



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7824 OF 2019

Vijay S/o Marotirao Waghmare,
Age 45 years, Occu. Service,
R/o. Chapoli, Tq. Chakur,
District – Latur

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through the Secretary,
Higher & Technical Education,
Mantralaya, Mumbai – 400 032.
- 2] The Director,
Higher & Technical Education Department,
Pune
- 3] The Joint Director,
Higher & Technical Education Department,
Latur Region, Latur
- 4] The Director,
Board of College & University Development,
Swami Ramanand Teerth Marathwada University,
“Dnyanteerth”, Vishnupuri,
Tq. & Dist. Nanded
- 5] Swami Ramanad Teerth Marathwada University,
“Dnyanteerth”, Vishnupuri,
Tq. & Dist. Nanded,
Through its Registrar
- 6] Navyuvak Shikshan Prasarak Mandal,
Chapoli, Tq. Chakur,
District – Latur
Through its Secretary
- 7] Sanjivani College, Chapoli,
Tq. Chakur, District – Latur,
Through its Principal
- 8] Commissioner Backward Class Cell,
Aurangabad (BCC)

(Amendment made as per Order dated 08.12.2025)

.. Respondents

...
 Advocate for petitioner : Mr. Yashodeep Deshmukh h/f. Mr. A.D. Kawre
 and Mr. V.P. Deshmukh
 AGP for the respondent nos. 1 to 3 and 8 : Mr. N.S. Tekale
 Respondent no. 4 - served – absent.
 Advocate for respondent no. 5 : Mr. U.S. Malte
 Advocate for respondent nos. 6 and 7 : Mr. S.B. Solanke i/by Solanke and
 Associates
 ...

**CORAM : KISHORE C. SANT &
 JITENDRA JAIN, JJ.**

**RESERVED ON : 15 SEPTEMBER 2026
 PRONOUNCED ON : 22 SEPTEMBER, 2026**

JUDGMENT (PER – JITENDRA JAIN, J.) :

This petition challenges order passed by respondent no. 5 – University dated 14.01.2019, whereby the proposal sent by the management for approval of the petitioner's appointment, has been rejected. The petition further prays for a direction to treat the petitioner as a lecturer in Hindi on the post meant for S.C. category from the date of his appointment i.e. from 29.01.2004 and for consequential benefits thereof. By consent of the parties, taken up for final hearing.

Brief facts :

2. Pursuant to an advertisement dated 03.10.2003, issued by the management for the post of Lecturer for Hindi subject, the petitioner was appointed on 29.01.2004. Though the post was for S.T. - category, since no candidates from this category applied, the petitioner being from S.C. - category was selected. The post advertised was for full time lecturer. In the appointment letter, the

petitioner was shown as belonging to S.T. category on full time basis, though he belonged to S.C. - category.

3. On 28.07.2004, the respondent University, however, approved the appointment of the petitioner for the year 2003-2004 on clock hour basis (CHB). In the said approval letter, it was mentioned that in the subsequent academic year, the appointment should be made by way of advertisement.

4. Respondent – management, by various letters dated 27.06.2006, 24.12.2007, 07.03.2008 and 12.06.2009 addressed letters to respondent no. 3 – Joint Director seeking approval for advertisement for filling the post for teaching Hindi subject. However, no response was given to these letters by the Joint Director – respondent no. 3.

5. On 10.10.2007, the respondent – University addressed a letter to the management exempting the petitioner from the condition of acquiring NET qualification. On 09.08.2007, UGC also addressed a letter to the management exempting the petitioner from clearing NET exam since the petitioner had cleared M.Phil. exam.

6. On 09.04.2009, the management wrote a letter to the University seeking full time approval of the petitioner since the petitioner had qualified as M.Phil. However, by communication dated 25.07.2009, University approved the full time post of two other lecturers

except the petitioner. In this communication, it was mentioned that the petitioner cannot be considered since he does not belong to S.T. category. This order has not been challenged by the petitioner.

7. On 20.07.2010, the management made a request to the University for approval for interchange of the post reserved for S.T. - category to S.C. - category.

8. It is important to note that UGC in its meeting dated 12.08.2010, resolved that the candidates having M.Phil. Degree on or before 10.07.2009, shall remain exempted from the requirement of passing NET for the purpose of appointment as lecturer. The petitioner qualified for M.Phil. examination on 10.07.2009 and, therefore, was exempted from clearing NET.

