

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

WRIT PETITION NO. 3842 OF 2005

Pradip Gulabrao Pawar,
Age 38 years, Occu. Service,
R/o. Mahadeogalli, Nawapur,
District Nandurbar.

....Petitioner.

Versus

1. The State of Maharashtra,
through Secretary, Higher
Education Department,
Mantralaya, Mumbai - 32.
2. The North Maharashtra University,
Jalgaon, through its Registrar.
3. The University Grant Commission,
through its Secretary,
New Delhi 110 002.
4. Annapurnadevi Vidya Prasarak
Sanstha, Thalner, Tq. Shirpur,
District Dhule, through its
President.
5. Annapurnadevi Arts College,
Thalner, Tq. Shirpur,
District Dhule, through its
Principal.

....Respondents.

Mr. Ajay Deshpande h/f. Mr. S.P. Shah, Advocate for petitioner.

Mr. R.V. Dasalkar, AGP for respondent No. 1/State.

Mr. Y.B. Bolkar h/f. Mr. R.B. Raghuwanshi, Advocate for respondent
No. 2.

Mr. L.S. Mahajan, Advocate for respondent No. 4.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

**RESERVED ON : 12/02/2018.
PRONOUNCED ON : 15/02/2018**

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

1) The petition is filed under Article 226 of Constitution of India for giving directions to respondents like Management, University and the Government to see that the petitioner is appointed as Lecturer in subject Political Science for degree course. Both the sides are heard.

2) It is the case of petitioner that he was appointed in respondent No. 5 College on 25.10.2003 as he was selected for the aforesaid post by the duly constituted Committee. It is contended that the Management had sent the proposal for approval of the appointment, but the University has rejected the proposal and when representation was made by the petitioner, the representation also came to be rejected.

3) The petitioner has completed M.A. in Political Science. It is his case that though he had secured 439 marks out of 800 marks in the course, one grace mark was given to him and so, he had secured 55% marks in M.A. It is contended that in the past, he had worked in other college which was affiliated with other University though on temporary basis and for that appointment, approval was

given by the concerned University to his appointment.

4) Respondent Management had advertised one post for Political Science which was for appointment on clock hour basis (C.H.B.). This post was open post. The appointment was to be made for academic year 2003-04 and for open post, the eligibility condition was Master's degree with 55% marks and the passing of NET, SET examination. The petitioner belongs to reserved category, scheduled caste. For scheduled caste, the eligibility condition is Master's degree with 50% marks and passing of NET, SET examination as per the Regulations made by University Grant Commission (U.G.C.), but the post advertised was for open category. As per the statutes of the University, Committee was constituted and the Committee selected present petitioner. The University rejected the proposal submitted by the Management in favour of present petitioner by giving reason that he had not secured 55% marks in M.A. and 55% marks shown in the mark-list were due to grace mark given by the University. It was also informed that as the post was for open candidate, it was necessary to have the qualification which is prescribed for open category candidate.

5) Both the sides took this Court through the Regulations of 1991 prepared by U.G.C. to prescribe the qualification for

appointment of teaching staff in Universities and Colleges affiliated to the University. Present post was post of Lecturer and Regulation, 3A mentioned in Schedule I of the Regulations show that for getting post of Lecturer, one needs to get atleast 55% marks or equivalent grade at Master's degree level in the relevant subject from an Indian University or an equivalent degree from Foreign University. In addition to that it was necessary to pass NET, SET examination. It is not disputed that the Regulations are adopted by the State Government.

6) The main contention of the petitioner is that backward class candidate, who has secured 50% marks at post degree level can get appointment and this appointment can be even on open post. This submission is not at all acceptable. In view of the aforesaid Regulations of U.G.C. and the directions given and it's adoption by the State Government, Universities have prescribed separate qualification for open category candidate. The decisions taken by the Universities are placed on record in that regard. It is made clear that as per the University Statutes [415 (1) to 415 (3)], while conducting interviews the Selection Committee needs to keep this eligibility condition in mind and the University will not be approving the selection of the candidate who had not secured such marks. The petitioner is relying on some approval orders made by

other Universities, but those orders cannot be of any use in view of the Regulations made by U.G.C. which are binding on the Universities and affiliated colleges.

7) The learned counsel for petitioner placed reliance on the conditions of eligibility prescribed by the concerned authority for appearing in NET, SET examination. It is true that for reserved category candidate, the eligibility condition for appearing for such test is 50% marks, but that condition also shows that grace marks are not to be counted for considering the satisfaction of eligibility conditions. Even when open category candidate, who has secured 54.99% marks, below 55% marks in Master's degree examination is not eligible for such test.

8) The aforesaid eligibility conditions are applicable even for making appointment on temporary basis. The University statutes, enabling the University to give grace marks for giving particular class to a candidate cannot supersede the Regulations made by U.G.C. The ordinance of the Universities are placed on record in that regard, but they can be of no use to the present petitioner in view of the aforesaid Regulations made by the U.G.C.

9) The submissions made by the learned counsel for

petitioner shows that petitioner wants to get regular appointment, though the post was advertised for the post of C.H.B. and not full time post. The State Government had given some concessions to the candidates who were appointed between year 1991 and 2000. Even when they had not passed NET, SET examination, but they were appointed as full time lecturers due to non availability of NET, SET candidates. However, those concessions are available to the Lecturers regularly appointed, appointed on full time post. Those G.Rs. do not cover present matter. By getting the appointment as per present advertisement on C.H.B. basis, it can be said that the petitioner wanted to get further relief like getting full time post. It was submitted that subsequently, he obtained Ph.D. degree from one University from Madhya Pradesh. This Court had given direction to the State Government to ascertain as to whether such Ph.D. is conferred on petitioner by the University like Devi Ahilya Vishwavidyalaya, Indor, but the State Government did not supply necessary information. In any case, in the present matter on the date of appointment, it was necessary to have necessary qualification even for the post of C.H.B. nature. The petitioner was not having that qualification.

10) The learned counsel for petitioner produced some record to show that he was appointed in examination process for internal assessment and it was submitted that though the approval was not

given, he continued to work with respondent Management. This circumstance cannot enable the petitioner to get the relief claimed in the matter like present one. It appears that the petitioner indirectly wants to get appointment on full time post which is not possible in view of the aforesaid circumstances. In the result, the petition stands dismissed. Rule stands discharged.

[SUNIL K. KOTWAL, J.]

[T.V. NALAWADE, J.]

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