

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

WRIT PETITION NO. 2223 OF 2016

Dr. Vaishali d/o Harish Ambade

-vs-

State of Mah.thr. Chief Secretary of Social Welfare of Ministry and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.I.G.Meshram, counsel for the petitioner.

Mr.Ambarish Joshi, AGP for the respondent Nos.1 to 4.

CORAM : SMT. VASANTI A. NAIK &
V. M. DESHPANDE, JJ.

DATE : 11.04.2016.

By this petition, the petitioner challenges the advertisement issued by the respondent Nos.6 and 7-Ayurvedic College, dated 07/01/2016 as being opposed to the reservation policy and the provisions of the Constitution of India.

The petitioner had applied for the post of Associate Professor in Shalakyta Tantra in pursuance of the advertisement, dated 07/01/2016. As per the advertisement, the post was earmarked for the open category and it is the case of the petitioner that the same ought to have been reserved for the backward classes.

Shri Ambarish Joshi, the learned Assistant Government Pleader appearing on behalf of the respondent Nos.1 to 4, raises a preliminary objection to the tenability of the writ petition. It is stated that the petitioner has participated in the selection process and then turn around to challenge the advertisement. It is stated that a candidate participating in the selection process cannot be permitted to question the process later on. The learned Assistant Government Pleader states that an identical challenge has been rejected by this Court on the ground of maintainability.

We find much force in the objection raised on behalf of the respondent Nos.1 to 4. It is well settled that a candidate participating in the selection process cannot question the process later on. If the petitioner was aggrieved by the earmarking of the post of Associate Professor in Shalakya Tantra for the open category and if according to the petitioner, the said post ought to have been reserved for the backward classes, it was necessary for the petitioner to have challenged the advertisement before participating in the selection process. After applying in pursuance of the advertisement, the petitioner cannot be permitted to turn around and challenge the selection process. The prayers made by the petitioner cannot be considered, as the petitioner has participated in the selection process. It would be necessary to refer to the judgments, reported in (2009) 3 SCC 227 (Amlan Jyoti Borroah v. State of Assam and others), (1997) 4 SCC 426 (University of Cochin v. N. S. Kanjoonjamma), (2008) 4 SCC 171 (Dhananjay Malik v. State of Uttaranchal), (2010) 12 SCC 576 (Manish Kumar Shahi v. State of Bihar) and (2011) 1 SCC 150 (Vijendra Kumar Verma v. Public Service Commission) in this regard.

By upholding the preliminary objection raised on behalf of the respondent Nos.1 to 4, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE