

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

WRIT PETITION NO. 6516 OF 2018

- 1) Dr. Vilas Bhikaji Khandare,
Age : 48 years, Occu: Associate Professor
and Head of Department of Economics
Shri. Asaramji Bhandwaldar College,
Devgaon-Rangari, Aurangabad. ...Petitioner

Versus

- 1) The Vice Chancellor,
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad.
- 2) The Registrar and Returning Officer,
Dr.Babasaheb Ambedkar Marathwada
University, Aurangabad.
- 3) Dr. Shankar Bhagwan Ambhore,
Age: Major, Occu: Service,
Professor & HOD Department of Economics
Smt. Dankunwar Mahila Arts and Commerce
College, Jalna, Dist. Jalna. ...Respondents

Mr. M.S. Deshmukh, Advocate h/f Mr. S.V. Deshmukh,
Advocate for Petitioner
Mr. S.P. Shah, Advocate for Respondent Nos. 1 and 2
Mr. S.P. Brahme, Advocate for Petitioner No.3

...
**CORAM : R.M.BORDE AND
A.M. DHAVAL, JJ.**

DATE: 28th June, 2018

ORAL JUDGMENT (Per : R.M. Borde, J.)

1. Heard.
2. Rule. Rule returnable forthwith. With the consent of the

parties, the petition is taken up for final disposal at admission stage.

3. The petitioner is objecting to the decision of the respondent No.2 accepting the nomination papers tendered by respondent No.3 as well as the decision of the Vice-Chancellor, rejecting the appeal presented by the petitioner objecting to the acceptance of nomination papers of the respondent No.3. Respondent No.3 as well as the petitioner have tendered their nomination papers for election to the Management Council of Dr. Babasaheb Ambedkar Marathwada University, Aurangabad. The petitioner as well as respondent No.3 claim their entitlement for contesting election and for presenting nomination papers from amongst elected teachers category as provided under section 30 (4) (j). Section 30 (4) (j) prescribes that the Management Council shall consist of two members elected by Academic Council from amongst its members, one of whom shall be from amongst elected teachers, who are the members of Council and another shall be women.

4. The petitioner contends that respondent No.3 does not fall within the category of an elected teacher from

amongst the members of the Academic Council. It is contended that respondent No. 3 is a Chairman of the Board of the Studies and his election as a Chairman does not come within contemplation of elected teacher under section 32 (3)(g) of The Maharashtra Public Universities Act, 2016. In substance, it is the contention of the petitioner that it is only the persons falling under category of elected teachers, within meaning of section 32 (3)(g), are entitled to claim representation over the Management Council.

5. On the other hand, it is the contention of the respondents that respondent No.3 is an elected Chairman of the Board of Studies and by virtue of he being a member of the Board of studies, is eligible to contest. Section 30 (4) (j) does not incorporate or include within its fold only the provisions of section 32 (3) (g) so as to claim exclusion of other category of elected teachers. It is contended that since the respondent No.3 is an elected Chairman of the Board of Studies and since he is a teacher, he shall be deemed to be elected member. The contentions raised by the respondents appear to have been accepted by the Vice Chancellor. Section 32 (3) (g) provides that the Academic

Council shall consist of two teachers, representing each faculty, with not less than fifteen years of teaching experience to be elected by the Collegium of teachers from amongst themselves out of whom one each shall be a person belonging to Scheduled Castes or Scheduled Tribes or De-notified Tribes (Vimukta Jaties)/Nomadic Tribes or Other Backward Class, provided that the reservation per faculty shall be decided by drawing lots. It is further provided that out of the teachers representing each faculties, under the said clause, one shall be a woman, to be decided by drawing lots. The petitioner contends that the term elected teacher incorporated in sub section 30 (4) (j) shall necessarily have reference to the teacher elected by Collegium of teachers from amongsts themselves referred to in section 32 (3) (g). The contention raised by the petitioner *prima facie* is not acceptable for the reason that section 32 (3) (g) does not find reference in section 30 (4) (j) and as such, restricted meaning as contended by the petitioner need not be applied to the aforesaid provision. It is further contended that the notification issued by the Higher and Technical Education Department on 28th April, 2017 supports the contention of the petitioner as regards

the interpretation of the provisions of section 30 (4) (j). We do not find the argument to be convincing at this stage of acceptance of the nomination papers. This court would be slow in causing interference in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, in the matters where challenge raised is as regards acceptance of nomination papers. It would be open for petitioner to avail of remedies available in law after completion of election process. The view expressed by this court is *prima facie* view and forum dealing with challenge to election at an appropriate stage shall not be influenced by the view expressed in this order and it would be open for decision making forum to deal with issues those would be raised by parties to the proceedings in accordance with law. No interference is called for at this stage. The writ petition being devoid of substance is rejected.

6. Rule is discharged with no order as to costs.

(**A.M.DHAVALA**)
JUDGE

(**R.M.BORDE**)
JUDGE

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