

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

916 WRIT PETITION NO.5292 OF 2022

Vidya Pratisthan (Maharashtra)
College of Education, P & G
College & Research Center,
Ahmednagar
(Through Its Joint Secretary)
Murlidhar Dattatraya Pawar
Age : 46 years, Occu : Legal Practitioner,
R/o. Gulmohar Residency, Gulmohar Road,
Savadi, Ahmednagar

.. Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Higher and Technical Education,
Mantralaya, Mumbai
2. The Director,
Higher Education,
Pune Division, Pune
3. The Joint Director,
Higher Education,
Pune Division, Pune

..Respondents

...

Advocate for Petitioner : Mr. Amol N. Kakade
AGP for Respondent / State : Mr. S. B. Yawalkar

....

**CORAM : MANGESH S. PATIL
AND
NEERAJ P. DHOTE, JJ.**

DATE : NOVEMBER 04, 2023

PER COURT :

. Heard.

2. The petitioner, which is running a college of education with intake capacity of 50 for two year course, is awaiting permission / No Objection Certificate of the respondents to undertake recruitment process of teaching and non-teaching staff for past few years.

3. The learned advocate for the petitioner submits that the sanctioned strength of the teaching staff including the Principal is 08. While filing the petition, only 03 teachers including the Principal were functioning. Rest of the teaching staff stood superannuated. Subsequently, even the Principal has tendered a notice seeking voluntary retirement. He would submit that as far as the non-teaching staff is concerned, the sanctioned strength is 06 and only 02 are currently working and 04 have superannuated. He would submit that the college is facing shortage of teaching and non-teaching staff. It is affecting the quality of the education. In spite of several requests seeking permission of the respondents to fill up the vacant posts since the year 2017, there is no positive response

from the authorities and the college cannot be run in this manner.

4. The learned advocate for the petitioner further points out that, by communication dated 06.06.2022 the respondent no.3 had expressly directed the petitioner to fill up the vacancies, however, in affidavit-in-reply the selfsame officer has come out with the stand that it is a matter of policy. A revised staffing pattern is under consideration which is likely to either increase or decrease the sanctioned strength of the teaching and non-teaching staff and the decision is still awaited. He would further submit that the NAAC Committee is to visit the college on coming Monday and the vacancies are likely to affect petitioner's ratings adversely.

5. The learned AGP by referring to the affidavit-in-reply submits that it is a matter of policy. As indicated in the affidavit-in-reply, the subject is under active consideration of the authorities. If and when the staffing pattern is revised, the vacancies could be filled in.

6. He adverts our attention to the provision of Section 105

(9) of the Maharashtra Public Universities Act and submits that it is in the light of this provision that No Objection Certificate has to be solicited by the petitioner / college from the respondent authorities.

7. There is no dispute about the sanctioned strength of the teaching and non-teaching staff. When there are so many vacancies as indicated herein above in both, one need not delve deep to comment that with so many vacancies, there is every possibility that the standard of the education being imparted must be adversely affected.

8. As is pointed out, for years together the authorities and policy makers are taking time to undertake the revision of the staffing pattern. Simultaneously, the authorities are insisting that the vacancies should be filled in but are sitting over the correspondence seeking no objection for undertaking recruitment against the sanctioned strength. The situation is incomprehensible.

9. If at all, as is being pointed out by the learned AGP by referring to Section 105 (9) of the Maharashtra Public Universities Act, the purpose of soliciting the No Objection Certificate is to

accommodate surplus teachers, one wonders why the authorities are taking time either to assign the surplus teachers or else to grant No Objection Certificate.

10. The conduct of the respondents in not taking any decision for years together compels us to pass the following order

ORDER

- (i) Writ petition is partly allowed.
- (ii) The impugned communication is quashed and set aside.
- (iii) The respondents shall consider the petitioner's request on its own merits, as expeditiously as possible, within three weeks. If nothing is communicated to the petitioner within that period, the petitioner shall be at liberty to undertake the recruitment process to fill up the vacancies to the extent of the sanctioned strength.

11. Authenticated copy of this order be provided to the parties to act upon.

[NEERAJ P. DHOTE, J.]

[MANGESH S. PATIL, J.]

GGP