

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

**WRIT PETITION NO.11582 OF 2015**

Dr. Sunita d/o. Jogram Rathod,  
Age: 41 Years, Occupation: Service,  
R/o. Flat No.44, Yamuna Apartment,  
Near Thatte Haud Runwal Residency,  
Begampura, Aurangabad. ..PETITIONER

**VERSUS**

- (1) The State of Maharashtra,  
Department of Higher and Technical  
Education, Mantralaya, Mumbai,  
Through its Secretary.
- (2) His Excellency,  
The Hon'ble Chancellor,  
Dr. Babasaheb Ambedkar Marathwada  
University, Aurangabad.
- (3) The Vice-Chancellor,  
Dr. Babasaheb Ambedkar Marathwada  
University, Aurangabad.
- (4) Dr. Babasaheb Ambedkar Marathwada  
University, Aurangabad,  
Through its Registrar. ..RESPONDENTS

...

Ms. P. S. Talekar, Advocate for the Petitioner.  
Mr. A. P. Basarkar, AGP for Respondent Nos.1 and 2.  
Mr. S. S. Thombre, Advocate for Respondent Nos.3  
and 4.

...

**CORAM : S. V. GANGAPURWALA &  
SUNIL K. KOTWAL, JJ.**

**Closed for Orders on : 11.07.2018.**

**Order Pronounced on : 24.08.2018.**

**FINAL ORDER (Per S. V. Gangapurwala, J.) :-**

1. The petitioner seeks direction against respondents to declare the result of the petitioner for the post of Assistant Registrar pursuant to the advertisement dated 06.03.2012, with further direction to consider the claim of the petitioner for the post of Assistant Registrar and to issue appointment orders for the post of Assistant Registrar and Deputy Registrar from Open, VJ-(A) and Women category. The petitioner by way of an amendment assails the letters dated 26.10.2015 and 12.01.2016 issued by the respondent thereby cancelling the selection process for the post of Assistant Registrar.

2. Ms. Talekar, learned counsel for the petitioner submits that the respondent no.4-University had published an advertisement on 06.03.2012 for filling up various posts in Group 'A' and Group 'B' cadres, including three posts of Deputy Registrar (Group 'A'). Out of three posts, one each were reserved for Open, O.B.C. and VJ-(A) and six posts of Assistant Registrar (Group 'A'). Out of six posts, one each were reserved for VJ-(A) and O.B.C. category and the remaining four posts were for Open Category, of which one was reserved for Women. The petitioner applied for the post of Deputy Registrar as well Assistant Registrar. The petitioner belongs to VJ-(A) category. In view of that the petitioner can compete for VJ-(A), Open and Open (women). The respondent no.4-University

conducted written test on 20.11.2013, for the posts of Deputy Registrar and Assistant Registrar. The petitioner secured 35 marks out of 70 marks for both the posts. The petitioner secured her name in two categories i.e. Open and VJ-(A) for the post of Deputy Registrar and in three categories i.e. VJ-(A), Open and Open (women) for the post of Assistant Registrar. The petitioner was declared selected in the written examination and was called for interviews for the posts of Deputy Registrar and Assistant Registrar. However, because of interim orders, the interviews for the post of Deputy Registrar were stayed. The petitioner was called for the interview for the post of Assistant Registrar scheduled on 27.07.2015. The interviews for all the three categories i.e. VJ-(A), Open and Women were held on the same day. The petitioner appeared for the interview on 27.07.2015 for the post of Assistant Registrar, but the result was not declared. The respondent no.4 did not conduct interview for the post of Deputy Registrar.

3. The learned counsel further submits that it was erroneous on the part of the respondent to cancel the selection process of Deputy Registrar, when the written examination was held and the only interviews were required to be conducted. No appropriate reason is given for not proceeding with the selection process. The interim orders by this court were only for interregnum period and after the interim orders are vacated, the interviews

could have been conducted. The learned counsel submits that the cancellation of selection process without assigning reasons is arbitrary. The learned counsel relies on the judgment of the Hon'ble Apex Court in case of **Munna Roy vs. Union of India and Others** reported in (2000) 9 SCC 283. The learned counsel submits that the respondent be directed to complete the selection process for the post of Deputy Registrar.

4. The learned counsel submits that, the decision of the respondent to term the petitioner not suitable for the post of Assistant Registrar is arbitrary, irrational and does not stand to any reason. The learned counsel submits that the petitioner had qualified for the interviews having passed the written examination. The petitioner is held to be unsuitable only on the basis of viva-voce. Interview can not be the sole criteria for the selection. The learned counsel relies on the judgment of the Hon'ble Apex Court in a case of **Praveen Singh vs. State of Punjab and Others** reported in (2000) 8 SCC 633. The learned counsel submits that the cut-off marks are to be prescribed beforehand. The rules can not be changed after the game is played. The learned counsel relies on the judgment of the Hon'ble Apex Court in a case of **K. Manjusree vs. State of Andhra Pradesh and Another** reported in (2008) 3 SCC 512. According to the learned counsel, if a particular thing is to be done, it has to be done in that manner only, no

other process can be adopted. The learned counsel relies on the judgment of the Hon'ble Apex Court in a case of **Zuari Cement Limited vs. Regional Director, Employees' State Insurance Corporation, Hyderabad and Others** reported in (2015) 7 SCC 690. The learned counsel submits that if the marks allotted in viva-voce for the post of Assistant Registrar is considered, the member of the committee related with the University have given very less marks than the marks given by the independent member of the committee. This itself shows the manner in which the viva-voce is conducted. The learned counsel submits that on the spur of the moment, the petitioner was directed to write a letter. The same cannot be a procedure of conducting vice-voce. The selection suffers from malice. The petitioner was eligible, as such, ought to have been issued the appointment order. The petitioner cannot be held to be not suitable.

