

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

WRIT PETITION NO. 7199 OF 2020

Mr. Gajendra Kondiba Londhe ... Petitioners

Versus

The State of Maharashtra and another ... Respondents

Mr. Navandar Manish N. Advocate for the petitioner

Mr. S. R. Yadav Lonikar, A.G.P. for respondents State

Mr. Krishna Rodge h/for Mr. P. G. Rodge, Advocate for respondent No.2

**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE : 28th October, 2020

ORDER:

1. Pursuant to the advertisement issued by respondent No.2 inviting applications for the post of Dean, Faculty of Dairy Technology, the petitioner applied. Last date for submission of application, as per advertisement was 27th August, 2020. The application of the petitioner reached respondent No.2 on 31st August, 2020. Respondent No.2 issued letter to the petitioner that the application of the petitioner is received by the University on 31st August, 2020, hence cannot be accepted as valid application.

2. Mr. Navandar, the learned counsel submits that the petitioner had submitted application through proper channel on 21st August, 2020. The Petitioner approached post office. The post office intimated the petitioner that because of the pandemic and the lock-down, facility of direct train and other modes of public transportation are not available and it cannot assure that the envelope will reach within time to the destination. The

petitioner, thereafter approached to the Courier service on 21st August, 2020 and gave the same envelope containing application of the petitioner to the Courier service. Fault is not on the part of the petitioner.

3. Mr. Rodge, learned counsel for respondent No.2 submits that application of the petitioner is received on 31st August, 2020. Advertisement contains a specific condition that incomplete applications and applications received after last date as prescribed in the advertisement shall be rejected and no correspondence in this regard shall be entertained. Respondents received 5/6 application after the stipulated date and those applications are not considered. In view of the specific terms in the advertisement, application of the petitioner is rightly rejected.

4. We have considered the submissions.

5. There cannot be any dispute with the proposition that the terms and conditions of the advertisement are sacrosanct and are required to be abided by the parties. The advertisement requires application to be submitted on or before 27th August, 2020. Clause No.4 of the conditions and general instructions in the advertisement also specify that the application received after the last date shall be rejected and no correspondence in this respect shall be entertained. Clause 15 of the advertisement further clarifies that the University shall not be responsible for any postal delay or any loss of application form in transit. The application reached after the last date of submission of application shall be rejected and no further correspondence in this regard shall be

entertained.

6. In view of the aforesaid terms and conditions in the advertisement, we would certainly not have entertained the present petition even for a moment. Circumstance prevailing at present and even in August, 2020 were not normal circumstances. There was lock-down because of Covid-19. In August, 2020, train services were suspended. Public transportation was also not freely available. Postal department also had difficulty to send mails.

7. There is nothing on record to disbelieve that on 21st August, 2020, the petitioner had been to the post office for booking the envelope, to be sent to respondent No.2 at Nagpur. On 21st August, 2020, the petitioner had approached the courier service. The petitioner has placed on record the acknowledgment to the effect that on 21st August, 2020, the petitioner had given a sealed envelope to the courier service to be delivered to respondent No.2 at Nagpur. The said courier could be served only on 31st August, 2020 to respondent No.2. The delay, it appears is caused because of Covid-19 Pandemic, wherein, transportation by rail, road and air were at stand still.

8. Considering the extraordinary circumstance prevailing in July-August, 2020 wherein large scale restrictions were imposed on transportation by rail, road and air, we have entertained the present petition.

9. In light of the aforesaid fact, we direct the respondents to consider

the application of the petitioner submitted pursuant to the advertisement inviting applications for the post of Dean, Faculty of Dairy Technology of respondent No.2 on its own merits, though it is received three days after the cut off date

10. As clarified above, we have passed this order considering the exceptional circumstance prevailing due to pandemic of Covid-19 and non availability of the transportation in the month of July-August, 2020.

11. Writ petition is accordingly disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC