

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

WRIT PETITION NO.7624 OF 2004

Nitin s/o. Mukundrao Konde,
Age : 29 years, Occ. Service,
r/o. 22, Shrivikas Colony,
Amravati, Dist. Amravati ..Petitioner

Vs.

1. The State of Maharashtra,
through its Secretary,
Agriculture, Animal Husbandary,
Dairy Development and Fisheries
Department, Mantralaya, Mumbai
2. The Hon'ble Vice Chancellor,
Mahatma Phule Krushi Vidhyapeeth
Rahuri, Tq. Rahuri,
Dist. Ahmednagar
3. Mahatma Phule Krushi Vidhyapeeth
Rahuri, Tq. Rahuri,
Dist. Ahmednagar,
through its Registrar
4. Tulshidas Damu Patil,
Age : 45 years, Occ. Service,
r/o. Assistant Professor,
Department of Agricultural
Chemistry and Social Science,
M.P.K.V., Rahuri,
Dist. Ahmednagar
5. Ramesh Digambar Chaudhary,
Age : 40 years, Occ. Service,
Department of Agricultural
Chemistry and Social Science,
College of Agriculture, Dhule ..Respondents

AND
WRIT PETITION NO.48 OF 2005

Dr. Rajesh s/o. Damodarrao Vaidkar,
Age : 30 years, Occ. Service,
r/o. Santaji Nagar,
Near Shankar Nagar,
Amravati, Dist. Amravati ..Petitioner

Vs.

1. The State of Maharashtra,
through its Secretary,
Agriculture, Animal Husbandary,
Dairy Development and Fisheries
Department, Mantralaya, Mumbai
2. The Hon'ble Vice Chancellor,
Mahatma Phule Krushi Vidhyapeeth
Rahuri, Tq. Rahuri,
Dist. Ahmednagar
3. Mahatma Phule Krushi Vidhyapeeth
Rahuri, Tq. Rahuri,
Dist. Ahmednagar,
through its Registrar
4. Pandurang N. Shendage,
Age : 37 years, Occ. Service,
r/o. c/o. Department of
Agriculture Economics,
Mahatma Phule Krushi Vidyapeeth,
Rahuri, Dist. Ahmednagar ..Respondents

--

Mr.Pradeep Deshmukh, Advocate for petitioners
Mrs.P.V.Diggikar, AGP for respondent no.1
Mr.Pradeep Shahane, Advocate for respondent nos.2
and 3
Mr.V.P.Golewar, Advocate for respondent nos.4 and
5 in W.P. No.7624/2004 and for respondent no.4 in
W.P. No.48/2005

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.
DATE : JUNE 19, 2017**

ORAL JUDGMENT (PER T.V. NALAWADE, J.) :

The facts of both these petitions are same and hence, they are disposed of by this common judgment.

2. These petitions are filed to challenge the selection process which was undertaken by respondent nos.2 and 3/University for the post of Assistant Professors.

3. The petitioners and respondent nos.4 and 5 had participated in the said process. Respondent nos.4 and 5 are selected but the petitioners are not selected.

4. Both sides are heard.

5. The learned Counsel for the petitioners submits that the procedure, as prescribed in Chapter-V of the Maharashtra Agriculture Universities Statute, 1990, was not followed and

due to which, the present petitioners were not selected.

6. The learned Counsel for the respondents/ University drew attention of this Court to the statutes of Chapter-VII. He submits that the Statutes of Chapter-V are made for giving appointments to the Academic Officers, Heads of Departments, Professors and other equivalent posts of the University. He submits that marking system given in the Statutes fall under Chapter-V. Chapter VII shows that it is made for the academic staff members of the University, which include Head of Departments and also Professor. However, in Statute 72, it is made clear that Statutes Nos.73 to 77 regarding qualifications and method of recruitment, shall be applicable to all the posts of academic staff members except that of Head of Departments and Professors. If the Statutes from Chapter-V and Chapter-VII are read together, it can be said that the posts of Academic Officers, Heads of Department and

Professors are of higher grade than the other posts like the post of Assistant Professor.

7. The learned Counsel for the respondents/University drew attention of this Court to Statute 75. He submits that the procedure given in Statute 75 was used in the present matter and that procedure needs to be used. In Statute 75(7), it is provided that the Rules of assessment shall be prepared by Executive Council of the University. The learned Counsel for the respondents/University also tenders on record a copy of the resolution of the Executive Council of the University, which was passed well before publishing the advertisement of the present post. Statutes show that the procedure which needs to be adopted, was required to be prepared and adopted by the Executive Council of the University. Admittedly, the procedure prescribed in the said resolution passed by the Executive Council was followed in the present case.

8. The learned Counsel for the petitioners submits that in the oral interview, intentionally less marks were given to the petitioners and more marks were given to respondents/selected candidates. We have carefully gone through the record containing marks. The contention of the learned Counsel for the petitioners does not appear to be true, as one Shri.Chaudhary was given 35 marks and the petitioner in Writ Petition No.7624 of 2004, was given 37 marks by the Interview Committee. Thus, there is nothing to show *mala-fides* against the respondents/University.

9. The learned Counsel for the petitioners submits that marks were given to the selected candidates under the head of 'Experience' and no marks were given to the petitioners. It is not disputed that the respondents/selected candidates were not having experience. It appears that the petitioners were pursuing studies like NET and on that basis, they were seeking preference. In the

advertisement, it was mentioned that the candidates who had passed NET examination, shall be given preference. It does not mean that the other candidates, who had secured more marks in the selection process, were to be ignored. The petitioners could have been given preference over the other candidates, only if they had secured equal marks with the selected. Thus, there is some misconception in the minds of the petitioners with regard to the procedure which was to be followed by the respondents/University.

10. In view of the above, this Court sees no reason to interfere in the present Writ Petitions. The Writ Petitions stand dismissed. Rule discharged. No costs.

[SANGITRAO S. PATIL, J.]

[T.V. NALAWADE, J.]

kbp