

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 1207 OF 2006

Chandrashekhar S/o Pandurang Halge,
Age: 29 years, Occu: Education,
R/o : Kanerwadi, Tq : Parli,
Dist : Beed.

....Petitioner.

Versus

1. The State of Maharashtra,
Through the Secretary,
Education Department of Mantralaya,
Mumbai.
2. Dr. Babasaheb Ambedkar
Marathwada University,
Through Registrar,
Aurangabad.
3. Phulchand Bhagwanrao Mengde,
Age: 26 Years, Occu: Service,
R/o : Dr. Babasaheb Ambedkar
Marathwada University,
Aurangabad.

....Respondents.

Mr. P.P. More, Advocate for Petitioner.
Mr. S.W. Munde, AGP for Respondent No.1/State.
Mr. N.B. Khandare, Advocate for Respondent No.2
Mr. J.R. Patil, Advocate for Respondent No.3

WITH
WRIT PETITION NO. 3937 OF 2005
WITH
CIVIL APPLICATION NO. 10338 OF 2005

Anuradha D/o Bajirao Shinde,
Age: 22 Years, Occu: Education,
R/o Near Dr. C.A. Gaikwad's Hospital,
Manorama Apartment Road, Adarshnagar,
Beed, Taluka and Dist. Beed.

....Petitioner.

Versus

Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad,
Through it's Registrar.

....Respondent.

Mr. S.S. Thombre, Advocate for Respondent.

WITH
WRIT PETITION NO. 4270 OF 2005

Vaishali Manikrao Barad,
Age: 28 Years, Occu: Education,
R/o. Plot No.76, Nayanagar,
N2, Cidco, Aurangabad.

....Petitioner.

Versus

1. The State of Maharashtra,
(Through the Secretary,
School Education Department
Mantralaya, Mumbai).
2. Dr. Babasaheb Ambedkar
Marathwada University,
(Through its Registrar)
Aurangabad.
3. Smt. Vijaya Manikarao Dahiphale
Age : 30 Years, Occu. Service,
R/o. Behind Bus Stand,
Prashant Nagar, Ambejogai
District Beed.

...Respondents.

Mr. B.L. Sagar Killarika, Advocate for Petitioner.
Mr. S.W. Munde, AGP for Respondent No.1/State.
Mr. N.B. Khandare, Advocate for Respondent No.2
Mr. S. B. Talekar, Advocates for Respondent No.3

WITH
WRIT PETITION NO. 4569 OF 2005

Pranita Prabhakar Rao Hatole,
Age : 29 Years, Occ: Nil,

R/o. MHADA Colony, Near Print Travel,
Aurangabad – 431005.

....Petitioner.

Versus

1. The State of Maharashtra,
Through the Secretary,
School Education Department,
Mantralaya, Mumbai.
2. Dr. Babasaheb Ambedkar,
Marathwada University,
Through it's Registrar,
District - Aurangabad.
3. Smt. Savita Hariba Kadam
Age : 32 Years, Occu: Service,
C/o. D.D. Jagtap, Plot No.55,
Galli No. 11, Pundlik Nagar,
Garkheda Area, Aurangabad.

Notice to be served Through :-
Assistant Registrar (Establishment),
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad.
Dist. Aurangabad.

...Respondents.

Mr. B.L. Sagar Killariker, Advocate for Petitioner.

Mr. S.W. Munde, AGP for Respondent No.1/State.

Mr. S.S. Thombre, & N.B. Khandre, Advocates for Respondent No.2.

Mr. S.S. Jadhav, Advocate for Respondent No.3.

WITH
WRIT PETITION NO. 4630 OF 2005

Ganesh S/o Nanasaheb Desai,
Age : 29 Years, Occu: Service,
R/o. Deogaon Rangari,
Tq. Kannad, Dist. Aurangabad.

....Petitioner.

Versus

1. The State of Maharashtra,
Through the Secretary,
Education Department of

Mantralaya, Mumbai.

