

UNREPORTED**IN THE HIGH COURT OF JUDICATURE AT****BOMBAY****BENCH AT AURANGABAD.****WRIT PETITION NO.5384 OF 2013.**

Dr.Uttam Manik Jaybhaya,
Age 48 years, Occ.Service,
R/o C/o R.M.Deshmukh,
Laxmi Niwas, Opp.Shri Ganesh
High School, Nandigram Society,
Nanded. ... Petitioner.

Versus

1.The State of Maharashtra
through its Department
of Higher and Technical
Education, Mantralaya,
Mumbai.

2. Swami Ramanand Teerth
Marathwada University,
Nanded.

3.Adarsha Shikshan Sanstha,
Hingoli through its
President Shri Eknathdada
Gangaram Nilawar,
C/o Adarsha Shikshan
Society's Arts, Commerce
and Science College,
Hingoli.
(Name of Respondent No.3
is deleted as per Hon'ble
Court's order dated
10.9.2015)

4. Adarsha Shikshan Society's

Arts, Commerce and Science
College, Hingoli, through
its Principal.

5. Dr.Satish Ambadasrao Kulkarni,
Age major, Occ.Service,
R/o C/o Adarsh Shikshan
Society's Arts, Commerce
and Science College, Hingoli.

6. Dr.Prashantkumar Panditrao Joshi,
Age major, Occ.Service,
R/o C/o Adarsh Shikshan Society's
Arts, Commerce & Science
College, Hingoli. ... Respondents.

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Mr.S.S.Jadhavar, advocate for the petitioner.
Mr.B.V.Virdhe, A.G.P. for the State.
Mr.V.P.Latange, advocate for Respondent No.2.
Mr.D.M.Shinde, advocate for Respondent Nos.5 and
6.

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**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**

Date : 19.08.2016.

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

1. Heard.

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

3. The applications were invited for the

post of Professor in Zoology in the Respondent No.4 institution. The present petitioner and Respondent No.6 along with other candidates participated in the selection process. The Respondent No.6 came to be selected and appointed as Professor of Zoology with Respondent Nos.3 and 4 institution. The selection of Respondent No.6 is assailed in the present Writ Petition.

4. Mr.Jadhavar, learned counsel for the petitioner submits that the Selection Committee constituted for selecting the Professor in Zoology for the Respondent institution showed undue favour to the Respondent No.6. The marks were allotted to the Respondent No.6 in respect of research papers that were never published in the journals. The selection of Respondent No.6 was itself illegal. Even the marks allotted to Respondent No.6 in objective assessment by the members of the Selection Committee were different. Large scale illegalities are committed in the said selection process. Ignoring all the para-meters for allotment of marks, the Committee has allotted full marks to

the research work claimed by the Respondent No.6. The inquiry was conducted by the University. The University gave report in favour of the Selection Committee. This Court appointed an Inquiry Committee of subject experts to inquire into the matter. The Committee appointed by this Court inquired into the matter and observed that though Respondent No.6 is allotted 48 marks for the research papers, in fact, the Respondent No.6 was entitled for only 15 marks. This shows that the selection of Respondent No.6 was itself illegal. According to the Committee, appointed by the Court, one Dr.D.B.Bhure, stands at serial No.1, this fact testifies that Respondent No.6 was shown undue favour by Selection Committee. The appointment of Respondent No.6 as such is per se and ex-facie illegal. Such an illegal appointment can not be protected. Objective assessment has to be made. In such an event the whole selection process requires to be cancelled and fresh selection process be undertaken.

5. Mr.Latange, learned counsel appears for Respondent No.2 University and submits that

University had conducted an inquiry and found the selection process to be proper.

6. The learned counsel appearing for Respondent Nos.5 and 6 submits that even as per report submitted by the Committee appointed by this Court, the petitioner stands at serial No.3 i.e. below Respondent No.6. As such petitioner does not have right to assail the same.

7. We have considered the submissions canvassed by learned counsel for respective parties.

8. Considering the averments in the petition and the allegations levelled that of infirmities in the selection process, this Court to eradicate any doubt appointed Committee of subject experts to inquire into the matter. The Committee appointed by this Court considered all the documents, papers submitted by the respective candidates during the course of the selection process and has also conducted interviews of the candidates. Upon considering all the relevant

aspects, the Committee has submitted the report which is part of the record of this Court. As per the Committee appointed by this Court, Dr.Bhure, secures 217.43 points, Dr.P.P.Joshi (Respondent No.6) secures 187.47 points and Dr.U.M.Jayabhaye (petitioner) secures 178.87 points.

9. The marks in the selection process are based on subjective satisfaction of the Committee which certainly is formed on the objective assessment. It was found that Respondent No.6 was given more marks for research papers. However, in the end, the Committee has opined that the petitioner would still stand at serial No.3 and Respondent No.6 would be above the petitioner in the allotment of marks also. Dr.Bhure, who according to the Committee appointed by this Court secures the highest marks is not assailing the selection process nor is making any complaint in that regard. The petitioner may not have any ground to agitate against Respondent No.6 as in the marks allotted by the Selection Committee, the petitioner did not stand a chance. In the inquiry conducted by

the University also, the petitioner did not stand any chance and even according to the Inquiry Report of the Committee appointed by this Court, the petitioner is at the bottom and Respondent No.6 is above the petitioner. It is not the case of the petitioner that Respondent No.6 was ineligible to be appointed. The only grievance is about the allotment of marks and in each and every inquiry, the petitioner is below the Respondent No.6.

10. In light of that, the grievance raised by the petitioner can not be considered. The Writ Petition as such is dismissed. Rule discharged. No costs.

Sd/-
(K.L.WADANE, J.)

Sd/-
(S.V.GANGAPURWALA, J.)

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