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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4851 OF 2018

Mariam Alvito Noronha]
Age : 43 years, Occupation : Lecturer,]
R/at House No.3,]
14 Connaught Road,]
Pune-411001] ...Petitioner

Versus

1. Modern Education Society]
19, Late Prin. VK. Joag Path,]
Pune 411001.]
]
2. The Principal]
Ness Wadia College of Commerce]
19, Late Prin. VK. Joag Path,]
Pune 411001.]
]
3. Savitribai Phule Pune University]
Ganesh Khind Road,]
Pune 411007.]
]
4. Director of Higher Education]
M. S. Central Building, Pune.]
]
5. State of Maharashtra]..Respondents

.....

Mr. Abhishek T. Ingale a/w Ms. Anushka Parab and Mr. Chaitanya Narvekar, for the Petitioner.

Mr. Yuvraj Narvankar a/w Ms. Pooja R. Chavan i/b Ms. Neha Wadekar, for the Respondent Nos.1 and 2.

Mr. Rajendra Anbhule, for the Respondent No.3.

Mr. P. P. Kakde, Addl. G.P. a/w Mr. V. G. Badgujar, A.G.P., for the Respondent- State.

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CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.
RESERVED ON : 10th SEPTEMBER 2026
PRONOUNCED ON : 1st OCTOBER 2026

JUDGMENT (PER SANDESH D. PATIL, J.) :

1. Heard learned Counsel for the parties.
2. By the present Writ Petition, the Petitioner is seeking to quash and set aside the impugned letter dated 10.06.2017 issued by the Respondent-University, refusing to grant approval for the appointment of the Petitioner, and directing the Respondents to grant approval to the appointment of the Petitioner with effect from 01.12.2007 together with consequential benefits and arrears of salary and increment with effect from 01.12.2007.
3. The Petitioner was qualified as B.Com. This qualification was obtained by her in the year 1994. She completed M.Com. in the year 1996. Thereafter, she completed P.G.D.M. in the year 1996. She completed SET in 2001, and ultimately she completed PhD in 2014.
4. In the year 2007, the Respondent No.1- Education Institution had requirement of lecturers, and therefore, on 19.07.2007 they

obtained permission / No Objection Certificate **(NOC)** from the Directorate of Education, Maharashtra State, Pune- 1, for the purpose of issuance of advertisement for filling in the post of lecturers. The said advertisement is at 'Exhibit B'. The advertisement was for the following post:

अ.क्र.	विषय	पदांची संख्या
१	गणित	१
२	वनस्पतीशास्त्र	२
३	भूगोल	१
४	इतिहास	२
५	मराठी	१
६	तत्वज्ञान/तर्कशास्त्र	१
७	कॉमर्स व कायदा	१
एकूण		९ पदे

5. In accordance with the NOC which was issued by the Respondent No.4, the Respondent No.1 had published an advertisement and invited the applications. In light of those applications, a Selection Committee was appointed. That Selection Committee had unanimously recommended the name of the Petitioner as the candidate selected against the post of lecturer in Commerce and Law in Open category. The nominee of the Vice-

Chancellor and the nominee of the Respondent No.4 were present in the said Selection Committee and are signatory to the Selection Committee report. Since the Selection Committee has approved the name of the Petitioner, therefore, ultimately, the Respondent No.1 had issued an appointment letter to the Petitioner on 14.11.2007. Thereafter, the Petitioner joined duty in the Respondent No.1 college by resigning from the Abeda Inamdar Senior College where she was earlier working. The Petitioner joined the Respondent No.1 on 01.12.2007, and accordingly the joining report was issued by the Respondent No.1 college. The Respondent No.1 on 20.12.2007 wrote a letter to the Registrar, University of Pune, requesting to give approval to the appointment of three teachers, which included the Petitioner herein. The University raised certain objections. The Respondent No. 1 allegedly complied with the said objection.

6. Thereafter, on 31.08.2009, the Respondent No.1 once again issued a reminder to the Registrar of the University of Pune, thereby seeking approval for the appointment of the Petitioner. Since the approval was not received, the Petitioner made several representations to several authorities right from 03.08.2010 to

03.07.2017. On 10.06.2017, the University refused the approval, stating that there was no vacant post for the Open category in the subject of Commerce and Law, and the advertisement was not issued for the Open category in the subject of Costing. It was further stated that the roster for the subject be verified afresh from the government and, thereafter, the post be filled as per the said procedure. The Petitioner, in response to the said letter, made several representations, and ultimately the present writ petition was filed.

7. Mr. Abhishek Ingale, learned Counsel appearing for the Petitioner argued that the Petitioner was already working in another college and was an approved teacher. The roster was approved by the Government on 07.06.2007, and the Director of Higher Education issued NOC to the appointment to be made in the Respondent No.1 institution on 19.07.2007. It is pursuant to the said NOC that the advertisement was issued on 09.08.2007. The Petitioner was qualified for the post of lecturer in Commerce and Law, and therefore she applied for the said post. The interview was conducted, and the Selection Committee which constituted of representatives of the State as well as the University, had approved the appointment of the

Petitioner. After the appointment letter was given to the Petitioner on 14.11.2007, the Petitioner tendered her resignation in earlier college viz. Abeda Inamdar Senior College, and thus she altered her position. The Petitioner was relieved from Abeda Inamdar Senior College on 30.11.2007, and ultimately she joined the Respondent No.1 on 01.12.2007. It is further argued by the learned Counsel for the Petitioner that one post for the Open category in the subject of Costing was vacant. He stated that the Petitioner, even otherwise, is qualified for the subject of Costing. The learned Counsel appearing for the Petitioner argued that the Petitioner applied for the post in pursuance of the advertisement. The NOC was granted by the Respondent No.4, and therefore, ultimately, the Selection Committee having selected the Petitioner, the Petitioner was not at all at fault. The Petitioner left her well-settled job in the earlier college and applied for the present post. He stated that she was selected through a duly constituted Selection Committee and that the Petitioner fulfilled the eligibility criteria. He argued that an employee cannot be penalized for the administrative or procedural lapses on the part of the employer. He laid much stress on the doctrine of legitimate expectation. He argued that the Petitioner was appointed in the year

2007. She had a legitimate expectation of grant of approval because appointment was made after due process. No objection was raised to her appointment for about a decade, and that there was huge delay and laches on part of the University.

8. Learned Counsel invited our attention to two important aspects, *viz.* the appointment of the Petitioner was in the year 2007, and the refusal came in the year 2017. He argued that the Respondents could not have slept over the matter for 10 years and then suddenly deny the approval. He contended that the University is estopped from rejecting the application or the approval of the Petitioner after inordinate delay. He stated that the NOC was granted by the State, the selection was conducted openly and there existed no objection for years. The University, now, cannot resile from the approval and deny the grant. He cited the doctrine of promissory estoppel in support of his case. He argued that there was violation of Articles 14 and 21 that the denial of grant of approval was arbitrary and that the Petitioner had worked for years on meagre salary. Thus, non-issuance of approval affects the rights of the Petitioner. He invited our attention to the roster stating that in the year 2005-2006

there were 8 sanctioned posts (full-time) and 1 part-time in the subject of Commerce and Law, out of that 6 full-time and 1 part-time posts were sanctioned in Ness Wadia College, Pune. He stated that the roster was verified by the GAD, GOM at that time, and the following lecturers were stated to have been working in both the colleges:

1) Smt.R.K.Joshi,	Open Category (VRS on 30.04.2007)
2) Mr. P.Y.Ghule	Open Category, (VRS on 15.06.2005)
3) Mr. A.T.Bhosle	Reserved Category
4) Mr. S.J.Jawadekar	Open Category
5) Mr. P.N.Chaudhary	Open Category
6) Smt. Vrishali Randhir	Reserved Category
7) Mr. M.K.Sanap	Reserved Category
8) Mr. R. S. Netawate	Reserved Category

9. He argued that Mr. P. Y. Ghule, who was working in D. G. Ruparel College, Mumbai, took voluntary retirement on 15.06.2005 and Smt. R. K. Joshi took voluntary retirement on 30.04.2007 (both from Open Category) and Mr. R.S. Netavate from the Reserved Category was appointed on 28.11.2005. As such, his case was that there was vacancy for the posts in Open Category.

10. He argued that it is only after noticing the aforesaid vacant posts the Director of Higher Education has issued NOC as per which

the advertisement was issued. He argued that the Petitioner can very well be approved for the post of Costing as well, because she has the required and requisite qualifications.

