

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 5606 OF 2016

Pravin Devidas Dixit and OthersPetitioners
Vs.
The State of Maharashtra and anotherRespondents

WITH
CIVIL APPLICATION NO. 2076 OF 2017
IN
WRIT PETITION NO. 5606 OF 2016

Ahire Nivrutti Natthu and orsApplicants
Vs.
Pravin Devidas DixitRespondent

Mr. S. I. Nandode Advocate for Petitioner.
Mr. O. M. Kulkarni AGP for the State.

**CORAM : NARESH H. PATIL &
Z. A. HAQ, JJ.
DATE : 28th AUGUST 2017.**

P.C. (Per: Z. A. Haq, J.)

1 Heard.

2 Rule. Rule made returnable forthwith.

3 Petitioners have challenged the directions issued by the State

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Government directing the respondent no. 2/University to absorb/appoint 17 candidates who are appointed on Ad-hoc basis and had been working with respondent no. 2/University since 2008-2009. The claim of the petitioners is that they are working with respondent no. 2/University in Group-D cadre and are entitled to be promoted in Group-C cadre in the posts which are being sought to be filled by absorbing/appointing 17 Ad-hoc employees.

4 It is undisputed that the petitioners are working with respondent no. 2/University in Grade-D. As per the policy of the respondent no. 2/University, approved by the State Government, the employees of the respondent no. 2/University working in Grade-D are entitled to be promoted in Grade-C in 50% of the posts available in Grade-C and the remaining 50% of the posts are to be filled by making appointments directly. According to the respondent no.2/University, an advertisement was issued in 2008 and after following the procedure, 17 candidates who are sought to be absorbed/appointed in Group-C posts on regular basis were appointed and as they had been working with the respondent no. 2/University for a long time, a proposal was sent to the State Government seeking approval for

absorption/appointment of those 17 employees in Group-C posts on regular basis.

5 At the time of hearing, it is pointed out that a Committee of Justice P. S. Patankar (Retired) was constituted to consider whether services of 17 Ad-hoc/contractual employees can be regularised and this Committee has given its opinion on 23/05/2016 stating that 17 posts of Assistants (In Group-C) should not be excluded from regular selection and the 17 employees appointed on Ad-hoc/contractual basis should not be absorbed in those posts.

We find that the Government Resolution dated 25/02/20014 does not take into consideration the relevant aspects as reflected in the opinion given by the Committee of Justice P. S. Patankar (Retired). At the time of hearing, it is informed that the Vice Chancellor of respondent no. 2/University has again constituted the 3 Men Committee to consider the issues raised by the petitioners and to find out whether the 17 employees who are to be absorbed can be accommodated in the posts of Assistants (In Group-C) on regular basis.

6 Considering the facts of the case, in our view, the interests of justice would sub-served by passing the following order.

(i) The communication dated 25/02/2014 issued by Desk Officer, Government of Maharashtra granting approval for absorption of 17 employees who were appointed pursuant to the notification issued in 2008, is quashed.

We are conscious that the 17 employees in respect of whom the above communication is issued are not impleaded in this writ petition, however, as it is informed that those 17 employees are presently not in the employment and we are not adjudicating the rights of the parties, but are remitting the matter to the State Government, we are of the view that the petition can be disposed of in the absence of those 17 employees.

(ii) The impugned communication dated 01/01/2016 is based on communication dated 25/02/2014. By this communication dated 01/01/2016, the Vice Chancellor of respondent no. 2/University is directed to implement the communication dated 25/02/2014. As the communication dated 25/02/2014 is quashed, the impugned communication dated 01/01/2016 does not survive and it is also quashed.

(iii) The matter is remitted to the State Government for considering it afresh and taking appropriate decision. The State Government shall take into consideration the relevant Statute, Government Resolutions, policy of the State Government and the opinion dated 23/05/2016 of Justice P. S. Patankar (Retired). The State Government shall take decision and communicate it to the petitioners within 4 months from today.

(iv) Rule is made absolute in the above terms.

In the circumstances, the parties to bear their own costs.

7 In view of the disposal of the writ petition, in our view, orders are not required to be passed on the application. Application is disposed of.

[Z. A. HAQ, J.]

[NARESH H. PATIL, J.]