9. On 20.06.2016, the management sought approval of the University on full time basis on the ground that he acquired M.Phil. Qualification and since interchange has been approved, he is qualified for said post.

10. The petitioner filed Writ Petition No. 3863 of 2018, seeking a direction against the respondent – University, to consider the above proposal dated 20.06.2016 of the petitioner for the post of full time Lecturer in Hindi subject. The High Court by its order dated 14.01.2019

in Writ Petition No. 3863 of 2018, directed the University to decide the petitioner's application dated 20.06.2016.

11. On 14.01.2019 itself, the respondent-University rejected the petitioner's proposal seeking approval as a full-time lecturer based on the interchange of categories. The reason stated in the impugned order is that, as per the Government Resolution dated 05.12.1994, the post of Lecturer reserved for the S.T. - category should have been advertised for a period of five years and it is only thereafter, if no candidate from the S.T. - category is available, that the post can be filled in by persons from different category person.

12. It is against the above backdrop that the petitioner has approached this Court seeking quashing of the order dated 14.01.2019 and for necessary direction for approval of his appointment as a Lecturer with consequential benefits.

13. Mr. Deshmukh, learned counsel for the petitioner submitted that since interchangeability had been approved, the petitioner is qualified for being appointed as a full-time Lecturer from 2004 against the S.C. - category. He further submitted that the advertisement could not be published because the Joint Director did not grant approval, despite various letters addressed by the management from 2006 to 2009. He submitted that the petitioner

should not be made to suffer for the dereliction of the duty cast upon the Joint Director. He further submitted that the petitioner has cleared M.Phil. in 2007 and was, therefore, exempted from clearing NET exam for the present post. The learned counsel submitted that the petitioner had been in continuous and regular service for more than 12 years and had been working on a full-time basis. He, therefore, prayed that the petition be allowed.

14. Learned counsel for the petitioner relied upon the decision of the Nagpur Bench of this Court in ***Madhuri Deshmukh v. State of Maharashtra***¹, and the decision of the Principal Bench of this Court in ***Dr. Satyavati Joshi v. State of Maharashtra***².

15. Per contra, learned counsel for the respondent-University heavily relied upon the reply filed by the University and submitted that the petitioner had neither qualified the NET examination nor submitted a caste-validity certificate for his appointment. Learned counsel for the University further submitted that the petitioner was not appointed as a full-time teacher but on a clock-hour basis and was, therefore, not eligible for appointment as a full-time Lecturer. He submitted that the University had, from time to time, addressed various letters to the management stating that the petitioner's appointment could not be approved since he belonged to the S.C. - category, whereas the post

1 Writ Petition No. 1213 of 2009, decided on 24 February 2017

2 Writ Petition No. 1741 of 2020, decided on 18 July 2024

was reserved for the S.T. - category. He further relied upon the minutes of the meeting dated 21.10.2015, in which the petitioner was present and the reason for non-approval of his appointment was communicated to him. He submitted that the petitioner had not challenged this decision. He further submitted that the petition raises disputed questions of fact, as the management itself has stated in its reply that the petitioner's services were terminated from 2012–2013 onwards. He submitted that disputed questions of fact cannot be gone into in a writ petition. Learned counsel for the University, therefore, prayed for dismissal of the petition.

16. Learned counsel for the respondent-University relied upon the decision of the Supreme Court in ***P. Suseela and Others v. University Grants Commission***³, and the decision of this Bench dated 01.04.2019 in ***Shankar Holkar v. State of Maharashtra***⁴.

17. The learned AGP appearing for the State fairly submitted that there was nothing on record to explain why the Joint Director had not responded to the various letters addressed by the management seeking permission to advertise the post. He, however, submitted that since the petitioner was appointed against a post reserved for the S.T. - category though he belonged to S.C. - category and his services had

3 (2015) 8 SCC 129

4 Writ Petition No. 11642 of 2016

been terminated by the management, the present petition deserves to be dismissed.

18. Learned counsel for the management submitted that the petitioner has not worked in the management's college from 2012–2013 onwards and, therefore, no case was made out for allowing the petition. He further submitted that the petitioner had used pressure tactics for seeking approval of the post by threatening to commit suicide. It was under these circumstances that the management had to forward his proposal to the University for approval.