5. Mr. Thombre, learned counsel for the respondent submits that the petitioner was interviewed by the duly constituted selection committee for the Open as well as Open (women) and N.T. category. During the course of interview all candidates were asked to write a D.O. letter (Demi Official Letter) that forms part and parcel of the duties of Assistant Registrar. In spite of providing repeated opportunity to the petitioner, she was not able to write the letter. The petitioner could not address a single letter either

in Marathi or in English. The petitioner accepted the same in her own hand writing. The other candidate drafted the D.O. letter in fluent English. The Selection Committee found the petitioner unsuitable for the post of Assistant Registrar. The petitioner's performance was poor in the oral interview and her selection is not recommended by the selection committee for the post of Assistant Registrar. Once the candidate has appeared for the selection process, thereafter, candidate can not question it. The learned counsel relies on the judgment of the Honble Apex Court in a case of **Madras Institute of Development Studies and Another vs. K. Sivasubramaniyan and Others** reported in (2016) (1) SCC 454.

6. The learned counsel further submits that for the post of Deputy Registrar one candidate from S.T. category was selected and in respect of other categories, the recruitment process is cancelled and such a statement was made in writ petition bearing No. 11301 of 2014. The said writ petition is disposed of.

7. We have considered the submissions canvassed by the learned counsel for respective parties.

8. The petitioner had applied for the post of Assistant Registrar, so also Deputy Registrar. It appears that, the petitioner had appeared for the

written examination for both the posts and was called for the interview for the post of Assistant Registrar. In the interview the marks given by the each member of selection committee are reproduced. The petitioner has secured very less marks. The petitioner is held unsuitable for the post of Assistant Registrar. The respondents alongwith their affidavit-in-reply has placed on record the copies of the letter written by the petitioner pursuant to the direction of the interviewing committee.

9. The petitioner certainly was not in a position to even write a single sentence. It is not denied by the petitioner that the petitioner was not in a position to write the proper letter. It is only submitted on behalf of the petitioner that it was inappropriate to ask the petitioner to write the letter, thereby taking petitioner by surprise. Communicating through letters would be a part of the job of Assistant Registrar. There are no malafides specifically alleged against each member of the selection committee nor there is any reason for the members of the selection committee to have malice against the petitioner. The members of the selection committee are experts. This court would not sit in appeal over the decision of the experts. The petitioner without any demur had participated in the selection process and having failed is assailing it, the same would not be permissible. The marks obtained by the petitioner

in the viva-voce are too scarce for considering the petitioner eligible, so as to inspire confidence in the members of the selection committee.

10. In light of the above, the claim of the petitioner for the post of Assistant Registrar negated by the respondent does not appear to suffer from any illegality.

11. The petitioner had given written examination, even for the post of Deputy Registrar, but the selection process for the said post has been cancelled. The petitioner is not interviewed for said post. There was litigation pending and thereafter, the University decided to cancel the process and start it afresh. No right was created in favour of the petitioner, so as to seek directions against the respondent to continue the selection process for the post of Deputy Registrar. If the fresh selection process is initiated, the petitioner certainly will have opportunity to participate in the same. The interviews for the post of Deputy Registrar were never conducted. It can not be said that the petitioner had gained some advantage in the selection process for the post of Deputy Registrar. In absence of any right being created and the cancellation of the selection process for the post of Deputy Registrar on account of litigation could not create any right in favour of the petitioner to seek directions against the respondent to conclude the selection process for the post of Deputy Registrar. Similar challenge

for not completing the remainder of the selection process for the post of Deputy Registrar was assailed in writ petition no. 11301/2014. The statement was recorded in the said writ petition of the learned counsel for the University that the University has cancelled the said selection process and fresh selection process shall be conducted by issuing fresh advertisement. The said writ petition was disposed on 26.02.2015. The petitioner can compete in the fresh selection process. The judgment of the Apex Court in the case of **D. V. Bakshi and Others vs. Union of India and Others** reported in (1993) 3 SCC 663 relied by the petitioner would not inure to the petitioner. In the said case there were allegations of bias. The Hon'ble Apex Court observed that the allegations about bias should be supported by some defendable proof. In the present case, there is no proof that the members of the selection committee had bias against the petitioner.

12. Considering the aforesaid, no case for interference is made out. Writ petition as such is dismissed. No costs.

**(SUNIL K. KOTWAL)**  
**JUDGE**

**(S. V. GANGAPURWALA)**  
**JUDGE**