

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH AT NAGPUR**

WRIT PETITION NO. 2394 OF 2021

1) Waseem Farhat Khalil Farhat,
Aged 36 years, Occ. Service,
R/o. Walgaon Road, Amravati,
Tq. and Distt. Amravati

2) Shameem Farhat Khalil Farhat,
Aged 48 years, Occ. Service,
R/o. Lahoti Plot, Karanja,
Tq. Karanja & Distt. Washim

... Petitioners

.. Versus ..

1) The Sant Gadge Baba Amravati,
University, Amravati through its
Registrar

2) The Head of Research Centre,
Government Vidarbha Institute of Sciences
and Humanities Amravati

3) The Head of Department, Urdu Department,
Government Vidarbha Institute of Sciences
and Humanities, Amravati

4) The Director of Education,
Higher and Technical Education,
Central Building, Pune

5) Dr. Anjali Deshmukh,
Age 52 years, Occ. Service,
R/o. C/o. Govt. Vidarbha Institute of
Science & Humanities, Amravati

6) Shakil Ahmed Khan,
Age 42 years, HOD Urdu Department,
R/o. C/o. Govt. Vidarbha Institute of
Science & Humanities, Amravati

...Respondents

Mr. A.S. Deshpande, Advocate for the petitioners.
Mr. S.S. Ghate, Advocate for respondent respondent no. 1.
Ms. N.P. Mehta, A.G.P. for respondent respondent no. 4.

**CORAM : A.S. CHANDURKAR AND
SMT. M.S. JAWALKAR, JJ.**

DATED : 28.03.2022.

ORAL JUDGMENT (Per : Smt. M.S.Jawalkar, J.)

Rule. Rule made returnable forthwith. Heard the learned counsel for the parties.

2. By this petition, the petitioners are challenging the selection process for admission to Ph.D. Research programme being void and not in accordance with the procedure prescribed and seeking directions against the respondents to give admission for Ph.D. research programme and lastly prayed for, to hold and declare that selection process for Ph.D. Research Course for academic year 2019-2020 conducted by respondent no.2 is not in accordance with Ordinance No.1/2016 and regulations framed by the University Grants Commission (Minimum Standards and Procedure for Award of M.Phil/Ph.D. Degrees) Regulations 2009 and direct to conduct the same afresh in the interest of justice.

3. They further prayed to direct the respondent no. 2 to admit the petitioners for the Ph.D. Research Course for academic year 2020-2021 for research in Urdu language in view of remaining vacant seats or in alternate direct the respondent no. 2 to appoint Additional Supervisor for conduction/guidance of Ph.D. research course in Urdu language in view of vacant seats available with the respondent no. 2 or in alternate direct the respondents to permit the petitioners for taking admission for Ph.D. Research Course in any other research centre for academic year 2020-21 available with the respondent no. 1.

4. It is contended that the petitioners are having requisite qualifications and eligible to be admitted in Ph.D. Research Programme. They belong to VJ Category. The respondent no. 1 is the University and it is responsible for conduction of Ph.D. examination. The respondent nos. 2 and 3 are responsible authorities where the respondent no.1's authorized research centre is provided. The respondent no. 4 is the Director of Education. The petitioners have cleared the PET i.e. Entrance Test for Ph.D. conducted by the respondent. Accordingly, the respondent no. 1 issued certificate in that regard which is valid upto 5 years. It is further submitted that

the respondent no. 1 had issued the Ordinance No. 1/2016 for award of Degree of Doctor of Philosophy, recognition of supervisor and research centre in all faculties in accordance with the University Grants Commission Regulations 2016. The part B of the said ordinance provides for procedure for admission and award of Ph.D. degrees, then eligibility and procedure for admission to the Ph.D. programme, allocation supervisors, Ph.D. Registration and Duration, submission of Thesis and Evaluation of thesis.

5. The respondent no. 1 had issued the notification for admission programme for Ph.D. for the year 2019-2020. The petitioners had applied for the said programme of Ph.D. for education year of 2019-2020 and they were called for interview. However, they could not succeed. It is contended that the said Ordinance No. 1/2016 had not provided for the submission of research experience at the time of oral interview and therefore, they could not submitted the same. The results were declared. Though there are 30 seats, 26 seats are vacant. As the respondent no. 2 is having only one supervisor which is gross violation of the regulations of University Grants Commissions will lead to the loss of the petitioners. It is contended that the

respondent nos. 2 and 4 have followed the guidelines of the respondent no. 1.

