

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

WRIT PETITION NO. 4217/2015.

Mrs. Sanyogita Amrut Meshram

-VERSUS-

Rashtrasant Tukdoji Maharaj Nagpur University, Nagpur and others.

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

Court's or Judge's Orders

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA JAIN, JJ.**

DATE : JUNE 24, 2016.

Heard Shri A.A. Naik, learned Counsel for the petitioner, Shri P.B. Patil, learned Counsel for respondent no.1 and Shri M.V. Samarth, learned Counsel for respondent nos. 2 and 3. Perused orders passed by this Court on 19.04.2010, and thereafter in Writ Petition No. 823/2011 on 24.11.2011 and judgment delivered therein on 20.09.2013..

2. The judgment was questioned by one Chandramani in a Special Leave Petition before the Hon'ble Supreme Court and on 05.12.2014, the Hon'ble Supreme Court has disposed of the said

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Special Leave Petition No. 32380/2014 with following order :

“ Heard learned Senior Counsel for the petitioner.

We are not inclined to entertain the present petition. However, we make it clear that the petitioner’s right to challenge the appointment of respondent no.6, if she is found suitable and eligible, is not fettered in any manner. It is further submitted that the petitioner has already been working for almost two years. Accordingly an early decision is therefore, expected to be made.

The Special Leave Petition is dismissed accordingly.”

3. Thus, an opportunity was given to Shri Chandramani to assail the appointment of present petitioner, if she was found suitable and eligible.

4. Perusal of the judgment delivered by this Court on 20.09.2013 in paragraph no.7 reveals that the question whether all candidates who were interviewed on 27.12.2011 and 28.12.2011, pursuant to the orders of this Court dated 24.11.2011 could have been considered eligible or not, was to be decided by the respondent no.1 i.e. Nagpur University.

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In operative part, in paragraph 8(iii) in said judgment, we have observed as under :

“8(iii) While considering the proposals seeking approval to the appointments of the candidates selected by the Committee appointed by this Court, it will be open to the respondent no.1 University to examine whether the candidate who is selected by the Committee appointed by this Court, could have participated in the interviews or not. The respondent no.1 University will take decision in this matter according to law.”

5. Thus, question whether candidates selected by the Committee appointed by this Court was allowed to participate in the interview, was left open to be decided by the University. This direction has attained finality.

6. The University accordingly by the impugned communication dated 10.04.2015, found that the present petitioner had not applied in pursuance of the advertisement and therefore, approval to her appointment could not have been given. After this communication, the petitioner made a representation and that has been turned down by the

University on 24.06.2015.

7. Shri Naik, learned Counsel for the petitioner submits that the orders passed by this Court during the pendency of the Writ Petition envisaged interviews of only those candidates who were earlier interviewed. Earlier interviews were Walk in Interviews and petitioner had appeared in the said interview on 25.05.2010. It is submitted that though she may not have applied in response to the advertisement, her candidature is evaluated by the competent Committee appointed by this Court and in absence of any allegations of malafides, the University could not have declined to approve her appointment.

8. Shri Samarth, learned counsel appearing for respondent nos. 2 and 3 submits that as the petitioner did not apply in response to the advertisement, no fault can be found with the consideration by respondent no.1. He submits that respondent nos. 2 and 3 have moved respondent no.1 seeking permission to re-advertise that vacancy and if eligible, petitioner can again apply.

9. Shri Patil, learned counsel appearing for the respondent University states that the petitioner did

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not apply in response to the advertisement before last date stipulated therein and hence, she could not have been interviewed at all on 25.05.2010.

10. The fact that the interviews were not walk in interview, is not in dispute. Thus, the candidates who have applied in pursuance of the advertisement till prescribed last date only, could have been allowed to participate. The fact that the earlier interview Committee permitted her to participate on 25.05.2010 is not relevant, because later orders passed by this Court. Because of inter-se dispute in the management, this Court appointed Committee and that Committee was permitted to hold interview. No finding of fact was recorded an eligibility and all the candidates who were interviewed by Committee in dispute, were directed to be reinterviewed. The judgment ultimately delivered in the Writ Petition has been briefly mentioned by us above.

11. In the light of these developments suitability and eligibility of petitioner to appear for interview is open for consideration before the respondent no.1 University. The respondent no.1 has rightly found that petitioner did not respond to the

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advertisement, never applied for job and was permitted at eleventh hour to participate in the interview. No fault can be found with this consideration. There is no jurisdictional error, Writ Petition is, therefore, dismissed. No costs.

12. Needless to mention that the petitioner can apply in pursuance to new advertisement if any, and ignoring the litigation, her candidature shall be evaluated independently and impartially.

JUDGE

JUDGE

Rgd.