11. In support of his contention, he relied upon the judgment in the matter of *Sachin Ambadas Dawale & Ors. v. State of Maharashtra and Anr.*¹, to contend that the entry in the service was neither illegal nor a backdoor entry and that the government should regularize the services of the Petitioner. He stated that for the reasons mentioned above, the Petitioner is entitled to the reliefs which are claimed in the petition.

12. The learned Counsel for the Petitioner has also relied upon the judgment of the Hon'ble Supreme Court in the matter of *Radhey Shyam Yadav & Anr. v. State of Uttar Pradesh & Ors.*² where it has observed thus:

“32. The situation of the appellants in the present case is no different from the individuals whose appointments were protected in the cases cited hereinabove. They had no blameworthy conduct. They were bona fide applicants from the open

1 2013 SCC OnLine Bom 1670

2 (2024) 11 SCC 770

market. The alleged mischief, even according to the State, was at the end of the School and its Manager. It will be a travesty of justice if relief is denied to the appellants. Enormous prejudice would also occur to them.”

13. The learned Counsel appearing for the Respondent Nos.1 and 2 has filed an affidavit. He submits that the appointment was issued by the Secretary of Respondent No.1. The Institution does not dispute about the joining report or the appointment letter. The Institution had sought NOC from the Respondent No.4, and it is only after receiving NOC from the Respondent No.4 that they had published the advertisement. He contended that they had made several correspondences with the University as well as the State Government, but neither of them had given approval.

14. Learned Counsel appearing for the Respondent Nos.1 and 2 submitted that the Selection Committee held a meeting on 28.10.2007, wherein the Petitioner was unanimously selected. The Committee included the Vice Chancellor's nominee, a nominee of the Director of Education, and a subject expert, all of whom have endorsed and affirmed the selection.

15. Learned Counsel for the Respondent Nos.1 and 2 argued that until the impugned Order dated 10.06.2017 was passed, the Respondent Nos.4 and 5 never raised any objection regarding the alleged roster discrepancy, nor issued any communication to the Petitioner or Respondent No. 1. He argued that Respondent Nos. 1 and 2 have acted *bona fide* on the basis of the NOC issued by the Respondent No.4. He submitted that Respondent No.1 had kept the post vacant wherein the Petitioner shifted from Commerce and Law to Costing, and can be absorbed in Costing. He submitted that the post of Costing is vacant till date. He submitted that the rosters are not maintained separately for Commerce and Costing, but a combined roster for the subject of Commerce is issued. Therefore, predominantly, the roster is bifurcated separately for subjects like Economics, Languages, Librarian, Physical Education along with the subject of Commerce, where Costing being an essential integrated subject within the broad subject of Commerce, was recognized to be a vital branch of accounting, being one of the subjects included within the ambit of the Commerce category itself. He submitted that distinguishing the subject of Costing with Commerce is not the practice as to date which can be observed as per rosters which are

issued by Respondent No.1- Management being approved and verified by the State. He submitted that the streams Commerce included Costing, and therefore there was no bifurcation of subjects *per se*. He submitted that as the Commerce stream is concerned, Costing is a branch of it. He submitted that even as per the University Grants Commission Regulations, 2000 (**UGC**) the qualifications required for appointment of any person on the post of Costing *vis-a-vis* Commerce are one and the same, and therefore, the person from the stream of Commerce can be appointed as a teacher or lecturer for the post of subject of Costing in a University or College. He relied upon the copy of the UGC Regulation 2000, which were annexed at Exhibit-C to the additional affidavit. It is submitted that the Petitioner, being appointed on the Open post in Commerce and Law, however being eligible to teach any of the subjects under the Commerce criteria, is also eligible and entitled to teach the subject of Costing. In fact, the Petitioner has taught the subject of Costing in Respondent No. 1-College for the academic years *viz.* 2019-2020, 2020-2021 and 2021-2022. He further laid stress on the fact that before joining Respondent No.2- College, the Petitioner had worked for previous colleges in Departments like Business Practices,

Marketing, Costing and Business Administration and as such, there is no bifurcation or distinction between a teacher of Commerce and law and Costing; as Costing is an integral subject in the field of Commerce and thus, if a teacher is eligible to teach a subject under Commerce, the said teacher is entitled for teaching Costing.

