

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3595 OF 2005

Ku. Ratnaprabha d/o Dhondu Kulkarni,
alias Mrs. Ratnaprabha w/o Vijay Khairnar,
Age : 45 yrs, Occ. Service,
R/o 34, Professor Colony, Dhule,
Tq. and Dist. Dhule.

.. **Petitioner**

Versus

1. North Maharashtra University,
Jalgaon, through its Registrar.
2. Gramin Vikas Shikshan
Prasarak Mandal, Nardana,
Tq. Shindkheda, District Dhule
through its President.
3. The Principal,
Late Bhausaheb M.D. Shisode,
Arts and Commerce College,
Nardana, Tq. Shindkheda,
District Dhule.
4. Joint Director of Higher
Education, Jalgaon Region,
Jalgaon.

.. **Respondents**

Mr. A.H. Nagargoje, Advocate h/f. D.M. Mane for Petitioner.
Mr. R.V. Dasalkar, Advocate for Respondent/State.
Mr. Y.B. Bolkar, Advocate h/f. R.B. Raghuwanshi for Respondent no.1
Mr. K.C. Sant, Advocate for Respondent nos. 2 and 3.

with

WRIT PETITION NO. 2450 OF 2004

Nanasaheb s/o Santosh Patil,
Age : 36 yrs, Occ. Service,
Lecturer in Marathi, Arts, Commerce
College, Nardana, Tal. Sindkheda,
District Dhule.

.. **Petitioner**

Versus

1. North Maharashtra University,
Jalgaon, through its Registrar.
2. Gramin Shikshan Prasarak Mandal,
Nardana, Taluka Sindkheda,
District Dhule, through its
President.
3. The Principal,
Late M.D. Shisode alias Bhausahab
Arts and Commerce College,
Nardana, Tal. Sindkheda,
District Dhule.
4. The Joint Director of Higher Education,
Jalgaon Division, Jalgaon.

.. **Respondents**

Mr. S.R. Barlinge, Advocate for Petitioner.
Mr. R.V. Dasalkar, Advocate for Respondent/State.
Mr. Y.B. Bolkar, Advocate h/f. R.B. Raghuwanshi for Respondent no.1
Mr. K.C. Sant, Advocate for Respondent nos. 2 and 3.

**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**
DATE : 21.08.2017

ORAL JUDGMENT :-

. The petitioner in writ petition no. 2450/2004 was initially

appointed as a Lecturer in Marathi subject with respondent college in March 1992, whereas, the petitioner in writ petition no. 3595/2005 was appointed in July-August 1992.

2. The proposal seeking approval to their appointments as Lecturer in Marathi subject is rejected.

3. We have heard Mr. Barlinge and Mr. Nagargoje, the learned counsel for respective writ petitioners, Mr. Bolkar the learned counsel for the University, Mr. Sant, the learned counsel for the institution and the learned A.G.P.

4. The anomalous situation has arisen because of the wrong assumption of the existing state of affairs.

5. It is not disputed that two posts were admissible with the respondent-college in Marathi subject. As per the required selection procedure the institution with permission of University published the advertisement for one post of Lecturer on 12.02.1992. The selection committee was constituted by the University and interviews were held on 22.03.1992. Pursuant to the said selection process, the petitioner in writ petition no. 2450/2004 (Mr. Patil) was appointed. However, the appointment order shows that he is appointed for one month. The

approval is granted also for one academic year i.e. for a month. Though, the post was full time sanctioned post.

6. Subsequently, in July 1992 again a fresh advertisement was published inviting applications for the post of Lecturer in Marathi subject and in the said selection process one Bodare and the petitioner in writ petition no. 3595/2005 (Miss Kulkarni) were selected. The petitioner in writ petition no. 2450/2004, though, participated in the selection process was not selected. The two persons selected in the selection process were appointed on the two posts.

7. Mr. Patil, was terminated, he approached the college-tribunal. A compromise was entered into between Mr. Patil and the institution and thereafter Mr. Patil was reinstated.

8. It appears that additional posts of Marathi subject is created in the academic year 1996-1997 and since then three posts for Marathi subject are approved. It is also not disputed that both the petitioners' in these writ petitions and one Mr. Bodare are working since their appointments. The bone of contention of the petitioners' is about their approval from the initial date of appointments. All three cannot be approved from the academic year 1992-1993. In view of the fact that

only two posts were admissible at the relevant time, though, all three were appointed after following due selection process and by duly constituted selection committee.

9. It would be seen that in the interregnum, Mr. Patil was terminated, he has approached the college-tribunal. Mr. Patil had also participated in the fresh selection process which was conducted in July 1992, however, was not selected therein and Miss Kulkarni and Mr. Bodare were selected and appointed.

10. Mr. Patil as has again participated in the selection process in July 1992 and was not selected, the other two persons were selected and appointed and continued in the said post. However, Mr. Patil was also appointed through proper selection committee, at a time when the post was admissible. We will have to adjust the equities.

11. Approval is granted to the petitioner in writ petition no. 2450/2004 (Mr. Patil) from 1996-1997 i.e. when the additional posts became admissible. The said approval being provisional in nature will have to be made absolute and final and Miss Kulkarni will have to be considered for approval from the academic year 1992-1993. It is stated that Mr. Bodare is already granted approval from the academic year

1992-1993.

12. In light of the above, we pass the following order.

ORDER

- i) The respondent shall grant approval to the petitioner in writ petition no. 2450/2004 (Mr. Patil) from the academic year 1996-1997.
- ii) The interim order passed by this Court on 02.02.2006 states that the provisional approval shall be granted from 1996-1997, however, considering the fact that all the Advocates are unanimous including the Advocate for the University that third post is admissible in the academic year 1996-1997. Mr. Patil shall be granted approval from the academic year 1996-1997, whereas, petitioner in writ petition no. 3595/2005 (Miss Kulkarni) shall be granted approval to her appointment from the academic year 1992-1993.
- iii) Rule accordingly made absolute in above terms.
- iv) No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]