

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

**REVIEW APPLICATION NO.172 OF 2020
IN
WRIT PETITION NO.12001 OF 2019
WITH
CIVIL APPLICATION NO.7891 OF 2020
IN
REVIEW APPLICATION NO.172 OF 2020**

Dr. Shankar S/o. Bhagwan Ambhore,
Age : 53 years, Occu. Service,
R/o. Plot No.120, Pethe Nagar,
Bhavsingpura, Aurangabad.

**... Applicant
(Orig. Petitioner)**

VERSUS

- 1) Hon'ble Chancellor,
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad.
Raj Bhavan, Malbar Hill,
Mumbai.
- 2) Dr. Babasaheb Ambedkar University,
through its Registrar,
University Campus, Aurangabad.
- 3) Dr. Appasaheb Bhausahab Humbe,
Age : Major, Occu. Retired,
Office at, Shankarrao Patil Arts,
Commerce and Science College,
Bhoom, Osmanabad.
- 4) The State of Maharashtra,
through its Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai-32.

**... Respondents
(Orig. Respondents)**

**WITH
REVIEW APPLICATION NO.173 OF 2020
IN
WRIT PETITION NO.11980 OF 2019
WITH
CIVIL APPLICATION NO.7892 OF 2020
IN
REVIEW APPLICATION NO.173 OF 2020**

Dr. Shankar S/o. Bhagwan Ambhore,
Age : 53 years, Occu. Service,
R/o. Plot No.120, Pethe Nagar,
Bhavsingpura, Aurangabad.

**... Applicant
(Orig. Petitioner)**

VERSUS

- 1) Hon'ble Chancellor,
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad.
Raj Bhavan, Malbar Hill,
Mumbai.
- 2) Dr. Babasaheb Ambedkar University,
through its Registrar,
University Campus, Aurangabad.
- 3) Dr. Vilas S/o. Bhikaji Khandare,
Age : 48 years, Occu: Service,
Office at, Shri Asaramji Bhandwaldar
College, Devgaon Rangari,
Tq. Kannad, District Aurangabad.
- 4) The State of Maharashtra,
through its Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai-32.

**... Respondents
(Orig. Respondents)**

...
Advocate for Applicant : Mr. Sushant Vinayak Dixit

CORAM : MANGESH S. PATIL, J.

DATE : 04.12.2020

PER COURT :

Heard learned advocate Mr. Dixit for the applicant who is the same person in both these Review Applications.

2. The applicant is seeking review of the common judgment and order dated 14.10.2020 in the Writ Petition No.11980 and 12001 of 2019, whereby, his petitions challenging the judgment and order passed by the

Respondent No.1 Hon'ble Chancellor holding him to be not eligible to be nominated on the Board of Studies in Economics under the Provisions of Section 40 (2)(b)(ii) of the Maharashtra Public Universities Act, 2016 (hereinafter 'the Act') have been dismissed.

3. Learned advocate Mr. Dixit submits that the respondent Chancellor had invoked the jurisdiction under Section 140 of the Act. However, he could have exercised that power only under two contingencies, firstly, on a petition filed by a person aggrieved or on a representation made by the Vice Chancellor that too initiated by 1/4 Members of the Senate. Since the respondent No. 3 in both these petitions were not the aggrieved persons in as much as they were not seeking to replace the petitioner in the Board of Studies and when there was no representation made by the Vice Chancellor, the respondent Chancellor could not have invoked the jurisdiction under Section 140. The learned advocate would submit that this Court has not considered these aspects.

4. The learned advocate Mr. Dixit would then submit that even the respondent Hon'ble Chancellor had failed to extend any opportunity to petitioner of being heard and the orders passed by him were clearly in gross violation of principle of natural justice but this Court overlooked this aspect as well.

5. The learned advocate Mr. Dixit then submits that the predecessor of the existing Vice Chancellor on the basis of a report submitted by the then Registrar had found the petitioner eligible to be

nominated as a member of the Board of Studies in Economics but his successor Vice Chancellor has taken a contrary view. It was a matter of impropriety but this Court has not considered this aspect.

