

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

WRIT PETITION NO. 2258 OF 2005

Shri. Sudhir s/o Prakashrao Dhinde
Aged 28 years, Occ. Service,
R/o "Sai Niwas", Sahyog Nagar,
Kalamnuri, Tq. Kalamnuri,
District Hingoli.

.. **Petitioner**

Versus

1. The State of Maharashtra
Through: Secretary,
Department of Education,
Mantralaya, Mumbai – 32.
2. The Vice Chancellor,
Swami Ramanand Tirtha Marathwada
University, Nanded.
Through its Registrar.
3. Board of College and University
Development, Swami Ramanand
Tirtha Marathwada University,
Nanded, Through its Director.
4. Deputy Director (Education),
Nanded Division, Nanded.
District Nanded.
5. The Principal,
Shri. Yoganand Swami Arts
College, Basmatnagar,
District Hingoli.

.. **Respondents**

Advocate for Petitioner : Mr. B.S. Kudale
AGP for Respondents: Mr. D.R. Kale
Advocate for Respondents :Mr. Malte Uday S. for R/2 and 3.
Advocate for Respondents : Mr. V.D. Sapkal for R/5.

**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**
DATE : 11.08.2017

ORAL JUDGMENT :-

. The present petition is filed seeking approval to the appointment of the petitioner on the post of Lecturer in Public Administration subject.

2. Mr. Kudale, the learned counsel submits that the petitioner was appointed after following due selection process pursuant to the advertisement on a clear vacant post. The learned counsel further submits that the approval is not granted to the appointment of the petitioner on erroneous ground.

3. Mr. Malte, the learned counsel submits that as per the advertisement the post was to be filled in and the selection committee had interviewed the candidates. The petitioner was at serial no.2, the person at serial no.1 did not join, however, the appointment of petitioner seems to be under the Government communication dated 23.01.2004

and not on the basis of advertisement.

4. Mr. Sapkal, the learned counsel submits that, at the relevant time the post available was only on clock hour basis and the petitioner was appointed on consolidated salary of Rs. 8,000/- per month. The petitioner has left the respondent college on 03.10.2005.

5. In the present matter, we are only concerned with the question about the grant of approval to the appointment of the petitioner.

6. The approval can only be granted, if the post at the relevant time was available i.e. the same was a clear vacant post.

7. It appears that, pursuant to advertisement, the petitioner participated in the selection process and was also selected. However, the appointment order seems to be on consolidated salary of Rs. 8,000/- per month.

8. It is not clear from the record placed before us, as to the availability of the post. In view of that, we pass the following order:

ORDER

- i) The respondent management and the college shall provide

approved staffing pattern of the year 2003-04 and 2004-05 to the University.

- ii) The University shall consider the said staffing pattern and if at the relevant time when the petitioner was appointed, the post was available, then shall grant approval to the appointment of the petitioner for the period the petitioner was working with the respondent college.
- iii) Irrespective of the factum of grant of approval, the monetary dues would not be a subject matter of consideration.
- iv) Rule accordingly made absolute in above terms. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]