

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.114 OF 2017

Smt. Manisha Sitaram Pathare

...Petitioner.

Vs.

The State of Maharashtra and ors.

...Respondents.

Mr. S.P. Kadam I/by S.R.Karpe for the petitioner.

Mr. R.S. Pawar, AGP for the Respondent/State.

Mr. Rajesh Datar for Respondent No.3.

Mr. Prasanna Shahane i/by Milind Deshmukh for Respondent No.5.

CORAM : R.M.BORDE & V.L. ACHLIYA, JJ.

DATE : 11th January, 2019

PC :

1. The petitioner is objecting to the communication dated 30.7.2016 issued by the State of Maharashtra, Law and Judiciary Department directing/ withdrawal of candidature of the petitioner for the post of Judicial Magistrate First Class and further informing the petitioner that she is not eligible/suitable for the appointment to the aforesaid post. On the basis of the complaint received and the material placed before the State Government it has been

concluded that at the relevant time the petitioner was performing function as full time lecturer in Trimurty Pawan Pratishatan, Trimurtinagar, Newasa phata, Taluka Newasa, District Ahmednagar with effect from 4.5.2013. The petitioner contends that, in fact, she was appointed as part time lecturer at the relevant time and also she performing function as part time lecturer also. The conclusion drawn by the State Government is erroneous. It is the contention of the petitioner that, in fact, the University has erroneously granted approval to the appointment of the petitioner as full time lecturer. In order to support her contentions, reliance is placed on the affidavit tendered by the Chief Executive Officer of the said Institution. We are of the opinion that, since disputed question of facts are raised in the petition, those need not be gone into in exercise of extraordinary jurisdiction. It has not been demonstrated before us that, the approval issued by the University for the post of the petitioner as Assistant Lecturer has not been recalled. In the absence of any such order, it is difficult to conclude that the decision recorded by the State Government, Law and Judiciary Department recalling the recommendation of the petitioner is erroneous. It is contended by the petitioner that recently she has tendered resignation of the post and the

same has been accepted. It is further informed that the petitioner is no more functioning as an lecturer in the Law College and is pursuing the practice as lawyer. If that be so, it would be open for the petitioner to participate in the next process of selection and the decision taken by the State Government on 30.7.2016 shall not be construed as bar for the participation of the petitioner in the process of appointment to the post of Judicial Magistrate First Class or any other post, and making appointment in the event of her selection.

In view of the above, writ petition is disposed off.

(V.L. ACHLIYA, J.)

(R.M. BORDE, J.)