

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9271 OF 2016

Priyanka W/o Vijay Barhate

Petitioner

V E R S U S

The State of Maharashtra, through
its Secretary, Higher and
Technical Education Department,
Mantralaya, Mumbai and four
others

Respondents

Mr. S.R. Barlinge, Advocate for the petitioner
Mr. P.N. Kutti, A.G.P. for respondent Nos.1 to 3/State

**CORAM : S.V.GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

DATE : 28th APRIL, 2017

PER COURT :

1. In the order dated 31st May, 2016, passed by the Joint Director, Higher Education, Jalgaon Region, Jalgaon, it was communicated that the name of the petitioner cannot be mentioned in the salary bills.

2. Mr.Barlinge, learned counsel for the petitioner submits that the petitioner is qualified to

be appointed as Professor in Economic Science. Vide resolution dated 19th September, 2009, passed by the University Grants Commission, from 11th July, 2009, the University Grants Commission has made NET/CET compulsory for the eligible candidates to be appointed as Lecturer/Professor. The petitioner was appointed as a full time Lecturer in Computer Science in respondent No.4-College on 22nd September, 2009. According to the learned counsel, the material date is the date of sanction of the advertisement by the University. The Division Bench of this Court has held that the date of appointment is not relevant but the relevant date is the date of advertisement. The U.G.C. Notification dated 18th July, 2009 is prospective and will not be applicable to the advertisement, in view of the Judgment of Division Bench of this Court in the case of **Sudhir s/o Sharadrao Hunge and another vs. State of Maharashtra and others (2010(4) Mh.L.J. 572** and another Judgment of Division Bench of this Court in the case of **Atul Suresh Patil and others vs. The State of Maharashtra**

and others, passed in Writ Petition No. 357 of 2010.

3. The learned A.G.P. submits that as the appointment is subsequent to 11th July, 2009, the Joint Director of Higher Education has rightly rejected the claim of the petitioner. Even the selection committee, pursuant to which the petitioner was selected, is not properly constituted. The Government appointed nominee was not present in the said selection committee.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. The fact that the petitioner was appointed as Lecturer in computer Science vide order dated 22nd September, 2009 is not in dispute. It is also not in dispute that the University had approved the advertisement to be issued for various posts including the post of Professor in Computer Science on 10th June, 2009 and the advertisement was issued prior to 11th July, 2009.

6. Considering the above, the Judgment of this Court pronounced in ***Writ Petition No. 357 of 2010 (Atul Suresh Patil and others vs. The State of Maharashtra and others)***, referred *supra*, would come to the aid of the petitioner. The date of appointment of the petitioner would not be the relevant date, but the date of approval of the advertisement and publication of advertisement would be relevant.

7. Considering the above discussion, the impugned order is quashed and set aside. The Joint Director, Higher Education, Jalgaon shall consider the date of approval of advertisement and the date of publication of advertisement and shall take the decision afresh within three months from today.

8. In view of above directions, Writ Petition is disposed of. No costs.

(SANGITRAO S. PATIL, J.)

(S.V. GANGAPURWALA, J.)

