

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1316 OF 2015

[Vivek Ramchandra Vishwarupe .vs. Sant Gadgebaba Amravati University, Amravati and one]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.C. Dharmadhikari, counsel for the petitioner,
Shri J.B. Kasat, counsel for the respondents.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATED : APRIL 16, 2015.

By this petition, the petitioner challenges the communication of the respondent no.1-Sant Gadgebaba Amravati University, Amravati dated 16.2.2015, informing the petitioner about the rejection of his representation, seeking appointment on the post of Principal in a college affiliated to the respondent no.1-University.

The petitioner seeks a direction to the respondent nos.1 and 2 to redetermine the representation of the petitioner and also reconstitute the Selection Committee for considering the claim of the petitioner for appointment on the post of the Principal.

In pursuance of the advertisement issued by Babaji Datey Kala Ani Vanijya Mahavidyalaya, Yavatmal, inviting applications for appointment on the post of the Principal, the petitioner had applied for the said post along with the other candidates. The Selection Committee selected Shri Khandare for appointment on the post of Principal. The respondent no.1-University refused to grant approval to the appointment of Shri Khandare. In the meanwhile, the petitioner filed Writ Petition No.2755/2014 challenging the selection of Shri Khandare for appointment on the post of Principal on the ground that the selection process was vitiated and the selection criteria as laid down by the UGC guidelines was not followed by the Selection

Committee. This court, by an order dated 8.12.2014 dismissed the writ petition filed by the petitioner, by placing reliance on the judgment of the Hon'ble Supreme Court that a candidate participating in the selection process cannot turn around and challenge the selection process. The petitioner challenged the order dated 8.12.2014 in a Special Leave Petition before the Hon'ble Supreme Court. The Hon'ble Supreme Court did not find any ground for interference with the order of the High Court. The Hon'ble Supreme Court permitted the petitioner to withdraw the petition subject to clarification that the representation made by the petitioner before the Vice Chancellor may be decided expeditiously along with the proposal of Shri Khandare for approval.

It is the case of the petitioner that the Vice Chancellor did not consider the representation of the petitioner simultaneously with the proposal of Shri Khandare. It is stated that both of them were decided separately. It is further stated that the respondent nos.1 and 2 should be directed to reconstitute the Selection Committee, so that they could reconsider the claim of the petitioner along with others.

On the first date of hearing, we did not find any merit in the submission made on behalf of the petitioner that the order rejecting the representation of the petitioner should be quashed and set aside, as the said representation was not decided simultaneously with the proposal of Shri Khandare, as the representation of the petitioner as well as the proposal of Shri Khandare have been rejected by the respondent no.1-University. We also find that the Hon'ble Supreme Court has refused to interfere with the order of the High Court dismissing the writ petition on the ground of tenability, as the petitioner had participated in the selection process and then turned around to challenge the selection process. A direction, even if it is assumed that the Hon'ble Supreme Court had issued the same, to decide the representation of the petitioner along with the proposal of Shri Khandare cannot vitiate the order of the respondent no.1-University, as the representation of the petitioner and the proposal of Shri Khandare are rejected. The petitioner could have assailed the order of the Hon'ble Vice Chancellor on the said ground if Shri

Khandare's proposal would have been accepted and the representation of the petitioner was dismissed. The order of the Hon'ble Vice Chancellor, therefore, cannot be assailed on the aforesaid ground. We also find that the petitioner had, in the earlier writ petition filed by the petitioner, sought his appointment on the post of Principal, by challenging the appointment of Shri Khandare. The said writ petition is dismissed and the order dismissing the writ petition is upheld by the Hon'ble Supreme Court.

In this view of the matter, the petitioner cannot seek his appointment on the post of Principal by directing the respondents to reconstitute the Selection Committee. It would not be proper to normally direct the reconstitution of the same Selection Committee for assessing the merit of the candidates appearing at the interview, specially when a more than year has lapsed from the date of the completion of the selection process. Such a direction cannot be normally issued as there may be a possibility that several members from the previous Selection Committee may not be available for reconstitution of the same after the selection is made and the Selection Committee become *functus officio*. It is informed to this court by the learned counsel for the University that the concerned college has sought the permission from the University to advertise the post of Principal and by an order dated 23.1.2015, the said permission has been granted and the advertisement has been issued on 24.3.2015. It is stated by the learned counsel for the respondent no.1 that the petitioner can as well apply for the post in pursuance of the advertisement issued on 24.3.2015 and compete with the others.

In the circumstances of the case and in the interest of justice, it would not be possible to grant the prayer made by the petitioner in the instant petition. We, therefore, dismiss the petition, with no order as to costs.

JUDGE

JUDGE