prathamesh Deshpande a/w. Ms. Disha Rathod, Advocate for Petitioner.

Mrs. Pooja Patil, AGP for Respondent/State.

Mr. Shrikrishna Ganbavale (through V.C.) a/w. Mr. Harshad Sathe a/w. Mr. Siddesh Bane, Advocate for Respondent No. 2.

Ms. Anu C. Kaladharan h/f. Mrs. Anjali N. Helekar, Advocate for Respondent No. 5-AICTE.

CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.

DATE : 30th SEPTEMBER, 2025

P.C. :

1. As per the retirement age mentioned in the Service Conditions of the Petitioner, she is to stand superannuated today on completing 60 years of age.

2. The learned Advocate representing the AICTE relies upon a note of instructions from Shri Satyam Goel, DEO-LEGAL, AICTE,

New Delhi, a photostat copy of which is tendered across the bar. The same is marked as 'X-1' for identification. It is set out in the note that the AICTE is under directions of the Punjab and Haryana High Court, vide an order (date not mentioned) passed in Civil Writ Petition No. 17643 of 2003 (*Dr. S.C. Dhawan & Ors. v/s. Union of India & Ors.*), by which, the AICTE and UGC are directed to include a separate and specific clause in their Regulation, immediately after the applicability clause of the said regulation and clarify that the said Regulations are totally optional for the State Government qua service conditions of the employees working in the State established, State controlled, or State financed Universities/Colleges of Autonomous Institutions and the same shall not be applicable unless specifically adopted by the State Government.

Based on the above, the AICTE has proposed to amend the Rules by incorporating a note below Clause 2.12(Degree) and Clause 2.9 (Diploma). The same was placed before the 162nd Executive Committee meeting and was approved.

3. The learned Advocate representing the Pune Institute of Computer Technology submits that the Government has passed a

resolution on 12th July 2016, by which the age of superannuation of the teachers was fixed at 60 years, which is already a part of the Service Conditions of the Petitioner and the Petitioner was to retire on the last day of the month in which his birthday would fall. This G.R. was subjected to a challenge by *Professor Dr. Yashwant Kondaji Khilare & Ors. v/s. State of Maharashtra*¹ and the said G.R. was sustained.

4. The learned AGP submits that recently, the Hon'ble Supreme Court has delivered a Judgment in *P.J. Dharmaraj v/s. Church of South India & Ors.*² wherein it is held that the proposed amendment by the AICTE would be justified as it is to be left to the State Government to decide whether to accept the proposed age of retirement by AICTE or take its own decision in this respect. Paragraph-9 of the said Judgment reads as under :

“9. Having considered the submissions advanced, we do not find merit in the contention that merely because the UGC and AICTE regulations were subsequently amended in 2010 and the age of superannuation for teachers in Technical Institutions was increased to sixty-five years, the same benefit would automatically extend to the Appellant. The Appellant was working as Director in CSIIT which is affiliated with JNT University which is governed by the laws applicable in the State of Telangana. In this case, the Government of Andhra Pradesh (now Telangana) has decided to not adopt the amendment increasing the age of superannuation to sixty-five in their universities or colleges

1 2017 (5) Mh.L.J. 825

2 2024 SCC Online SC 3617

vide G.O.Ms.No.40, Higher Education & UE-II Department, dated 28.06.2012. The Respondent No.2 Institute is a self-financing, Minority Educational Institution administered by the Respondent No.1 Church of South India, and it is neither run nor funded by the Central Government. The regulations governing the age of superannuation throughout the State, the JNT University and its affiliated colleges including CSIIT is sixty years of age and therefore, when the teachers of JNT University are only to continue up to the age of sixty years, the Appellant cannot be given special consideration. CSIIT is an affiliated Institute of JNT University. Its teachers cannot have their age of retirement more than that of the teachers of the affiliating University. It would create a serious anomaly, discrimination and inequality. If the State Government itself has not adopted the amended regulations, the same cannot be applicable to the CSIIT. Even CSIIT has not determined the age of retirement of teachers to be 65 years.”

5. The learned Advocate for the Petitioner cites an Interim Order dated 25th July, 2024 passed by this Court at the Nagpur Bench in Writ Petition No. 4351 of 2024, (*Sanjay Vasantrao Dhopte v/s. AICTE through its Chairman and Others*). We have perused the said order. We find that the AICTE did not bring it to the notice of the Nagpur Bench that the Rules are in the process of amendment and it is left to the State to adopt a policy of age of retirement in the light of the order of the Punjab and Haryana High Court (X-1). So also, the view taken by this Court vide Judgment in the Professor Dr. Yashwant Kondaji Khilare (supra), was also not cited. Moreover, the judgment of the Hon’ble Supreme Court in P. J. Dharmaraj (supra), is the law of the land.

6. In these circumstances, we are not inclined to postpone the retirement of the Petitioner.

7. Issue notice to the Respondents, returnable on **24th November, 2025**. Mrs. Pooja Patil, the learned AGP waives service of notice on behalf of the Respondent- State. Mr. Ganbavale, the learned Advocate waives service of notice on behalf of Respondent No. 2. Ms. Anu Kaladharan, the learned Advocate waives service of notice on behalf of Respondent No. 5-AICTE. Let the affidavit in reply be filed with proper pagination in continuation, at least 10 days prior to the returnable date.

8. In the facts and circumstances of the case and considering the pronouncements discussed above, **NO INTERIM RELIEF**.

9. We deem it appropriate to observe, in order to balance the equities, that if this Court eventually concludes after the final hearing in this case, that the Petitioner has a right and a Writ of Mandamus can be issued to extend her retirement age to 65 years, she would be entitled for all service benefits, including monetary benefits, notwithstanding that she has not worked in the interregnum till the Petition is finally decided.

10. All office objections to be removed on or before 6th November, 2025 failing which, the Petition would stand dismissed without reference to the Court, on 7th November, 2025.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)