

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

Writ Petition No.1945 of 2020

Miss Priti K. Moudgal
R/o. Flat no.A2, 503 Celina Apartment
Opp Hotel Mahabaleshwar, Baner road,
Baner, Pune 411045 ... Petitioner
v/s.

Union of India
At Aykar Bhawan
Marine Lines, Mumbai

2. College of Military Engineering
Old Mumbai Pune Hwy, Dapodi,
Pimpri-Chinchwad, Pune
Maharashtra 411031.

3. All India Council for Technical Education
7th floor, Chandrlok Building
Janpath, New Delhi 110 001.

4. Registrar
Jawaharlal Nehru University
New Delhi – 110 067

5. University Grant Commission ... Respondents

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Mr. S.A. Rajeshirke for the Petitioner.

Mr. Ashok Shetty a/w. Mr. Rui Rodrigues & Ms. Anamika Malhotra for
Respondent No.1 - Union of India & Respondent No.2.
Mr. Rui Rodrigues for Respondent No.5 UGC.

This order is corrected vide speaking to minutes order dt.26.4.2022.

CORAM : A.S.Chandurkar & G.A. Sanap, JJ.

18th April 2022

JUDGMENT (Per A.S.Chandurkar, J)

Heard learned Counsel for the parties.

2. The challenge raised in this writ petition is to the advertisement dated 6th February 2020 issued by the 2nd Respondent-College of Military Engineering seeking to recruit Assistant Professors on contract basis. The petitioner is concerned with the recruitment on the post of Assistant Professor in the subject of Environmental Engineering in the faculty of Civil Engineering. It is the case of the Petitioner that prior to this advertisement for the subject of Environmental Engineering, the education qualifications prescribed included Master's Degree in Science in the subject of Environmental Science. In the advertisement dated 6th February 2020 the essential qualifications prescribed are B.E./B.Tech (Civil Engineering) and M.E./M.Tech (Environmental Engineering). Exclusion of the qualification pertaining to M.Sc. (Environmental Science) in that advertisement is the reason that the Petitioner is aggrieved.

3. According to the Petitioner since 2012 she has been engaged on

contractual/clock hour basis with the 2nd Respondent. Without any justification the 2nd Respondent has deleted the qualification of M.Sc (Environment Science) while seeking to recruit Assistant Professors in the subject of Environmental Engineering. In the past when various posts were advertised for the subject of Environmental Engineering, one post was always provided to candidates having the qualification similar to that of the Petitioner. With a view to deprive the Petitioner of participation in the recruitment process, the qualification pertaining to M.Sc (Environmental Science) has been deleted. The Petitioner seeks to rely upon the norms prescribed by the AICTE as well as the UGC as it is the case of the Petitioner that the said institutions treat M.Sc (Environmental Science) as requisite qualification for teaching the subject of Environmental Engineering. In the aforesaid backdrop the Petitioner has challenged the advertisement dated 6th February 2020.

4. The learned Counsel for the Petitioner submitted that the 2nd Respondent was not justified in deleting the educational qualification pertaining to M.Sc (Environmental Science) while calling for applications for teaching the subject of Environmental Engineering. There was no justification in doing so especially when the norms prescribed by the AICTE and the UGC permitted such educational qualifications. The learned Counsel referred to the Model Scheme of

Instructions for undergraduate Engineering Degree programs prescribed by the AICTE in that regard. He also referred to relevant UGC Regulations to urge that the deletion of the said educational qualification by the 2nd Respondent was unjustified. It was thus submitted that the advertisement dated 6th February 2020 be set aside and 2nd Respondent be directed to issue a fresh advertisement by including the qualification, of M.Sc (Environmental Science) possessed by the Petitioner in that advertisement.

5. Reply has been filed by the 2nd Respondent and its learned Counsel by relying upon the same submitted that 2nd Respondent falls under the Ministry of Defence. Its Recruitment Rules as published in the Government gazette prescribe the essential qualifications that have been mentioned in the advertisement dated 6th February 2020. It is stated that the subject of Environmental Engineering is not an Applied Science subject but is core branch of study under Civil Engineering. The qualifications prescribed are as per the necessary requirements and merely because the Petitioner's qualifications do not find mention in the advertisement, the same would not render that advertisement illegal. The 2nd Respondent was in a better position to determine its requirements by requiring particular qualifications and the same was a matter of its policy which was neither arbitrary nor illegal. It was thus submitted that the prayers made in the writ petition were not liable to

be granted.

6. We have heard the learned Counsel for the parties and we have perused the documents on record. It is not in dispute that since 2012 for the subject of Environmental Engineering one of the education qualifications prescribed for the post of Assistant Professor was M.Sc (Environmental Science). This qualification has been done away in 2019 and subsequently in the advertisement dated 6th February 2020. According to 2nd Respondent the educational qualifications prescribed are as per the requirements of the 2nd Respondent. The 2nd Respondent treats the subject of Environmental Engineering as a professional core subject and hence the requisite qualifications have been prescribed in the advertisement. As per AICTE norms the subject of Environmental Science is a branch of Humanities and Social Science. It has also claimed that the 2nd Respondent is governed by the Recruitment Rules as published in the Government gazette. The requirements vary from year to year and there is no established and set pattern. It is stated that the qualifications prescribed are after due consideration of the requirements of the 2nd Respondent.

7. On considering the nature of courses conducted by the 2nd Respondent which has its independent Recruitment Rules that are published in the Gazette of India, we find that it cannot be compelled

to include educational qualifications not prescribed in the advertisement. The 2nd Respondent has furnished adequate reasons for excluding the qualification of M.Sc (Environmental Science) while recruiting Assistant Professors in the subject of Environmental Engineering. The 2nd Respondent would be in a better position to determine its requirements and thereafter prescribe qualifications for the post of Assistant Professor on that basis. It may be true that in courses conducted by the institutes affiliated to the AICTE, the qualification possessed by the Petitioner is prescribed. That, however, cannot be the reason to direct the 2nd Respondent to include the qualification of M.Sc (Environment Science) as an essential qualification as sought by the Petitioner. Moreover, the Court does not possess the requisite expertise so as to override the requirements prescribed by the 2nd Respondent and direct it to include other qualifications. In absence of any arbitrariness or malafides, in presenting the requisite qualifications, the prayer made in the writ petition cannot be granted. Hence, for aforesaid reasons, we do not find any merit in the writ petition. It is accordingly dismissed with no order as to costs.

(G.A.Sanap, J)

(A.S. Chandurkar, J)

Lata Panjwani, P.S.

This order is corrected vide speaking to minutes order dt.26.4.2022.