

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO 4129 OF 2017

Godawari Shivajirao Pawar,

Age : 41 Years,

Occu : Assistant Professor,

R/o. Dhanwantari Nagar, Bus Stand Road,

Parbhani.

..PETITIONER

VERSUS

1. The State of Maharashtra
Through Principal Secretary,
Agricultural Department,
Mantralaya, Mumbai- 400032

2. Vasant Rao Naik Marathwada Krishi Vidyapeeth,
Basmat Road, Parbhani
Through its Registrar

3. Dattatraya Gangadhar Dalvi,
Age : 54 Years, Occ. Assistant Professor,
C/o. Department of Agriculture Botany,
College of Agriculture, Krishni Nagar,
Vasant Rao Naik Marathwada Krishi Vidyapeeth,
Parbhani 431402

4. Dr. Amol Madhav Rao Dethe
Age : 40 Years, Occ. Assistant Professor,
C/o. College of Agriculture Bio-Technology,
Nanded Road, Latur

..RESPONDENTS

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Advocate for Petitioner : Mr. Patil Pradip R and R. B. Temak

AGP for Respondents : Mr. A.R. Kale

Advocate for Respondent Nos. 3 and 4 : Mr. Deshmukh Arvind
and M.S. Deshmukh

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**CORAM : T.V. NALAWADE AND
K. K. SONAWANE ,JJ.**

DATE : 01-10- 2019.

JUDGMENT [Per T.V. NALWADE, J] :-

Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2. The present proceeding is filed for relief of quashing and setting-aside the orders of promotion made in favour of Respondent Nos. 3 and 4 dated 09.05.2017 and give direction to the respondent University to see that she is considered for the post of Associate Professor by way of promotion.

3. The petitioner and respondent Nos. 3 and 4 were working as Assistant Professors. There were two vacancies with respondent No.2, Agricultural University of the post of Associate Professors and so the circular was issued to inform eligible candidates to supply the documents for their consideration of promotion. The petitioner, respondent Nos. 3 and 4 and others supplied the information and they were considered for giving promotion to the posts of Associate Professors. Respondent Nos. 3 and 4 came to be promoted after consideration of all the candidates by the committee constituted for said purpose. The petitioner was not given that post as she was not possessing eight years of experience excluding the period of Ph.D.

4. The reply affidavit filed for the University shows that as per

Maharashtra Agricultural Universities Statute 1990, (Statute No.73) the qualification for getting the post of Associate Professor, the candidate must hold Ph.D in respective discipline and the candidate must have minimum eight years of experience in teaching, research or extension education in the position of Assistant Professor or its equivalent in a University or accredited grant in aid college, but the period of Ph.D. cannot be considered for counting this experience. Admittedly the petitioner had experience of only seven years and three months and so the ground given for her rejection, for holding that she was not eligible is proper and interference in that decision is not possible.

5. By making amendment, respondent Nos. 3 and 4, the Associate Professors who got promotions came to be added in the present proceeding and as against them, there is specific contentions of the petitioner that they were not duly qualified as they had not received Ph.D. degree in Agricultural Botany. It is her contention that these respondents got Ph.D Degree from Swami Ramanand Tirth Marathwada University (SRTM), Nanded and that University is not an Agricultural University as contemplated under the provisions of the Maharashtra Agricultural Universities (Krishi Vidyapeeth) Act, 1983. It is contended that as per Section 9 of this Act, such Universities cannot award the degrees which Agricultural University under aforesaid Act can award. There is force in this submission and as per Section 9 there is specific

prohibition against University like Swami Ramanand Tirth Marathwada University (SRTM), Nanded to award Ph.D Degree in Agricultural Botany or any degree which can be awarded only by Agricultural University under aforesaid Act. Admittedly respondent No.3 Dr. Dattatraya Gangadhar Dalvi was awarded Ph.D degree by aforesaid Swami Ramanand Tirth Marathwada University (SRTM), Nanded and not by any Agricultural University. This Court has seen the other eligibility conditions. The Teaching staff needs to have degree of Agricultural University in the respective discipline as per the eligibility conditions, qualifications given in the order issued by the concerned department of the Government dated 15.03.2014. Thus, respondent No.3 was not eligible for getting the post of Associate Professor in Agricultural Botany. Due to these circumstances this Court holds that the order of promotion given in favour of respondent No.3 Shri. Dattatraya Gangadhar Dalvi cannot sustain in law. In the result, following order.

ORDER

- I. The petition is allowed only as against respondent No.3 Dr. Dattatraya Dalvi and promotion given to him by respondent Agricultural University to the post of Associate Professor is hereby quashed and set-aside.
- II. The University is expected to start fresh process for filling the vacancy. The effect of the order of cancellation of the promotion shall have immediate effect.

- III. Respondent No.3 is to be brought back to his original post with immediate effect.
Rule made absolute in those terms.

[K. K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE

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