

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

**WRIT PETITION NO.4181 OF 2014**

Vijayanand Giridharrao Darbastwar

Petitioner

Versus

Dr. Babasaheb Ambedkar Marathawada  
University and others

Respondents

Mr.Gaurav L. Deshpande advocate for the petitioner

Mr. S.G. Chapalgaonkar advocate for respondent No.1

Mr.V.S. Badakh, Assistant Government Pleader for Respondents No.2 to  
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Mr. S.S. Thombre advocate for respondent No.5

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CORAM : R.M. BORDE, &  
P.R. BORA, JJ

Dated : 14<sup>th</sup> MARCH, 2016.

PER COURT :-

1 The petitioner claims that, by virtue of Government Resolution dated 17.9.2009, the post of Superintendent i.e. Section Officer of the University is removed from category of Class III (Group 'C') and is classified as Class II (Group 'B'), with a view to ensure filling of 50% of the posts by way of direct recruitment.

2 So far as the employees from category of Class III are concerned, under the Standard Code Rules 1984, posts shall have to be filled in by making promotion of the candidates from amongst the relevant category. The petitioner contends that, the

change has been brought into existence post Govt. resolution dated 17.9.2009, which itself is contrary to the Standard Code Rules. The Standard Code Rules, 1984 have been framed in exercise of powers conferred under section 77-A of the University Act of 1974, providing for terms and conditions of services of non-teaching employees of the non-agricultural universities, in the Maharashtra State and of those of the affiliated colleges and recognized institutions, other than those managed and maintained by the State Government and Local authorities.

3 The petitioner relies upon paragraph III in respect of recruitment, which provides that the appointment to the Senior posts, except those carrying lowest scale of pay in the various Departments of the Universities and the Colleges and like Superintendent, Accountant, Head Clerks, Senior Clerks, Store-keeper, Senior Laboratory Assistants, Senior Assistants, Stenographers, Senior Library Assistants etc. where the recruitment qualifications required for the junior posts in the same Department or Section are the same as prescribed for the Senior Posts, shall be made by promotion only on the basis of seniority-cum-merit, from amongst the persons who are working in the Universities or affiliated colleges and who possess the minimum qualifications prescribed for the lower posts and the minimum

experience of 3 years in the lowest post.

4 Learned counsel appearing for the respondent University points out that, the post of Superintendent in the University has always been a Class II post, whereas the post of Superintendent in the affiliated colleges is a Class III post. The relevant regulation referred to above contained in the Standard Code, applies to the University and the relevant paragraph of the Code shall relate to affiliated colleges and not the university. The statute framed by Marathawada University, specifically lay down under Appendix I – Category 'B', the post of Superintendent to be a class II post. It has further been demonstrated that, the aforesaid post has been filled in, in the past by maintaining ratio of 50% by direct recruitment and 50% by way of promotion from amongst feeder cadre. During the recruitment process of 2009, out of six posts of Superintendent, 50% of the posts were earmarked for direct recruitment and 50% were earmarked for promotional pool. Similarly, in the year 2007, out of 14 posts of Superintendent, seven posts were earmarked for direct recruitment, whereas seven posts were prescribed for promotional channel. The advertisement issued in the year 2006 also relates to 6 posts, out of which three were earmarked for direct recruitment and the balance were prescribed for promotional channel. It has been

pointed out that, during the 2003 recruitment process, out of 13 posts, six were earmarked for direct recruitment and seven were prescribed for promotional cadre. Considering the past practice coupled with the relevant provisions contained in the Statute, reasonable conclusion has to be drawn that, the post of Superintendent in the university forms part of Class II (Group 'B') cadre and as such has to be filled in by observing the ratio of 50 : 50 for promotion and for direct recruitment. The petitioner, probably is misguided because of the fact that, the post of Superintendent at the affiliated colleges forms part of Class III cadre (Group 'C') and as is provided in the Code, required to be filled in only by promotion, from amongst in service candidates.

5 For the reasons recorded above, there is no merit in the petition and petition stands rejected.

(P.R. BORA, J)

(R.M.BORDE, J)