16. The learned Counsel for Respondent Nos.1 and 2 submitted that the Respondent No.1- Management was diligent enough to admit its mistake of issuing the advertisement not as per the roster. However, the advertisement was *prima facie* based on the NOC issued by Respondent No. 4 and the Report of the Selection Committee. Therefore, the University as well as the State are equally responsible for the irregular appointment. He submitted that it would not be proper to refuse grant of approval to the Petitioner's appointment after a period of 10 years. He submitted that the Petition be allowed

17. Learned Counsel for the Respondent No.3- University strongly opposed the Petition. The learned Counsel appearing for the Respondent- University submitted that the advertisement was issued

for the subject of Commerce and Law, and only one sanctioned post was advertised for the Open category in Respondent No. 2 while two sanctioned posts were advertised for the reserved category of ST and OBC respectively at D.G. Ruparel College, Mumbai, which is run by Respondent No. 1 and affiliated to Mumbai University. He submitted that the Respondent No.1- Management runs three colleges namely: Ness Wadia College of Commerce, Pune (Respondent No. 2); Nowrosjee Wadia College, Pune which is affiliated to Respondent No.3- University; and D.G. Ruparel College, which is affiliated to Mumbai University. He submitted that Respondent No.1 was required to get the roster of reservation verified from the General Administration Department, Mantralay, Mumbai and the same was binding on Respondent No.1. He submitted that for the subject of Commerce and Law, no post was sanctioned for the Open category. He further submitted that as the roster was verified by Respondent No.4 and no objection certificate was issued, Respondent No.1 issued advertisement and selected the Petitioner for Commerce and Law subject. This cannot be accepted by the Respondent- University inasmuch as before making appointments to teaching staff, the Respondent No.1 has to get the roster of reservation verified from

the General Department, Mantralay, Mumbai and the same is binding on Respondent No.1.

18. Learned Counsel for the Respondent No.3 submitted that the appointment of the Petitioner to the post not sanctioned by Respondent No.5 is illegal one. He further submitted that when Respondent No.1 sent a proposal for approval for the appointment of the Petitioner to the post of lecturer in the subject of Commerce and Law for Open category, the University wrote a letter to the Respondent No. 1 stating that, as far as the appointment of the Petitioner in the Commerce and Law subject is concerned, the reservation roster should get approval from the State Government. He submitted that the advertisement dated 09.08.007 issued by Respondent No.1 was not as per the reservation verified by Respondent No. 5- State and there was no post sanction for the subject of Commerce and Law for the Open category by the State Government. He submitted that the Petitioner, therefore, was not entitled to approval for the said post. He submitted that there was no sanctioned post for Open category in the subject of Commerce and Law and advertising the post of Commerce and Law was incorrect.

He submitted that there was a sanctioned post for Open category for the subject of Costing but the same was not advertised. He submitted that there was no advertisement for the Open category post of lecturer in the subject of Costing. Therefore, candidates eligible to apply for the said post would be deprived from participating in the selection process of the said post if the approval is given to the appointment of the Petitioner to the Open category post. He submitted that the prayer of the Petitioner to give approval to the appointment of the Petitioner as lecturer in the subject Costing instead of subject Commerce and Law cannot be accepted. Therefore, the action of the University to deny approval to the appointment of the Petitioner as lecturer in the subject Costing was perfectly legal, valid and justified.

19. Learned Counsel appearing for the Respondent-State has also filed an affidavit. Learned Counsel for the Respondent-State has submitted that the appointment itself was illegal, and that, on the basis of such illegal appointment the approval cannot be given. He submitted that the financial liability regarding appointment and services of the Petitioner will be upon the Respondents Nos. 1 and 2

and not upon the present Respondents. He submitted that the University is a competent authority to grant and/or refuse approval to the appointment of full-time teachers as per the norms. He submitted that he is adopting the arguments of the learned Counsel appearing for the Respondent-University and he too prayed for dismissal of the Petition.

20. We have heard the learned Counsel appearing for the parties. We have considered the pleadings and the materials on record.

