

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10753 OF 2015

Hindusthani Education Society,
Ausa, Tq. Ausa, Dist. Latur
Through its Secretary,

PETITIONER

VERSUS

1. The State of Maharashtra
Higher and Technical Education
Department, Mantralaya,
Mumbai
2. The Director of Higher Education,
Maharashtra State Central Building,
Pune
3. The Joint Director of Higher Education,
Nanded Region,
Nanded
4. The Registrar,
Swami Ramanand Tirth Marathwada
University,
Dnyantirth, Vishnupuri,
Nanded
5. The University Grant Commission,
Bahadoor Shaha Jafar Marg,
New Delhi – 110002
6. The Registrar,
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad
7. The Joint Director,
Higher Education,
Aurangabad Region,
Aurangabad

RESPONDENTS

Mr. Syed Masood Chand, Advocate for the Petitioner
Mr. B.A. Shinde, A.G.P. for respondent Nos.1 to 3/State
Mr. U.S. Malte, Advocate for respondent No.4
Mr. S.B. Deshpande, ASG for respondent No.5
Mr. Vaibhav Pawar, Advocate holding for Mr.S.S.Tope,
Advocate for respondent No.6

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

DATE : 16th MARCH, 2017

ORAL ORDER :

Heard.

2. The petitioner has approached this Court assailing the order dated 12/13.08.2015, passed by the University, rejecting the proposal dated 24.07.2015 submitted by the petitioner with regard to promotion and the Career Advancement Scheme (CAS) benefit accorded to its employees.

3. Mr.Syed, the learned counsel for the petitioner submits that the judgment relied on by the Authority while rejecting the petitioner's proposal is erroneous. The concerned Authority has misread the judgment of the Kerala High Court in the case of **Joseph Kachappilly Vs. State of Kerala, 1998 (1) ILR (Ker) 308**. The learned

counsel submits that the said judgment, in fact, comes to the aid of the petitioner. The learned counsel also placed reliance on the judgment of the Hon'ble the Apex Court in the case of ***Sindhi Education Society and another Vs. Chief Secretary, Government of NCT of Delhi and others, (2010) 8 SCC 49.***

4. The learned A.G.P. submits that in the Screening Committee, there should be representative of the Director of Higher Education and the selection is not as per the U.G.C. Regulations, 2010.

5. Mr. S.B. Deshpande, the learned ASG also submits that the U.G.C. Regulations, 2010 have to be followed even while promoting the persons.

6. We have considered the submissions canvassed by the learned counsel for the respective parties. It is not disputed that the petitioner is Minority Institution and as such would be entitled to the privileges as accorded under Article 30 of the Constitution of India.

7. The U.G.C. Regulations, 2010, placed on record, would be relevant. The selection procedure as laid down in the said U.G.S. Regulations, as would be applicable

for promotion, will have to be considered. The U.G.C. Regulations, 2010 prescribe about the modalities to be followed while giving promotions under the Career Advancement Scheme. The Authority to whom the proposal is submitted has to observe that the said procedure has been adhered to. The said Regulations are not assailed. The said Regulations will have to be adhered. The reason for rejecting the proposal of the petitioner may not be proper. According to the petitioner, they have followed the procedure as contemplated under U.G.C. Regulations, 2010. It is for the petitioner to convince the Authority about adherence to the U.G.C. Regulations, 2010, while giving benefit of promotion and CAS benefit to the persons recommended under the said proposal.

8. It was improper for the Authority to suggest that the person from the Department was not the Member of the Selection Committee and hence the same is not legal. For CAS benefit, Clause (6) of the U.G.C. Regulations, 2010 applies. In the result, we pass the following order.

9. The impugned order is quashed and set aside. The respondents while considering the proposal of the

petitioner shall consider Clause (6) of the U.G.C. Regulations, 2010 and the provisions with regard to the promotion under the Career Advancement Scheme and decide the said proposal afresh on its own merits. The writ petition is accordingly disposed of. No costs.

[SANGITRAO S. PATIL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

npj/wp10753-2015