6. The learned advocate Mr. Dixit would then submit that though the College in which the petitioner is employed does not have a Post Graduate Course in Economics, the petitioner does have an experience of teaching to Post Graduation Course in Economics as a guest lecturer in Dr. Babasaheb Ambedkar College of Arts and Commerce Aurangabad. He would point out that a certificate to this effect has also been issued by the Principal of that College which is produced along with the Civil Application No.7891/2020 filed in this Review Petition. He would therefore submit that in view of such experience of teaching to the Post Graduate Course in Economics the petitioner fulfilled the eligibility required for nomination to the Board of Studies even under Section 40 (2)(b)(ii) of the Act.

7. The learned advocate Mr. Dixit lastly submits that this Court has also ignored the stand of the petitioner that in the College in which he is imparting education, Managerial Economics is the integral part of the Post Graduate course in Commerce and not only the Business Economics.

8. One need not delve as to the scope of the jurisdiction in exercising the power of review. The parameters are far too well settled. If one goes through the judgments of this Court, all the above submissions except one have been touched and commented upon for the reasons duly recorded. It cannot be a ground of review that there is some error in

reaching a conclusion. Howsoever defective the observation may be, it cannot be termed as a formal defect so as to enable this Court to review its order. If the reasoning is based on incorrect appreciation of material, that cannot be a ground to review the judgment and order.

9. This Court specifically observed as to how on an independent scrutiny of the facts the observations and the conclusions reached by the Hon'ble Chancellor in the impugned orders were correct and as to how the petitioner was not eligible to be nominated to the Board of Studies under Section 40 (2)(b)(ii) of the Act.

10. As far as the material now sought to be produced about his experience in teaching to the Post Graduate students of Economics in Dr. Babasaheb Ambedkar College, the petitions do not refer to any such experience. That is not a ground pleaded in the petition and a review cannot be entertained based on such new ground sought to be made out.

11. It is also important to note that in one of these matters, the petitioner had tendered his submission before the respondent before the Hon'ble Chancellor passed the impugned orders. But even in that representation/say the petitioner had not resorted to the pleadings in respect of his experience of teaching as a guest lecturer or a visiting professor in Dr. Babasaheb Ambedkar College. Be that as it may a review cannot be maintained based on some new ground being agitated for the first time.

12. As far as principles of natural justice and the *locus standi* of the

respondent Nos. 3, this Court has specifically observed as to how the rule of principle of natural justice is not inflexible by referring to the decision of the Supreme Court in **Dharampal Satyapal Limited Vs. Deputy Commissioner of Central Excise, Gauhati and Ors. ; (2015) 8 SCC 519.**

13. This Court has also concluded as to how as far as interpretation and scope of Section 140 of the Act is concerned, it had become academic since on independent scrutiny it was found that the petitioner was not eligible to be nominated to the Board of Studies by resorting to the provision of Section 40 (2)(b)(ii) of the Act.

14. The learned advocate Mr. Dixit strenuously submits that the Hon'ble Chancellor could not have exercised the jurisdiction vested in him under Section 140 of the Act in an arbitrary manner without following due process. He would submit that when the law confers jurisdiction on an authority and prescribes the mode in which it is to be exercised, the authority is expected to exercise the jurisdiction in the manner contemplated by the legislature. He also cites the decision in the case of **D.N. Taneja Vs. Bhajan Lal ; AIR 1988 Supreme Court 50** and in the matter of **Denanath Hemraj AIR 1927 Allahabad 299** as well as the guidelines laid down by this Court in the Case of **Savitri Chandrakesh Pal Vs. State of Maharashtra ; 2009 (4) Mh.L.J. 406.**

15. I am afraid, this being a matter of review, the submission of the learned advocate Mr. Dixit and his reliance on the decisions supra are of no consequence and are beyond the purview of the parameters for resorting to

the power of review.

16. In the result there is no sufficient ground to invoke the power and jurisdiction of review. The review applications are dismissed *in limine*.

(MANGESH S. PATIL, J.)

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