

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11352 OF 2022

Vishnu Manohar Pawar

Age : 37 years, Occu: Service,
Shivaji College, Udgir,
Dist. Latur

...Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
Higher and Technical Department,
Mantralaya, Mumbai.

2. The Registrar,
(Acting Returning Officer,
For Senate Elections-2022),
Shri.Swami Ramanand Teerth Marathwada
University, Vishnupuri, Nanded.

3. Shri. Swami Ramanand Teerth Marathwada
University, Vishnupuri, Nanded,
Through its Vice-Chancellor.

...Respondents

Dr R.R. Deshpande a/w Mr B.R. Deshpande h/f Ms Priyanka R.
Deshpande, Advocates for the petitioner
Mr K.N. Lokhande, AGP for Respondent No.1/State
Mr Uday S. Malte, Advocate for Respondent No. 2

CORAM : SANDEEP V. MARNE, J.

DATE : 16th NOVEMBER, 2022

ORAL JUDGMENT :

1. Rule. Rule is made forthwith. Heard finally and taken up for
final hearing.

2. By this petition, the petitioner assails the order dated 12th November, 2022 passed by the respondent No. 3 University upholding rejection of petitioner's nomination for election to the Senate in the University. His nomination has been rejected on the ground that he does not possess requisite teaching experience.

3. Under the provisions of section 28 (2) (r) of the Maharashtra Public Universities Act, 2016, ten teachers other than Principals and Directors of recognized Institutions are to be elected by the collegium of teachers from amongst themselves. The election programme was declared in which, following eligibility conditions have been specified for teachers category.

Sr.No.	Authority and Section	Eligibility conditions for being elected as member of the Authority
(1)	(2)	(3)
(iii)	Section 28(2)(r) TEACHERS (other than Principals and Directors of Recognized Institutions)	Elected by the Collegium of Teachers from amongst themselves - (a) Shall possess Ph.D. Degree with at least ten years teaching experience in aggregate or Shall have at least fifteen years teaching experience in aggregate, (b) Shall have undertaken university examination related work for at least five years in aggregate.

4. Petitioner has been working on the post of Librarian. Whether experience on the post of Librarian can be considered as 'teaching' experience for the purpose of making him eligible in teachers' category is the issue. The stand of the respondent University is that the petitioner's experience on the post of Librarian cannot be counted as 'teaching'

experience. While rejected Petitioner's appeal on 12.11.2022, the Vice Chancellor has held that the petitioner does not conduct classes in the College/University, and therefore, his experience as Librarian cannot be considered as teaching experience.

5. Dr Deshpande, learned counsel appearing for the petitioner relies upon definition of the term 'teacher' in sub section (61) of Section 2 of the Maharashtra Public Universities Act, 2016. He would submit that since a college librarian also comes within the ambit of term 'teacher', the experience rendered by the petitioner on the post of college Librarian is required to be treated as teaching experience. Dr. Deshpande would further contend that the stand taken by the Vice Chancellor that the petitioner is expected to step into the classrooms for teaching the students is something which is over and above the definition of the term 'teacher' and something which has not provided in the definition can be read to the same by the Vice Chancellor.

6. Dr Deshpande would rely upon illustrations of various other Universities where the Librarians have been considered eligible to contest the elections in their senate.

7. Per contra, Mr Malte, learned counsel appearing for the respondent University would oppose the petition and support the decision of the Vice Chancellor. He would submit that the irrespective of definition of term 'teacher' what is required is 'teaching experience' which the petitioner admittedly does not possess. He would submit that the term and conditions of eligibility as provided in the election programme are required

to be strictly satisfied. So far as the illustrations of other Universities are concerned, Mr Malte would contend that if the other University=ies have committed a mistake, Petitioner would be entitled to any benefit of the same. Mr Malte further submits that had the petitioner been working in the library college imparting education to students studying library courses, his experience on the post of Librarian would possibly be taken into consideration. However, admittedly the petitioner is not imparting any education relating to librarian course and therefore, his experience cannot be considered as the teaching experience. He would further submit that the notification prescribing the eligibility conditions has not been challenged by the petitioner and conditions so stipulated are on binding on Petitioner.

8. Rival contentions of the parties are fall for my consideration.

9. The term 'teacher' has been defined under sub-section 61 of Section 2 of the Act of 2016, which reads thus:

61. "teacher" means full-time approved professor, associate professor, assistant professor, reader, lecturer, librarian, principal, Director of an institution, Director of Knowledge resource Centre, Director of centre of Lifelong Learning and Extension, Deputy or assistant librarian in the university, college librarian, Director or instructor of physical education in any university department, conducted, affiliated or autonomous college autonomous institution or department or recognized institution of the university.

10. Thus the post of college Librarian is covered by the definition of the term 'teacher' under the Act. The terms 'teaching' has not been separately defined. Therefore, as rightly contended by Dr Deshpande, the moment petitioner falls within the ambit of the term "teacher", the services rendered by him are necessarily required to be counted as teaching experience. In absence of separate definition of the term "teaching" all activities rendered by a person covered by the definition of term 'teacher' are required to be treated as teaching.

11. The reason recorded by the Vice-Chancellor of the respondent University that the petitioner is required to undertake teaching activities in the college appear for the purpose of treating his experience as 'teaching experience' is completely contrary to the provisions of sub-section 61 of section 2 of the Act. The definition of the term "teacher" includes several other persons occupying positions such as Director, Principal etc. who may not be teaching the students. Nonetheless, the legislature has included them in the category of teacher. It is also the matter of fact that librarians are covered under the Career Advancement Scheme meant to be applicable to the lecturers, readers etc. It, therefore, cannot be stated that persons included within the ambit of definition of the term 'teacher' is required to actually teach in classrooms for the purpose of either being treated as a teacher or for the purpose of treating his activities as teaching activity. The Legislature has not made any such distinction.

12. It is also seen that several Universities have been treating the duties and responsibilities rendered by the Librarian as teaching

experience and have considered them eligible for contesting elections to the senate. The following are the illustrations given by the petitioner:

- (I) Mr Sanjay Narayanrao Sable working at Librarian in Gondwana University, Gadchiroli was permitted to contest in the senate election-2020.
- (ii) Dr Smt Gavali Vandana Santosh working as Librarian in Punyashlok Ahilyadevi Holkar, Solapur University, Solapur was not only permitted to contest the election of Senate but has been elected.
- (iii) Mr Mahindkar Ravikant Narayan, Shri Shivaji Education Society, Amravati working as Librarian in their education society, Amravati was also permitted to contest the election of Senate.

13. The submission of Mr Malte notification prescribing the eligibility conditions has not been challenged by the petitioner and that conditions so stipulated are on binding on Petitioner is required to be rejected as Petitioner is fulfilling the said eligibility criteria.

14. Considering the above position, the decision taken by the respondent/University to reject the nomination of the petitioner suffers from the vice of perversity and the same is liable to be quashed and set aside. Accordingly, I proceed to pass the following order :-

ORDER

- (A) The rejection of nomination of the petitioner by the respondent / University is quashed and set aside.
- (B) The order of the Vice Chancellor dated 01.11.2020 upholding rejection of the petitioner's nomination is also set aside.

- (C) Writ Petition is allowed and Rule is made absolute in above terms.

[SANDEEP V. MARNE, J.]

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