

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

**WRIT PETITION NO. 2100 OF 2017**

**SEEMA KISHANRAO ARBAD  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Petitioner : Mr. Patil Pradip R. And  
Mr. R K Ingole

AGP for Respondent no1.: Mr. M.B.Bharaswadkar  
Advocate for Respondent no.2 : Mr. V.D.Patnurkar

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**CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.**

**DATED : 22nd FEBRUARY, 2017**

**O R D E R :**

The petitioner had filled in the form for the post of Assistant Professor. The same is rejected on the ground that the certificate as prescribed in the form is not signed by the petitioner. The same is assailed in the present Writ Petition.

2. Mr. P.R.Patil, learned counsel for the petitioner submits that pursuant to the

advertisement published by respondent no.2 University the petitioner applied for the post of Assistant Professor. The petitioner has completed Ph.D. from subject Genetics and Plant Breeding. Learned counsel submits that the petitioner was shown in the list of ineligible candidates on the ground that undertaking is not signed by her. Learned counsel submits that the application contains various declarations. The petitioner had signed the declarations. Thereby it is clear that the entries made in the columns of the proforma are correct, complete and true and that nothing has been concealed or misrepresented by her. The petitioner also signed undertaking in Form A i.e. she does not have any living children. Inadvertently, the petitioner did not sign certificate which contain a declaration that the statements made in the application are true and correct and that if any information is found false the candidature is liable to be rejected or cancelled. Learned counsel submits that only on this technical ground the petitioner is held

ineligible. The petitioner possesses all the basic qualifications. The declaration of the information being true and correct was already signed by the petitioner. Only certificate has remained to be signed.

3. The same would not be fatal. Learned counsel relies on the judgment of the Apex Court in the case of **Uma Shankar Sharma vs Union of India**, reported in **1980 (3) SCC 202** and the judgment of Kerala High Court in the case of **Kuriakose vs State of Kerala**, dated 20.1.1994. According to the learned counsel, the petitioner be held to be eligible. Mr. Patnurkar. learned counsel for the respondent submits that the terms and conditions as stipulated in the advertisement clearly lay down that the candidate applying for the post of Assistant Professor must fill in the information in Part A, Part B and the declaration certificate in Form A. The same were essential terms and conditions of the advertisement. Learned counsel further submits that the

applications received for the post of Associate Professor were to be scrutinized by the Committee of Experts and the number of candidates to be called for interview will be decided by the competent authority of the University. Non-signing of the declaration is fatal. The application has to be scrupulously filled in. Any deviation therefrom is not permissible. Just like the petitioner the candidature of some of the candidates is also rejected on the same ground. The selection process has proceeded further and now it cannot be reverted back.

4. Learned counsel relies on the judgment of the Apex Court in the case of **Renu and Others vs District and Sessions Judge, Tis Hazari and Another**, reported in **AIR 2014 SC 2175**. Learned counsel further submits that there is no provision in the Rule or the advertisement enabling a candidate to cure the defect in the application.

5. We have considered the submissions

canvassed by the learned counsel for respective parties. As far as the discretion vested with the committee of experts in restricting the number of candidates is concerned, the same is prerogative of the committee of experts. It is for the University to determine the number of candidates to be called for interview. In the present case, we are not called upon to examine the same. It is for the committee of experts to take a decision in that regard.

6. The only grievance put forth by the petitioner is that the petitioner has been held ineligible only on the ground that below the certificate inadvertently the petitioner has not put her signature. The moot question would be whether the same is fatal to the application. There may be certain terms and conditions which are fundamental and cannot be cured. Non-adherence to the same would axiomatically lead to rejection of the application. The certificate which is not signed by the petitioner contains a

declaration that the statements made in the application are true, complete and correct. Such a declaration also appears below the columns. The declaration declaring the statement in columns as correct, complete and true is signed by the petitioner. This would show that what was required under the certificate, declaration to that effect was also provided and signed by the petitioner affirming that the contents are correct, complete and true and nothing has been concealed or misrepresented. The certificate which is not signed by the petitioner only endorsed the said declaration. The petitioner has also signed undertaking in Form A whereby the petitioner has declared that the petitioner has no living children and that she has submitted application for the post of Assistant Professor (Agricultural Botany). The committee has rejected the application and held petitioner to be ineligible on the ground that the certificate is not signed. In fact, declaration and undertaking is signed by the petitioner. Certificate is not

signed and certificate is nothing but repetition of the declaration which is signed. Be that as it may, the declaration already having made and signed by the petitioner and certificate being repetition of the same, non-signing of the said certificate would not be fatal. The petitioner is possessing the basic qualifications and is not otherwise held ineligible.

7.       Negating application of the petitioner on such a criteria would be inappropriate and the same would tantamount to rigid adherence to the technical conditions which may not be permissible, more particularly when the petitioner has already signed the declaration and certificate is reiteration of the same.

8.       Considering the above, the impugned decision is quashed and set aside and if there is no other impediment, then the petitioner's application be held eligible.

9. Writ Petition accordingly allowed in above terms. No costs.

**(K.L.WADANE, J.)**

**(S.V.GANGAPURWALA, J.)**

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