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

WRIT PETITION NO.6636 OF 2015

Dr Kisan s/o Rajaramji Patond
Vs.
Maharashtra University of Health Sciences and ors.

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

Court's or Judge's Order

**CORAM: B.P. DHARMADHIKARI &
A. S.CHANDURKAR JJ.**

DATED: 29th AUGUST, 2016.

Heard Advocate Shri R. Joshi for petitioner, learned AGP Shri S. M. Uke for respondent Nos.1 and 2, Advocate Shri A. Manohar for respondent No.3 and Advocate Shri B. G. Kulkarni with Advocate Shri T. D. Mandlekar for respondent No.4.

By the impugned communication dated 09/09/2015 Registrar of Health University has refused to grant approval to the selection of petitioner as Dean of respondent No.3 College and has cancelled the entire selection process.

Though the parties have raised various contentions, we find that the Vice Chancellor has relied upon a report prepared by Committee consisting of Dr V. N. Dhadke and Dr Sudhir B.

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Deshmukh to arrive at said finding. Copy of that report was not served upon the petitioner. Perusal of report shows that it is prepared at Nashik on 07/09/2015 and Dr V. N. Dhadke has signed it on 09/09/2015 and other member Dr Sudhir B. Deshmukh has signed it on 10/09/2015. Dr Sudhir B. Deshmukh has on affidavit explained that he has signed it on 09/09/2015 only after his return from Bombay in late hours in the evening.

We need not go into all these niceties. The first question is whether before issuing any appointment order to the petitioner, approval to his selection could have been sought. Our attention has been invited to provisions of Clause 7.2.7 contained in University Directions No.2 of 2014. We keep this contention open.

Learned AGP Shri Uke has submitted that as the petitioner was not appointed, it was not necessary to hear him and therefore, to supply him copy of report. The impugned communication quashes the selection process itself and the respondent No.3- College has to initiate fresh process. Because of this state of affairs, the other question which arises is whether the recruitment process or then the entire selection itself can be cancelled by the Vice Chancellor when he has been given power to either grant approval or to reject it.

Normally cancellation of recruitment process or selection

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process is the power with the employer. But then in this situation, we even keep this aspect open.

As we find that copy of report dated 09/09/2015 could not have been used while taking impugned decision which is communicated to the petitioner, only on that ground we set aside that decision.

The petitioner has now received the copy of report.

Without laying down any precedent and in view of various questions which may arise for determination (noted by us supra), we grant him liberty to make appropriate representation on said report to respondent No.2 within period of two weeks from today. If such representation is made, respondent No.2 shall then proceed to take decision upon said report after hearing the petitioner, respondent No.3 and complainant respondent No.4 if he so desires. Said exercise shall be completed within next four weeks.

With these directions and keeping all contentions open, we partly allow the petition and dispose of it.

JUDGE

JUDGE

Asmita

-: C E R T I F I C A T E :-

“ I certify that this Judgment/order uploaded is a true and correct copy of the original signed Judgment/order.”

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Asmita A. Bhandakkar
Personal Assistant

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30/08/2016