2. Dr. Babasaheb Ambedkar
Marathwada University
(Through Registrar)
Aurangabad.
3. Venkat S/o. Genpatrao Limgave,
Age : 48 Years, Occu : Service,
R/o. N – 11, B-44/1, Hudco,
Aurangabad.

...Respondents.

Mr. P.P. More, Advocate for Petitioner.
Mr. S.W. Munde, AGP for Respondent No.1/State.
Mr. S.S. Thombre, & N.B. Khandre, Advocates for Respondent No.2
Mr. J.R. Patil, Advocate for Respondent No.3

WITH
WRIT PETITION NO. 6305 OF 2005

Gayatri Yogiraj Tandale,
Aged : 29 Years, Occu : Service,
R/o. Plot No.14, Ravindra Nagar,
Near Shiv Shankar Colony,
Aurangabad – 431005.

....Petitioner.

Versus

1. The State of Maharashtra,
Through the Secretary,
School Education Department,
Mantralaya, Mumbai.
2. Dr. Babasaheb Ambedkar
Marathwada University,
Through it's Registrar Aurangabad,
District - Aurangabad.
3. Vijay S/o Laxmanrao Pundkar,
Age : 32 Years, Occu : Service,
Assistant Laboratory Assistant,
Dept. of Bio-Chemistry,
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad, Dist. Aurangabad.

4. Somnath S/o Janardhan Ghodke,
Age : 30 Years, Occ : Service,
Assistant Laboratory Assistant,
Dept. of Environmental Science,
Dr. Babasaheb Ambedkar Marathwada University,
Aurangabad, Dist. Aurangabad.

Notices of Resp. No. 3 and 4 to be served
through :-

Office of Registrar,
Dr. Babasaheb Ambedkar Marathwada University,
Aurangabad, Dist. Aurangabad. **...Respondents.**

Mr. B.L. Sagar Killarika, Advocate for Petitioner.
Mr. S.W. Munde, AGP for Respondent No.1/State.
Mr. K.M. Suryawanshi, Advocate for Respondent No.2.
Mr. J.R. Patil, Advocate for Respondent No.3 & 4.

WITH
WRIT PETITION NO. 6618 OF 2005

Sakharam Nanasaheb Tambe,
Age : 37 Years, Occu: Nil-Ex-Serviceman,
R/o. Tamba Rajuri, Tq. Patoda,
Dist. Beed.

....Petitioner.

Versus

1. The State of Maharashtra,
Through the Secretary,
School Education Department,
Mantralaya, Mumbai.
2. Dr. Babasaheb Ambedkar
Marathwada University, Aurangabad
Through it's Registrar,
District - Aurangabad.
3. Satish S/o Ramhari Dawane,
Age : 29 Years, Occu: Service,
C/o. Assistant Registrar (Est.),
Dr. Babasaheb Ambedkar Marathwada University,

Aurangabad.

Notice to be served through :-
Assistant Registrar (Establishment),
Dr. Babasaheb Ambedkar Marathwada University,
Aurangabad, Dist. Aurangabad. **...Respondents.**

Mr. B.L. Sagar Killariker, Advocate for Petitioner.
Mr. S.W. Munde, AGP for Respondent No.1/State.
Mr. K.M. Suryawanshi & Mr. N.B. Khandare, Advocates for
Respondent No.2.
Mr. J.R. Patil, Advocate for Respondent No.3

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**
DATED : June 16, 2017.

ORAL JUDGMENT : [PER T.V. NALAWADE, J.]

. The proceedings are filed to challenge the selections made for many posts of different categories advertised by the respondent – University. The posts of Junior Assistant, Junior Library Assistant, Programme Organiser, Store Keeper etc. (in all 17 categories) were advertised and each category was having different pay scale. A Committee was constituted by the University as per the statutes for the selection of the candidates. As per the policy decision of the Managing Committee and the instructions issued by the Vice Chancellor, the candidates were expected to go through the written test which was of seventy five marks and the other mode of assessment was of their educational qualification and oral interview. Twenty five marks were equally divided for educational qualification

and oral interview. On the basis of the total marks secured by each candidate, merit list was prepared and selection was made.

