

JPP

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

WRIT PETITION NO. 4663 OF 2021

Dr. Laxman Babasaheb Patil

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

with

INTERIM APPLICATION NO. 383 OF 2022

IN

WRIT PETITION NO. 4663 OF 2021

Sarojini Namdeorao Jagtap

... Applicant

V/s.

Laxman Babasaheb Patil & Ors.

... Respondents

with

INTERIM APPLICATION NO. 382 OF 2022

IN

WRIT PETITION NO. 4663 OF 2021

Govardhan Jagannath Chavare Patil

... Applicant

V/s.

Dr. Laxman Babasaheb Patil & Ors.

... Respondents

Mr. G.S. Godbole a/w. Ms. Jai Kanade and Mr. Kaustubh Thipsay
for the Petitioner

None for the Applicants in IA 382/22 and 383/22

Mr. Sachin Deokar for the Respondent No.5

Ms. P.J. Gavhane, AGP for the State

***CORAM : SUNIL B. SHUKRE &
AMIT BORKAR, JJ.***

DATE : 26 FEBRUARY 2022

P.C. :-

Heard the learned Counsel for the parties.

2. Rule. Rule made returnable forthwith. Taken up for final disposal by consent.

3. It appears that to the entire trouble of the college of the Petitioner has started with to some misconception regarding applicability of the relevant G.R. to the appointment of the Petitioner entertained by the Respondents.

4. On going through the documents placed on record about which there is no dispute, one can clearly see that the appointment of the Petitioner to the post of Principal of Yashwatrao Chavan Mahavidyalay, Karmala, District Solapur has been done in an entirely transparent manner and by following appropriate selection procedure.

5. It is further seen that the first advertisement for inviting the application from the suitable candidates for being appointed as Principal was issued on 18 September 2018 and as not enough candidates responded, the second advertisement with due permission

of the Respondent No.4 – University was issued on 11.12.2018. It is also seen that there was a Committee constituted for scrutiny of the applications and the short listing of the candidates was done by the Committee by submitting its report on 16 February 2019 whereby, the Scrutiny Committee shortlisted 4 out of 5 candidates. It is further seen that the Respondent No.4, upon the request made by the College of the Petitioner, constituted Selection Committee and it categorically stated in its letter dated 20 February 2018 that it would be mandatory for the institute to also include the Joint Director as a Member of the Selection Committee as per G.R. dated 30 January 2012. It is further seen that following constitution of the Selection Committee by the University and the direction has given by it, the Joint Director, Education was made as member of the Selection Committee. However, due to election code of conduct being in operation, the selection process could not be further carried on and it necessitated that another Selection Committee was constituted which indeed was constituted by the University by its letter dated 21.05.2019. Even this letter emphasised upon the fact that it was necessary for the institution to mandatorily include the Government representative as per the G.R. dated 30.01.2012 that is the Joint Director, Higher Education. Thereafter, the Management of the Institution requested the Joint Director, Higher Education to be part of the Selection Committee, which request was duly accepted by the then Joint Director and this is how the selection process was

conducted. The Selection Committee then interviewed the candidates objectively and selected the Petitioner as being suitable for his appointment as Principal. It made its recommendation to that effect. It is seen that the minutes of the Selection Committee were accordingly recorded which had the signature of the Divisional Joint Director, Higher Education, Solapur Division, Solapur.

6. We must state it here that the Respondent – State does not dispute the fact that the Joint Director was the part of the Selection Committee. The Respondent – State, however contends that the Director of Education and not the Joint Director, Higher Education should have been part of the Selection Committee and it is for this reason that, by the order passed by the Respondent No.3 on 18.06.2021 that the appointment of the Petitioner as Principal has been disapproved. In doing so, the Respondent No.3 referred to the G.R. dated 10 May 2019 which mandated that the Director and not the Joint Director should be a member of such a Selection Committee. In fact, the whole selection process as could be seen from the facts narrated above, has started with effect from 18.09.2018 when the first advertisement issued and also with effect from 11.12.2018 when the second advertisement was issued. Then, by the letter dated 20.02.2019, much before issuance of the G.R. dated 10.05.2019, the Respondent No.4 – University had also constituted the Selection Committee by relying upon to the G.R. dated 30 January 2012 and thus, the entire selection process was

carried out and completed, which culminated into the appointment of the Petitioner, only as per G.R. dated 30.01.2012 and therefore, we must say, the Respondent No.3 wrongly disapproved the appointment of the Petitioner as Principal by relying upon G.R. dated 10.05.2019, not applicable to the selection process of the Petitioner.

7. There is one more significant fact, which requires consideration. By the letter dated 11.09.2019, the Respondent No.3 granted his approval to the inclusion of the name of the Petitioner, as Principal, in the account system for making payment of salary to the Petitioner. Of course, such approval was subject to the condition that if any complaint regarding appointment was received and the complaint was found to be with substance, the appointment would be cancelled. There were also other conditions relating to the submission of some documents and formation. This letter only shows that the Respondent No.3, at that point of time, did not consider the fact of the Joint Director being part of the Selection Committee as something not permitted by any G.R. issued by the State and that is the reason why, he gave approval for adding the name of the Petitioner in the account system for payment of salary, though conditionally.

8. Thus, we find that refusal to approve the appointment of the Petitioner as the Principal made by the Respondent No.3 and

recorded by him in his communication dated 10.06.2021 is illegal and it deserves to be quashed and set aside. It would then follow the other impugned communication dated 21 February 2021 also fails to stand to the scrutiny of law.

9. In the result, we find that the Petition deserves to be allowed and it is allowed accordingly in terms of prayer clauses (a), (b) and (d).

10. We also direct the Respondent Nos.1 to 3 to release the salary grants so that the payment of regular salary and also arrears of salary can be made without any delay.

11. None present for the Interveners in Interim Application Nos. 383/22 and 382/22.

12. Even otherwise, we have disposed of the main Petition and therefore, these Applications do not survive and are disposed of accordingly.

AMIT BORKAR, J.

SUNIL B. SHUKRE, J.

**JYOTI
PRAKASH
PAWAR**

Digitally signed
by JYOTI
PRAKASH
PAWAR
Date: 2022.02.26
14:33:24 +0530