6. Mr. A. S. Deshpande, the learned counsel for the petitioners submits that the procedure adopted is completely arbitrary and contrary to the provisions of the Ordinance No. 1/2016. The respondent no. 2 has selected four candidates for the Ph.D. admissions, as one of the candidates is Khan Firdaus Anjum Darab under E.W.S. category (Economic Weaker Section category) who is in service on clock hour basis at Model College, Buldhana. As the certificate of PET is valid for only five years, the petitioners will be deprived of their right to pursue education and therefore, seeking directions to be issued to the respondents to appoint a Supervisor.

7. As against this, Ms. N.P. Mehta, the learned Assistant Government Pleader for respondent no. 4 submits that the due procedure as per Ordinance was followed and there is no reason or ground for interference. The petitioners after participating in whole procedure of selection, have challenged the procedure after their failure to succeed. Having participated in selection process, it would not be open for the petitioners to

challenge the selection process thereafter. She has pointed out that as per the Ordinance no. 1/2016, the respondent no. 2 had advertised by notice calling upon the applications for eligible candidates for the purpose of Ph.D. admission. The petitioners had submitted their applications to the respondent no. 2. All 13 candidates applied for the subject 'Urdu' who were declared eligible for the interview. The Research Advisory Committee (RAC) had prepared policy for interview and after interview, selected four candidates due to their merits. There was only one recognized supervisor by an order of University. As per the intake capacity, the research supervisor who is an Assistant Professor can guide four Ph.D. scholars (Ordinance no. 1/2016) (A.2.2 Intake Capacity of the Centre). As the supervisor available at centre who was the Assistant Professor, only four candidates in order of merits were selected. Their selection were found to be on merit, suitable and in response to the reservation policy. It is also pointed out that though there are allegations that Khan Firdaus Anjum Darab who belongs to the E.W.S. category, he has not made a party respondent in this petition. In support of her above contentions, the learned Assistant Government Pleader relied on the judgment in **Madan Lal and others V/s. State of J & K and others (1995) 3 SCC 486.**

8. Heard both the parties at length. It is the contention of the petitioners that Ordinance No. 1/2016 is not followed. The petitioners along with other candidates, all were declared as eligible candidates and called for interview. The petitioners had appeared in the oral interview conducted by the Committee but were not selected in the said oral interview. As they could not succeed, they have filed this petition. As held in **Madan Lal (supra)** that it is now well settled law that if a candidate takes a calculated chance and appear for the interview, then, only because of the result of the interview is not palatable to him, he cannot turn round and subsequently, contend that the process of interview was unfair or the Selection Committee was not properly constituted. Therefore, the result of the interview test on merits cannot be successfully challenged by a candidate who takes a chance and is unsuccessful therein. The respondents are perfectly justified in selecting four candidates only, when there was only one Assistant Professor to guide the candidates. Though there were allegations made against Khan Firdaus Anjum Darab, he is not arrayed as a party respondent.

9. It is the contention of the petitioners that they were having excellent academic and research experience in Urdu literate and literary work of the petitioners are published.

However, there is no such condition stipulated in the said Ordinance and they could not present it at the time of oral interview before the Selection Committee. The petitioners have not placed any document on record to support their contentions even in this writ petition. The criteria even though not provided in Ordinance No. 1/2016, it would not mean that RAC has no power to prescribe the criteria and rules for the purpose of selection. The Research Advisory Committee (RAC) is a body under the Ordinance and it can frame the criteria and rules for the selection in a fair manner. It appears from the reply by the respondent that on the complaint made by the petitioners, the respondent no. 1 was directed to conduct the enquiry and submit the report. The Director of Government Vidarbha Institute of Science and Humanities, Amravati constituted an Enquiry Committee under the Chairmanship of Dr. V. N. Sangwar. The said Committee, after enquiry submitted the report in which the allegations of the petitioners found to be baseless. Thus in view of the citation of **Madan Lal (supra)**, the petitioners after taking chance of selection in the interview have no locus to impugn the outcome of the interview on the ground of unfairness of interview process or defect in constitution of the Selection Committee. Similarly, assigning lower marks in viva

voce to the candidates who have obtained higher marks in written test would not amount to unfair treatment. Determining the quantum of marks to be given to competent candidates is the function of the interview committee and the Court does not sit in appeal over the assignment made by the Selection Committee.

10. In view of above discussions, the petition is devoid of merits. Ordinance No. 1/2016 is duly followed by the respondent and therefore, the writ petition is liable to be dismissed. Accordingly, we pass the following order:

ORDER

The Writ Petition stands dismissed with no order as to costs. The Rule is discharged.

[SMT. M.S. JAWALKAR, J.]

[A.S. CHANDURKAR, J.]

B.T.Khapekar