21. In the present case, admittedly, NOC was sought by the present Respondents Nos.1 and 2 before issuing the advertisement. The said NOC was sought from the Respondents Nos.4 and 5. The Respondents Nos.4 and 5 granted the NOC on 19.07.2007. It is pertinent to note that the posts mentioned in Para no.4 above were the posts for which the NOC was granted. The Respondents Nos. 4 and 5, thereafter, in pursuance of the said NOC, issued an advertisement. The advertisement mentions the subject as Commerce and Law. Thereafter, there was a Selection Committee Report in which the representatives/nominees of the University, as well as the

nominee of the Respondents Nos.4 and 5, were present. They all took a conscious decision to appoint the Petitioner and the Petitioner was unanimously selected. Thereafter, the Petitioner left the job which she was earlier doing with the Abeda Inamdar Senior College. The Petitioner joined the Respondent Nos. 1 and 2 on 01.12.2007 and joining report was given in lieu of the appointment letter dated 14/11/2007. Immediately thereafter, the principal of the Respondent No.1 sent a letter dated 20.12.2007 at Exhibit-E requesting to give approval to the appointment of the Petitioner and other teachers. The said letter was received by the University. However, till the date of passing of the impugned Order, the Respondent-University never communicated to the Petitioner about the rejection of the approval and that by this time, the Petitioner had almost spent 10 years teaching in Respondent No.2- College.

22. It is pertinent to note that both the learned Counsel for the Petitioner and the learned Counsel appearing for Respondent Nos.1 and 2 argued that there was a vacancy for the subject Costing for the Open category, and that the Respondent Nos.4 and 5 as well as Respondent No. 3- University has not denied the said aspect. As a

matter of fact, in the affidavit filed by the University, this aspect is reiterated that there was a vacancy in the subject of Costing.

23. Learned Counsel appearing for the Petitioner as well as learned Counsel for the Respondent Nos.1 and 2, have pointed out as to how the subjects 'Costing' and 'Commerce and Law' were similar, and that the Petitioner was teaching the subject of Costing also. It is specifically stated across the Bar, as well as in the affidavit filed by the Respondent Nos.1 and 2, that distinguishing the subject of Costing from Commerce is not a practice which was observed as per the rosters issued by Respondent No.1- Management. It is also pertinent to note that, as per the UGC Regulations 2000, which are relied by the Petitioner and the Respondent Nos.1 and 2, the subjects of Commerce include Costing. It is no doubt true that the Respondent Nos.1 and 2 have committed a gross mistake of issuing an advertisement for the post of Commerce and Law when the said post was not vacant and was not sanctioned.

24. It is however, important to consider at this juncture that the Respondent Nos.1 and 2 committed a mistake, the said mistake was

further perpetuated by the Respondent No.4 inasmuch as NOC was granted to the said advertisement by the Respondent No.4. Had it been that the Respondent No.4 had not granted NOC to the said subject at that juncture on 11.07.2009, further difficulties would have been avoided. Having granted the NOC by the Respondent No.4, the Respondent Nos.1 and 2 proceeded to issue the advertisement.

25. The mistake was further compounded inasmuch as the Selection Committee which was appointed to select the candidates, which constituted of representatives of both the Respondent No.3 as well as the Respondent No.4, unanimously appointed the Petitioner. Even this document is not denied by any of the Respondents. After the Petitioner was appointed to the said post on 14.11.2007, she has been working on the said post.

26. It is further interesting to note that although the Respondent Nos.1 and 2 had on 20.12.2007 applied for approval from the University, the University sat tight on that proposal till the impugned Order was passed. Thus, this is a case where, due to the mistakes

committed by all the Respondents, the Petitioner is driven to this litigation. This is not a case of backdoor entry, as argued by the learned Counsel for the Respondent No.3. It is not as if the Petitioner obtained a backdoor entry and is now working on the basis of the order obtained by the Court. It is because of the mistakes committed by the Respondent Nos.1 to 5 that this situation has arisen.

27. Learned Counsel appearing for the Petitioner is correct in saying that there was no fault on the part of the Petitioner. The Petitioner, having gone through the rigors of the selection after issuance of the advertisement and NOC by the State Government, cannot be penalized today for the procedural lapses on the part of either the employer or on the part of the University as well as the Respondent Nos.4 and 5- State. The Petitioner, being appointed in the year 2007, has a legitimate expectation of grant of approval because the appointment was made after due process and no objection was raised to her appointment for nearly a decade. It is pertinent to note that the Petitioner has altered her position inasmuch as she was working with another college viz. Abeda Inamdar Senior College from which post she had resigned and joined

the present Respondent Nos.1 and 2. The Petitioner, was thus, made to alter her position.