2. In almost all the petitions, it is the case of petitioners, who had applied for different posts that they had secured more marks in written examination than the candidates selected, but their selection was not done by giving them less marks in oral interview and also in educational qualification. It is their allegation that there were malafides and the candidates who were working in University (in some cases) were preferred. It is also their contention that when the previous Vice Chancellor had issued instruction that three candidates, who had passed in written examination were to be called for each post, the new Vice Chancellor issued another instruction and directed to call ten candidates for each post for interview. It is also contention of the petitioners that when experience was also mentioned as requisite condition, some candidates who had no experience were selected. It is the case of petitioner from Writ Petition No. 3937/2005 that though she is physically handicapped, she was not called for interview when some other candidates were called for interview. Advocate for petitioner from Writ Petition No. 3937/2005 did not turned up to prosecute the matter and nothing is shown as to how the petitioner had secured more marks than the candidates who were called for interview.

3. The submissions and the record show that as there were grievances of aforesaid nature and the proceedings were filed in High Court by the petitioners, the Vice Chancellor appointed one retired District Judge to make enquiry in to the allegations. The retired District Judge made enquiry in to the allegations and submitted report to Vice Chancellor. Copy of that report was made available to this Court. It is true that some suggestions are given by the retired District Judge and he has expressed opinion with regard to the reservation policy which needs to be followed, but no major irregularities were noticed by him and malafides were not noticed by him. In some cases, he found that the selected candidates had no experience.

4. The reply affidavit filed by the University and others and the submissions show that mark list of the candidates of written test was not made available to the Selection Committee constituted by the University. This single circumstance is sufficient to infer that it was not possible for the Committee Members to see that the candidates who were having more marks in written test are given less marks and the candidates who were having less marks in written test are given more marks to see that the respondents are selected. Due to this single circumstance, it can be said that there is

no force in the first contention made by the petitioners. Further, this contention is not true in some cases. It needs to be kept in mind that there is not much difference in the marks secured in the written examination by the selected candidates and by the petitioners and further, only twenty five marks were kept for the assessment which was to be made in other two ways. Specific procedure was given for giving marks for educational qualification and not a single incident is pointed out to show that the said procedure, giving particular marks for particular qualification and for particular class, was not followed.

5. The contention that initially three candidates were called for each post, but subsequently decision was taken to call ten candidates for each post for interview cannot become itself a ground for setting aside the selections. It is within the power of the University to take decision on this point and if the University takes decision to consider more candidates for selection, no malafides can be inferred in that regard. Further, it can be said that in many cases when the last candidate who could have been called for interview was having particular marks and there were two more candidates having similar marks in written examination, if the University called all of them for interview, this procedure cannot be looked in to from different angle with suspicion. It can be said that the University decided to give opportunity to all such candidates. Thus, the

submissions and the record show that the scheme for the assessment was already prepared and the selection was made as per the scheme. Thus, there is no force in the aforesaid challenges.

6. It is true that the point of experience is raised by some petitioners and irregularity was found to some extent by retired District Judge on this point. This point itself is not sufficient to infer the malafides. From the nature of advertisement, it can be said that the candidates having experience were to be preferred. It is not the case of the petitioner that he got equal marks with the respondents and he was having experience, but he was not preferred. In all the cases, the respondents got more marks than the petitioners. Thus, no case is made out on this point also. In view of these circumstances, this Court holds that interference is not possible in the selection process which is adopted by the University. The candidates got appointment and they have been working in the University on the aforesaid posts.

7. In the result, the petitions stand dismissed. Rule stands discharged.

[SANGITRAO S. PATIL, J.]

[T.V. NALAWADE, J.]