

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1699 OF 1995

Anandrao Hiranman Suryawanshi	.. Petitioner
Vs.	
Municipal Corporation of Greater Bombay and ors.	.. Respondents

Ms.Prachi Khandge i/b M.P. Vashi & Associates, for the Petitioner.
Mr.H.C. Pimple, for BMC.

**CORAM : A.A.SAYED AND
M.S.KARNIK, JJ.**

23rd JUNE, 2017

P.C. :

1. The petitioner has challenged the appointment of Respondent No.4 – Sunanda Bhikoba Paygude as Research Officer in the Education Department of the Respondent – Corporation. One Mr.J.R.Keluskar – Administrative Office is arrayed as Respondent No.5 to the Petition. The said Respondent No.5 had by a separate Petition being Writ Petition No. 2013 of 1995 also challenged the very appointment of Respondent No.4 – Sunanda Bhikoba Paygude.

2. The grievance in the present Petition is in respect of change in qualification of Doctorate in Education and introduction of alternative qualification of Diploma from NIEPA for the post of 'Research Officer' which according to the petitioner was done only to favour the Respondent No.4 -Sunanda Bhikoba Paygude. The very contention has been dealt with by the Division Bench of this Court in the aforesaid Writ Petition No. 2013 of 1995 and has been repelled.

3. In paragraph 3 of its judgment and order, the Division Bench has held as follows :

“We have heard the learned counsel appearing for both the sides. Perusal of the record shows that the principal challenge to the change in the qualification or in other words introduction of alternative qualification was that it has been done only to favour respondent no.5 and there is no justification for doing it. In our opinion, that challenge cannot be accepted in view of the report submitted by the Committee which was constituted by the Corporation. Perusal of that report shows that according to the Committee, the alternative qualification is more appropriate than Ph.D. for the post of Research Officer. In our opinion, the question as to what will be the appropriate qualification for appointment to a particular post is to be decided by the body in consultation with the experts in the field and unless prescription of the qualification by the employer is found to be either contrary to any statutory provision or is proved to be actuated by malice, this Court in its extraordinary jurisdiction under the Constitution is not justified in interfering with the same. In the present case, it is clear

from the record that there was no malafide intention in introducing alternative qualification and that the alternative qualification that was introduced was also not irrelevant. On the contrary, the Committee which consisted of experts found that qualification to be more appropriate than the qualification of Doctorate in Education.”

4. In the circumstances, for the reasons stated in the aforesaid judgment and order dated 24/09/2010, no case is made out to disturb the appointment of Respondent No.4 as Research Officer. The Petition is dismissed. Rule is discharged. No order as to costs.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)