28. The gross delay and laches on the part of the University also speaks volumes. The Petitioner was appointed in the year 2007. The proposal was immediately sent by Respondent Nos.1 and 2 to the University. However, the refusal came only in the year 2017 i.e. after about 10 years. The action on the part of the University is thus marred by gross delay and laches.

29. This is not a case where the Respondent Nos.3 to 5 have stated that there was fraud in the recruitment process. This is also not a case of backdoor entry as propounded in the case of ***Secretary, State of Karnataka and Ors. Vs. Umadevi (3) and Ors.***³

30. Learned Counsel appearing for the Petitioner has rightly contended that the Petitioner had altered her position and therefore, doctrine of legitimate expectation is attracted. There was an advertisement. The Petitioner was selected by Selection Committee. The Petitioner was issued appointment letter. The Petitioner therefore resigned from her earlier services. Thus, the Petitioner has altered

³ (2006) 4 Supreme Court Cases 1

her position. The Petitioner's case is therefore, covered by the doctrine of legitimate expectation. The Hon'ble Supreme Court in the matter of *Food Corporation of India Vs. M/s. Kamdhenu Cattle Feed Industries*⁴ has observed thus:

“7. In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to Article 14 of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law : A public authority possesses powers only to use them for public good. This imposes the duty to act fairly and to adopt a procedure which is ‘fairplay in action’. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision-making process in all State actions. To satisfy this requirement of non-arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but provides for control of its exercise by judicial review.

4 (1993) 1 Supreme Court Cases 71

8. *The mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirement of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness, a necessary concomitant of the rule of law. Every legitimate expectation is a relevant factor requiring due consideration in a fair decision-making process. Whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. A bona fide decision of the public authority reached in this manner would satisfy the requirement of non-arbitrariness and withstand judicial scrutiny. The doctrine of legitimate expectation gets assimilated in the rule of law and operates in our legal system in this manner and to this extent.*

9. *In Council of Civil Service Unions v. Minister for the Civil Service [(1984) 3 All ER 935 (HL)] the House of Lords indicated the extent to which the legitimate expectation interfaces with exercise of discretionary power. The impugned action was upheld as reasonable, made on due consideration of all relevant factors including the legitimate expectation of the applicant, wherein the considerations of national security were found to*

outweigh that which otherwise would have been the reasonable expectation of the applicant. Lord Scarman pointed out that “the controlling factor in determining whether the exercise of prerogative power is subject to judicial review is not its source but its subject-matter”. Again in Preston, in re [(1985) 2 All ER 327] it was stated by Lord Scarman that “the principle of fairness has an important place in the law of judicial review” and “unfairness in the purported exercise of a power can be such that it is an abuse or excess of power”. These decisions of the House of Lords give a similar indication of the significance of the doctrine of legitimate expectation. Shri A.K. Sen referred to Shanti Vijay and Co. v. Princess Fatima Fouzia [(1979) 4 SCC 602] which holds that court should interfere where discretionary power is not exercised reasonably and in good faith.”

31. The Respondent Nos.1 and 2 had filed an affidavit and stated that the post of Costing was reserved for the Open category and was sanctioned/approved by Respondent Nos.4 and 5. The Respondent Nos.1 and 2 have also filed an affidavit stating that the Petitioner was teaching the subject of Costing inasmuch as the subjects of ‘Costing’ and ‘Commerce and Law’ all are fused to such an extent that there really does not exist a separate roster in Respondent No.2-College for the same.

32. In these premises, since the Petitioner has worked for nearly 10

years and even is working till today, coupled with the fact that as it is the Respondent No.4 had given NOC for issuance of advertisement for the post of Commerce and Law, and further that no additional burden will be put on the coffers of Respondent No. 5, taking into consideration these peculiar circumstances of the case, we are inclined to allow the petition. Hence, the following Order:

ORDER

- (i) The Writ Petition No.4851 of 2018 is allowed.
- (ii) The impugned Order dated 10.06.2017 issued by the University refusing to grant approval for appointment of the Petitioner is hereby quashed and set aside.
- (iii) The Respondent Nos.3 to 5 are directed to grant approval to the Petitioner's appointment with effect from 01.12.2007 with all consequential benefits and arrears of salary and increments with effect from 01.12.2007 within a period of twelve weeks from the date of passing of this Order.

In view of above, Writ Petition No.4851 of 2018 stands disposed of.

(SANDESH D. PATIL, J.)

(M. S. KARNIK, J.)