

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO.11726 OF 2022

SARIKA RAVINDRA BHALERAO
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

Mr.S.S.Thombre, Advocate for the petitioner.
Mr.S.G.Karlekar, AGP for the respondent/State.
Mr.M.N.Navandar, Advocate for respondent No.4.
Mr.S.K.Kadam, Advocate for respondent Nos. 2 and 3.

(CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.)

DATE : DECEMBER 09, 2022

PER COURT :

1. The petitioner has put forth prayer clauses B, C, D and E as under :-

"B. By issuing writ of mandamus or any other appropriate writ, order or directions in the like nature, direct the respondent No.2 to decide and take decision on the proposal of the petitioner for promotion on the post of Professor which was invited as per letter dated 16th September, 2019 and complete the same and if the petitioner is found eligible to issue an order of promotion on the post of Professor to the petitioner and for that purpose issue necessary orders.

C. By issuing writ of mandamus or any other appropriate writ, order or directions in the like nature, the respondent authorities may kindly be directed to complete the process which was started in the year 2019 for

promotion on the post of Professor and for that purpose issue necessary orders.

D. By issuing writ of mandamus or any other appropriate writ, order or directions in the like nature, direct the respondent No.3 to decide the application/ complaint filed by the petitioner and to take decision to direct the respondent No.2 to complete the process of promotion which was started as per letter dated 16th September, 2019 and further to direct the respondent No.4 to consider the petitioner for promotion on the post of Professor in Bio-technology and for that purpose issue necessary orders.

E. Pending hearing and final disposal of present writ petition, direct the respondent No.2 to decide and take decision on the proposal of the petitioner for promotion on the post of Professor which was invited as per letter dated 16th September, 2019 and complete the same and if the petitioner is found eligible to issue an order of promotion on the post of Professor to the petitioner and for that purpose issue necessary orders."

2. After a marathon hearing in this matter, it is clear that the Recruitment Board, which is under the control of the State Council, has to be constituted u/s 58(2) of the Maharashtra Agricultural Universities (Krishi Vidyapeeths) Act, 1983 in the light of the amendment by Maharashtra Act No.XXXIII of 2013, which has received an assent of the Governor and is published in the Maharashtra Gazette on 24.12.2013. The Chairman of the board is the Vice-Chairman of the State Council who is said to be an MLA.

Section 58 reads as under :-

"58. (1) No person shall be appointed by the University as a member of the academic staff, except on the recommendation of a Selection Committee constituted for the purpose in accordance with the provisions of the Statutes made in that behalf;

Provided that appointments to the posts of Director (other than Director of Students' Welfare), Dean, Associate Dean, Head of a Department and Professor (shall be made on the recommendations of the Selection Committee to be constituted] by the State Government, common to all the four Universities.

(2) The Selection Committee referred to in the proviso to sub-section (1) shall consist of -

(i) The Vice-Chairman of the State Council ;

(ii) the Vice-Chancellor of the University concerned;

(ii) One non-official to be nominated by the Pro-Chancellor, from amongst the non-official members of the Executive Councils of the Agricultural Universities in the State ;

(iv) two experts to be nominated by the Chancellor ;

(v) two representatives of the Indian Council of Agricultural Research to be appointed by the State Government, one of whom shall be a specialist in the particular field for which the recruitment is to be made.

(3) The Vice-Chairman of the State Council shall act as Chairman of the Selection Committee. In the absence of the Vice-Chairman or in the event of the post of Vice-Chairman being vacant, one of the members of the Selection Committee nominated by the Chairman of

the State Council shall act as the Chairman of the Selection Committee.]

3. The Vice Chancellor of the University is appointed. Under Sub Clauses 3, 4 and 5, the nominees have not been nominated. It is undisputed that as the Recruitment Board has to consider the grievances and cases of promotions, unless the Board is in place, the grievances of the employees can not be considered.

4. The learned Advocates have brought to our notice a long list of pending proposals and representations for promotion to be considered by the Recruitment Board. We are not required to deal with each of these representations or proposals for the reason that we are not deciding the proposals or the claims of such individuals. The issue that the Recruitment Board is not constituted, has been brought to the fore by the present petitioner, who is an Associate Professor in the Department of Plant, Bio Technology, Vilasrao Deshmukh College of Bio Technology, Latur, which is affiliated to the Vasantrya Naik Marathwada Krishi Vidyapeeth Krishi Nagar, Basmath Road, Parbhani.

5. In view of the above, this petition is disposed off with the

following directions :-

[a] Pro Vice Chancellor, the Hon'ble Chancellor (Governor of the State of Maharashtra) and the State Government are expected to nominate the members of the Recruitment Board under sub clause 3, 4 and 5 of Section 58(2).

[b] We expect the above exercise to be completed on or before 15.02.2023.

[c] After the Board is in place, the said Board shall convene meetings regularly and by following the due procedure laid down in the 1983 Act and the Statute / Ordinances as may be applicable, shall begin to deal with the oldest pending proposals, representations, with regard to promotions.

[d] Each of these proposals or pending representations in accordance with the dates of their filing, shall be considered on their own merits and appropriate steps would be initiated for clearing such pending proposals. Let this exercise be completed, on or before 31.07.2023.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)