

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 767 OF 2004

Dr. Manish s/o. Atmaram Anand,
Age 51 years, Occu. Lecturer,
R/o. C/o. B.R. Nandgawali, Plot No. 2,
D Sector, N-12, HUDCO,
Aurangabad.

....Petitioner.

Versus

1. Dr. Babasaheb Ambedkar Marathwada University, Through its Registrar, University Campus, Near Begampura, Aurangabad.
2. Hon'ble Vice Chancellor, Dr. Babasaheb Ambedkar Marathwada University, University Campus, Near Begampura, Aurangabad.
3. State of Maharashtra Through its Secretary, Higher Education and Technical Education, Mantralaya Extension, Mumbai-32.
4. Dr. B.N. Kurade, Age 47 years, Occu. Lecturer, R/o. 19-A, nandanwan Colony, Aurangabad.
5. University Grants Commission, Through its Secretary, Bahadur Shah Jafar Marg, New Delhi - 110 002.

....Respondents.

Mr. U.R. Awate h/f. Mr. S.B. Talekar, Advocate for petitioner.
Mr. S.K. Kadam, Advocate for respondent Nos. 1 and 2.
Mr. S.W. Munde, A.G.P. for respondent No. 3/State.
Mr. Y.P. Deshmukh, Advocate for respondent No. 4.

Mr. Alok Sharma, Advocate for respondent No. 5.

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATED : June 15, 2017.

ORAL JUDGMENT : [PER T.V. NALAWADE]

. The petition is filed to challenge the appointment of respondent No. 4 made by respondent No. 1 - University on the basis of interviews held as per the advertisement issued by the University on 16.10.2001. Both the sides are heard.

2. One open post of lecturer in 'Pali and Buddisim' was published by the University and the candidate was expected to have specialization in Buddhist Literature, Buddhist Art, Culture Philosophy and Modern Buddhist Thinker. Present petitioner and respondent No. 4 participated in the recruitment process. The Committee constituted for selection ranked respondent No. 4 at Sr. No. 1 and petitioner was ranked at Sr. No. 2. It is the grievance of the petitioner that petitioner was having NET qualification, but he was not preferred and respondent No. 4, who had completed M.Phil decree was preferred. He has one more grievance that the subject for M.Phil decree of respondent No. 4 was not the subject mentioned in the advertisement, but

he was preferred to the petitioner. One more ground which is not mentioned in the petition is argued. It was submitted that as per the record the petitioner was not there in Nagpur for getting M.Phil degree from Nagpur University at the relevant time and he was serving in Aurangabad and so, the M.Phil degree was not properly obtained by respondent No. 4. Some record in that regard is also produced.

3. The learned counsel for University and U.G.C. drew the attention of this Court to various notifications issued in respect of aforesaid grievances. The notifications show that the candidates who had completed M.Phil degree were exempted from the condition of NET examination, provided that they had submitted their thesis or they had obtained degree prior to 31st December 1993 and this last date was extended from time to time and copies of those notifications are also produced. Even in the advertisement which was published by respondent No. 1 University, the condition which was requirement of NET, but if candidate had obtained M.Phil degree prior to 31st December 1993 was exempted from the requirement of NET/SET examination. Admittedly, respondent No. 4 had obtained M.Phil degree prior to December 1993, the prescribed date and so, he

was entitled to exemption.

4. The record is produced to show the subjects which were there for M.Phil degree of respondent No. 4. Though in the degree certificate, it is mentioned that it was a degree in 'Pali and Prakrut', the syllabus shows that though there were two courses available for M.Phil degree, course No. 1 was M.Phil in Pali/Buddhism. Separate certificate is also produced of the same University showing that there was no candidate in the relevant year in M.Phil in 'Prakrut and Jainism'. Though in the certificate, there is mention that it was for 'Pali and Prakrut', as per the syllabus, there was the subject of 'Buddhism'. Ultimately, it is the employer who is to ascertain as to whether the employer is getting the candidate having requisite qualification and there is no grievance of the employer. Respondent No. 4 was already imparting this subject in junior college from Aurangabad and this fact is not disputed.

5. The submissions made show that though subsequently the petitioner also got post in the same department of the University in the year 2008. The submissions made show that both the petitioner and respondent No. 4 have

retired due to superannuation. In view of these circumstances, this Court holds that it is not possible to interfere and give directions claimed by the petitioner. In the result, the petition stands dismissed. Rule stands discharged.

[SANGITRAO S. PATIL, J.]

[T.V. NALAWADE, J.]

ssc/