

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

WRIT PETITION NO. 5191 OF 2016

Janta Shikshan Prasarak Mandal
Through its President
Shaikh Abbas Sk. Lal and another .. Petitioners

Versus

The State of Maharashtra and another .. Respondents

Shri Rajendra D. Sanap, Advocate for Petitioners.
Shri S. B. Pulkundwar, A.G.P. for the Respondent No. 1.
Mrs. Vaishali Jadhav/Patil, Advocate for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
S. M. GAVHANE, JJ.**

DATE : 12TH OCTOBER, 2017.

FINAL ORDER :

. Mr. Sanap, the learned counsel for petitioners submits that, pursuant to an advertisement issued by the petitioner No. 1 for the post of Assistant Professor, the petitioner No. 2 applied and after undergoing the rigors of selection process was selected and appointed as Assistant Professor in Mahila Kala Mahavidyalaya run by the petitioner No. 1.

2. The proposal was forwarded seeking approval to the appointment of the petitioner No. 2, however, the respondent No. 2 approved the appointment of the petitioner No. 2 only for a

period of five (5) months for one academic year, though the appointment order was for two years on probation. According to the learned counsel, no reasons are stated for not granting the approval for the probation period.

3. Mrs. Jadhav, the learned counsel for the respondent No. 2 submits that, approval is not granted to the appointment of the petitioner No. 2 on probation for the reason that the advertisement was not approved by the respondent No. 2 and in the selection committee constituted for selection of the candidates, the Vice Chancellor's nominee was not a part of the selection committee. No error has been committed in this regard.

4. The respondents are not in a position to state as to how the advertisement was improper or not in consonance with the staffing pattern and the same would be an irregularity. The argument of the respondents could have been considered, had they found fault in the advertisement.

5. The Vice Chancellor's nominee was not part of the selection committee that had selected the petitioner No. 2. In this regard regulation 5.1.4 of the U. G. C. Regulations prescribing Minimum Qualification for Appointment of Teachers and Other Academic Staff in the Universities and Colleges and Measures for the Maintenance of Standards in Higher Education 2010 would be

relevant. Same reads thus :

5.1.4 Assistant Professor in Colleges including Private Colleges :

- (a) The Selection Committee for the post of Assistant Professor in Colleges including Private Colleges shall have the following composition.
1. Chairperson of the Government Body of the college or his/her nominee from among the members of the Governing body to be the Chairperson of the Selection Committee.
 2. The Principal of the College.
 3. Head of the Department of the concerned subject in the College.
 4. Two nominees of the Vice Chancellor of the affiliating university of whom one should be a subject expert. In case of colleges notified/declared as minority educational institutions, two nominees of the Chairperson of the college from out of a panel of five names, preferably from minority communities, recommended by the Vice Chancellor of the affiliating university from the list of experts suggested by the relevant statutory body of the college, of whom one should be a subject expert.
 5. Two subject-experts not connected with the college to be nominated by the Chairperson of the governing body of the college out of a panel of five names recommended by the Vice Chancellor from the list of subject experts approved by the relevant statutory body of the university concerned. In case of colleges notified declared as minority educational institutions, two subject experts not connected with the University to be nominated by the Chairperson of the Governing Body of the College out of the panel of five names, preferably from minority communities, recommended by the Vice Chancellor from the list of subject

experts approved by the relevant statutory body of the College.

6. An academician representing SC/ST/OBC/Minority /Women/Differently-abled categories, if any or candidates representing these categories is the applicant, to be nominated by the Vice Chancellor, if any of the above members of the selection committee do not belong to that category.
- (b) To constitute the quorum for the meeting, five of which at least two must be from out of the three subject-experts shall be present.
- (c) For all levels of teaching positions of Government colleges, the State Public Services Commissions/Teacher Recruitment Boards must invite three subject experts for which the concerned University, be involved in the selection process by the State PSC.
- (d) For all levels of teaching positions in Constituent college (s) of a university, the selection committee norms shall be similar to that of the posts of departments of the university.

6. Reading the said regulation, it is manifest that in case the institution is a minority institution, then a nominee of Vice Chancellor in the selection committee is not the requirement. The two nominees of Chairperson of the College from out of a panel of five names, preferably from minority community recommended by the Vice Chancellor of the affiliating university from the the list of experts would be sufficient. Considering the above, the said ground raised in the affidavit does not stand to reason.

7. In the light of the above, the respondent No. 2 shall consider the proposal submitted to it seeking approval to the appointment of the petitioner No. 2 on probation on its own merits and shall not reject it on the count that the permission was not obtained for issuance of advertisement and that there was no nominee of Vice Chancellor in the selection committee. The said proposal shall be considered on its own merits, expeditiously and preferably within a period of four (04) months from today. The writ petition accordingly disposed of. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Oct. 17