

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

43 WRIT PETITION NO. 7834 OF 2016

**DR.SHIVARAJ DIGAMBER AWALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr.V.D.Salunke,
Adv.P.J.Bharad
AGP for Respondent No.1 : Mrs.P.V.Diggikar
Advocate for Respondent Nos.2 & 3 : Mr.U.S.Malte
Advocate for Respondent Nos.4 & 5 :
Mr.S.V.Kshirsagar h/f. Mr.Ajay Deshpande
Advocate for Respondent No.6 : Mr.R.S.Deshmukh

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WITH

WRIT PETITION NO. 10788 OF 2017

**DR.RAJESH S/O GANGADHARRAO UMBARKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr.R.S.Deshmukh
AGP for Respondent No.1 : Mrs.P.V.Diggikar
Advocate for Respondent Nos.2 : Mr.V.P.Latange
Advocate for Respondent No.6 : Adv.P.J.Bharad

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**CORAM : R.M.BORDE AND
K.K.SONAWANE, JJ.**

DATE: 16th April, 2018

PER COURT:-

1) Heard learned counsel appearing for the parties.

2) The petitioners are praying for quashment of the decision taken by the management to issue an advertisement afresh for making appointment of Assistant Professor in Economics by abandoning/ cancelling the process earlier undertaken by the management with due permission from University.

3) The petitioners are claiming that they are eligible for the appointment to the post of Assistant Professor in Economics and have participated in the process of selection undertaken by the management in furtherance to the advertisement issued on 6.12.2015. The Institution issued an advertisement for filling up vacancies in the teaching cadre in various subjects. There were ten posts advertised, out of which, the selection process for eight posts was finalized and the appointment of Assistant Professor in Economics and Mathematics was held up. So far as appointment of the Assistant Professor in Mathematics is concerned, it was found that no eligible candidate participated in the process and as such that post is not filled in. So far as filling up of the vacancy of Assistant Professor in Economics is concerned, it is the contention of the petitioners that the petitioner in Writ Petition No.7834 of 2016, was found to be most suitable candidate, whereas another petitioner in

Writ Petition No.10788 of 2017, was the second most suitable candidate.

4) The University has appointed two subject experts for participating in the process of interview and the petitioners were duly interviewed. The subject experts did not put their signatures on the proceedings of the selection committee. A complaint was, therefore, made by the management to the University mentioning therein that there appears to be an unholy alliance between the petitioners and the members of selection committee, which led to certain deficiencies in the process of selection. It is the contention of the management that the subject experts did not award marks during the conduct of interview and awarded marks after the process was complete. The subject experts also did not put their signatures on the proceedings of the selection committee. The management as such requested the University to cancel the process of selection for the post of Assistant Professor in Economics and permit the management to re-advertise the posts. The University authorities, after conducting necessary preliminary enquiry, permitted the management to re-advertise the posts. The process undertaken in pursuance to the advertisement issued on 06.12.2015, stood

cancelled so far as the selection process for the post of Assistant Professor in Economics is concerned.

5) According to the petitioners, the decision taken by the University authorities as well as the management of abandoning selection process is arbitrary and affects rights and entitlement of the petitioners to claim the posts. It is the contention of the petitioners that in fact the management/selection committee did not make available the proceedings for the purpose of putting signatures of subject experts. The petitioners contend that abandoning selection process by the Director, Board of College and University Development, is bad in law.

6) Affidavit-in-reply has been presented by the Registrar of the University, wherein it has been mentioned that upon consideration of the complaint tendered by the management and after due enquiry, the management has been permitted to abandon the selection process and re-advertise the posts. It is recorded in the affidavit that the Hon'ble Vice Chancellor's nominees participated in the selection process carried out on 06.03.2016, and they conveyed the Vice Chancellor about adamant stand taken by the subject experts appointed by

the selection committee. It is also further stated that the report from subject experts was also called by the Vice Chancellor. Under the orders of the Vice Chancellor, vide communication dated 31.3.2016, and admitted communication dated 21.7.2016, the respondent No.3 was pleased to convey to the management that selection process for the post Assistant Professor in Economics, since has not been conducted in transparent manner and that there are complaints alleging lack of unanimity in the selection process and with a view that injustice should not be caused to any candidate, the approval has been denied to the selection process as per Statute 167(1)(f)(vii). It was directed that the post may be filled in by observance of due procedure and by publishing an advertisement with due approval of University Selection Committee.

7) Since the decision has been taken by the Director, Board of College and University Development, permitting the cancellation of the process and to re-advertise the posts, no prejudice will be caused to the petitioners. Even otherwise, petitioners' participation in the selection process does not confer any right in them to claim the posts. Apart from this, from perusal of the record, it does appear that the

process of selection has not been completed and appears to have been abandoned in the midst because of the reasons, which have been set out by the management in the complaint as well as recorded in the order issued by the University while accepting the request of the management.

8) The affidavit in reply has also been presented on behalf of the management specifying the reasons for cancellation of the selection process.

9) In the circumstances, the petitions need not be entertained since the petitioners do not have any legal right to claim relief of continuation of the earlier selection process in respect of which there are serious issues raised by the management and those have been accepted by the University authorities.

10) It is, therefore, directed that the University authorities shall permit the management to carry out the process in accordance with relevant regulations afresh.

11) It would be open for the petitioners to participate in the fresh selection process that would be undertaken for filling up the vacancies by the management.

12) In view of the above, no interference is called for. The petitions are devoid of substance. Hence, both the petitions are rejected. There shall be no order as to costs.

(K.K.SONAWANE)
JUDGE

(R.M.BORDE)
JUDGE

SPT