19. We have heard the learned counsel for the petitioner, the University and the management, as well as the learned AGP for the State.

20. It is settled position in law that an order has to stand on its own leg and cannot be improvised by filing further affidavits. In the present case, the order dated 14.01.2019 only rejects the petitioner's proposal on the ground that the conditions stipulated in the Government Resolution dated 05.12.1994 had not been complied with. No other reason has been stated by the University in the said order. Therefore, the submissions advanced by learned counsel for the University on grounds not mentioned in the impugned order, cannot be considered and entertained.

21. As per the Government Resolution dated 05.12.1994, if a post reserved for a particular category could not be filled in by candidates belonging to that category, then the post can be filled in by selecting a candidate from another category. However, in the subsequent years, the management must advertise the post for the original category. It is only thereafter, if no candidate from that category is available for a period of 5 years, that the management can seek interchangeability and appoint a person from another category.

22. In the instant case, on 26.07.2009, the University expressly stated the reasons for rejecting the management's proposal to appoint the petitioner, namely that he had been appointed against a post reserved for the S.T. - category, though he belonged to the S.C. - category. It is important to note that this communication dated 25 July 2009 has not been challenged by the petitioner.

23. On 21.10.2015, in a meeting attended by the officials of the University, the college and the petitioner, it was resolved that the petitioner's appointment could not be considered for approval since no advertisement had been issued during the academic years 2005–2006, 2007–2008 and 2008–2009. It was further resolved that, since the petitioner had been appointed on a clock-hour basis, he could not be considered on a full-time basis. The said resolution refers to the

Government Resolution dated 05.12.1994, on the basis of which the petitioner's appointment could not be approved. The said resolution has been signed by the petitioner. It has neither been challenged by the petitioner nor disclosed by him in the petition. The respondent-University has placed the said resolution on record. Be that as it may, in the absence of any challenge to the said decision, whereby the request for approval was expressly rejected by relying upon the Government Resolution dated 05.12.1994, the petitioner cannot now challenge the impugned order dated 14.01.2019, which has been passed on the basis of this very same Government Resolution. The petitioner is deemed to have accepted the applicability of the Government Resolution dated 05.12.1994 and is, therefore, now estopped from challenging the same.

24. Even otherwise, the petitioner has not challenged the University's order dated 28.07.2004 granting him approval on a clock-hour basis. Nothing has been brought on record to show that his appointment was approved by the University on a full-time basis. The petitioner's submission that he had actually worked on a full-time basis cannot be accepted in view of the express written order dated 28.07.2004. Furthermore, the petitioner was appointed against a post reserved for the S.T. - category and, therefore, in absence of any advertisement indicating that, despite efforts made for five years, the

management could not secure a candidate from the S.T. - category, the contention that the petitioner should be considered cannot be accepted.

25. The University, vide communications dated 15th October 2003, 24th July 2004, 20th December 2005, 8th June 2006 and 5 January 2007, had repeatedly informed the management of the reasons for not approving the petitioner on a full-time basis against the S.T. - category since the petitioner belonged to S.C. - category. There are further communications dated 12th April 2008 and 25th July 2009 to the same effect.

26. In our view, since the petitioner's appointment was not on a full-time basis but on a clock-hour basis, and since he was not appointed against a post reserved for the S.C. - category but against a post reserved for the S.T. - category, to which he does not belong, even on this count, the prayer made by the petitioner cannot be considered.

27. Learned counsel for the respondent-University is also justified in submitting that the management had terminated the petitioner's services from 2013–2014, which is disputed by the petitioner. Furthermore, the management has alleged that threats given by the petitioner compelled it to forward his proposal, which allegation has also been denied by the petitioner. The documents

annexed by the petitioner to demonstrate that he had worked on a full-time basis, are also disputed by the college on the ground that they are fabricated. The issue whether though his appointment was on CHB, he actually worked on full time basis, would require this Court to enter arena of facts which cannot be gone into in these proceedings. These disputed questions of facts cannot be examined by this Court in a writ petition. Therefore, even on this count, the prayer made in the petition cannot be considered.

28. The judgments relied upon by the parties are not applicable to the facts of the present case and are, therefore, not being dealt with in the present decision.

29. For all the above reasons, the petition is dismissed.

[JITENDRA JAIN]
JUDGE

[KISHORE C. SANT]
JUDGE

arp/