

UNREPORTED**IN THE HIGH COURT OF JUDICATURE AT****BOMBAY****BENCH AT AURANGABAD.****WRIT PETITION NO.1550 OF 2014.**

Rajendra S/o Bhaskar Waghulde,
Age 44 years, Occ. Service,
Presently residing at Jalgaon,
Dist. Jalgaon. ... Petitioner.

Versus

1. The North Maharashtra
University through its
Registrar, Jalgaon,
Dist. Jalgaon.

2. Khandesh College Education
Society, through its Secretary,
Jalgaon, Dist. Jalgaon.

3. The Principal,
Mulji Jetha College,
Jalgaon, Dist. Jalgaon. ... Respondents.

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Mr. S. R. Barlinge, advocate for the Petitioner.
Mr. A. B. Girase, advocate for the Respondent No. 1
Mr. V. T. Choudhari, advocate for Respondent Nos. 2
and 3.

...

**CORAM : S. V. GANGAPURWALA &
V. K. JADHAV, JJ.**

Date : 23.06.2015.

ORAL JUDGMENT (Per S.V.Gangapurwala, J.)

1. Heard.

2. Rule. Rule returnable forthwith. With the consent of the parties, the petition is taken up for final hearing.

3. It is the contention of the learned counsel for the petitioner that the petitioner was appointed initially for the academic year 1991-92 by following due selection process. The selection was by duly constituted Selection Committee. In the year 1994, the petitioner's services were terminated. The Writ Petition bearing No.153/2010 was disposed of in terms of the minutes of the order. Pursuant to the said minutes of the order, the Respondent No.2 submitted proposal for grant of approval to the appointment of the petitioner. The University rejected the said proposal for approval.

4. Mr.Barlinge, learned counsel for the petitioner submits that the rejection of the

proposal was altogether on unsustainable grounds. As per the roster duly approved by the BC cell, one post is meant for open category, the petitioner was given appointment from the open category. The petitioner belongs to other Backward class and has validity certificate of other Backward category, as such petitioner can be considered either from open category or reserved OBC category. The learned counsel further submits that another reason given for rejection of approval is that petitioner is appointed for physics subject and the basic qualification of the petitioner is in electronic subject. The learned counsel submits that the petitioner has Ph.D in Physics. So also Joint Director of Education has sanctioned workload of Physics and Electronics subject jointly i.e. combined workload of Physics and Electronics subjects is calculated. The petitioner teaches Electronics and Physics subjects. According to the learned counsel, the impugned order as such deserves to be set aside.

5. Mr.V.T.Choudhari, learned counsel for

Institution submits that the Institution has got the roster verified from the BC cell and as per the verified roster, one post for open category as well as post for reserved category is available. It is not disputed by the learned counsel that the Joint Director of Higher Education has sanctioned workload of Physics and Electronics collectively.

6. Mr.Girase, learned counsel for the University submits that the roster approved by the BC cell was not submitted and as per the position which was existing as per the old roster, there was no post meant for open category. The basic qualification of the petitioner is in Electronics subject, as such could not have been appointed for Physics subject. No error has been committed by the authority while refusing the approval.

7. We have considered the submissions canvassed by the learned counsel for respective parties. The two grounds put forth for refusing approval are; i) The post is meant for Scheduled

Tribe category and ii) the petitioner does not possess basic qualification for Physics.

8. The petitioner's academic qualification as admitted by all the parties is B.Sc. (Electronics), M.Sc. (Electronics), SET (Electronics), Ph.D (Physics).

9. The affidavit-in-reply is filed by Respondent Nos.2 and 3, wherein subjectwise break up of existing teachers who have been granted approval is given. Some of the lecturers appointed have their basic qualification in Physics and are approved for Electronics subject, some of the lecturers are such, who have done their B.Sc in Physics, M.Sc in Electronics and are approved for Physics. There are about two lecturers who are appointed for Physics, they are approved for Electronics and they have basic degree in Physics.

10. We may not enter in the said anomaly. The petitioner has Ph.D in Physics and B.Sc., M.Sc and SET in Electronics. The order dated

6.10.2008 and 1.1.2009 of the Joint Director of Higher Education clearly states that workload of 284 period is collectively sanctioned for Physics and Electronics for which 11 full time teachers are permissible. The workload is not sanctioned independently for Physics and/or Electronics but the same is sanctioned jointly. As such, there would be no impediment to hold that the petitioner has the necessary qualification. The roster approved by the BC Cell as submitted by the Institution also shows that one post is meant for open category.

11. In light of the above, the reasons given for rejecting approval can not be sustained. The impugned order is thus quashed and set aside. The University shall reconsider the proposal for approval in respect of petitioner submitted to it and shall not reject it on the ground that the petitioner does not belong to reserved category. It is also held that petitioner possesses necessary qualification. The University shall take decision on the said proposal expeditiously and preferably within

three (3) months.

12. Rule accordingly made absolute. No costs.

(V.K.JADHAV, J.)

(S.V.GANGAPURWALA, J.)

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