

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5387 OF 2013

DR. TATYARAO DINAJI RASAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for petitioner : Mr. S. B. Talekar with Mr. U. R. Awate
AGP for respondent No. 1 : Mr. S. K. Kadam
Advocate for respondent No. 4 : Mr. S. V. Kshirsagar h/f Mr. Ajay
Deshpande

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**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 19th AUGUST, 2015

P.C. :-

1. The petitioner challenges the action on the part of the respondent University not to appoint him as "Subject Matter Specialist – Health (Medicine) (a kind of teacher) though his selection was made by the Selection Committee and though he was placed at serial No. 2 in waiting list. The petitioner has requisite qualification and he appeared for interview. Several persons appeared for interview. One Dr. Pawalkar was selected for the only vacancy. The Selection Committee recommended two names for the same post as wait listed candidates. One was Dr. Siddiqui, the other was the petitioner. Dr. Pawalkar was offered the appointment but he declined to accept it. By that time, he had taken up some other job. The

University, thereafter, offered this post to Dr. Siddiqui in the month of June, 2008. But he too, declined to accept it. The petitioner expected such offer to be made to him but in vain.

2. Soon after the Selection Committee published its selection list to various posts, serious doubt was expressed, as several allegations were made against the members of the Selection Committee. The litigation was started. The University, thereafter, appointed a committee for examining as to whether the selection process was affected due to any malpractices. The committee conducted an enquiry and gave a finding that nothing was wrong in the selection process. This report came before the University in the month of November, 2010. The petitioner, thereafter, made a representation for getting appointment as per the recommendation of the Selection Committee. No reply was sent to him. Therefore, this petition is filed in April, 2013 for seeking direction to the University for appointing the petitioner as "Subject Matter Specialist - Health (Medicine)".

3. At interim stage, the petitioner succeeded in getting one post reserved. The University submitted a reply in which it is stated that because of the allegations made against the Committee, they decided not to act on the selection list and that is why the petitioner was not appointed. Subsequently, they took a stand that the waiting

list had a life of one year and since it lapsed, the petitioner did not get any appointment.

4. First question is whether the petitioner has a legal right of appointment only because his name is mentioned in the waiting list. Answer to this question is found in the judgment of the Supreme Court in a case of ***R. S. Mittal Vs. Union of India***, reported in **(1995) Supp. 2 SCC 230**. The Supreme Court held that a person on selected panel has no vested right to get appointed. He has only a right to be considered for appointment. The Supreme Court also held that the appointing authority, in such situation, cannot ignore such selected person and cannot decline to make his appointment as per their whims. The Supreme Court held that there has to be a justifiable reason for declining appointment to such selected person. In the reported judgment, the Supreme Court, on facts, held that there were no reasons mentioned by the appointing authority for not appointing the selected candidate.

5. In the present case, however, the affidavit of respondent clearly mentions that because of allegations made against the Selection Committee, they decided not to act on Committee's recommendations. We are aware that they acted initially by offering the post to Dr. Pawalkar and thereafter, to Dr. Siddiqui. Thereafter,

they could have offered appointment to the petitioner because he is second in the waiting list. But, in the mean time, they received complaints about the conduct of the Selection Committee. That prompted them to scrap the recommendations altogether. The reason mentioned in the affidavit appears to be justifiable one. As such, we are not inclined to interfere in the petition.

6. In the result, the writ petition is dismissed. There shall be no order as to costs.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)

rlj/