



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.1166 OF 2024

Dr. Vasant Raghuji Dongre,
Age-58 years, Occu:Service,
R/o-Near Datta Mandir, Vivekanand
Nagar, Khamgaon, Buldhana

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai-32,
- 2) The Joint Secretary,
Higher Education, Jalgaon,
- 3) Kavayitri Bahinabai Chaudhari
North Maharashtra University,
Jalgaon,
Through its Vice-Chancellor,
- 4) Bodwad Education Society,
Bodwad, District-Jalgaon,
Through its President,
- 5) Arts, Commerce and Science
College, Bodwad, District-Jalgaon,
Through its Principal,
Arvind Narayan Chaudhari,
- 6) Arvind Narayan Chaudhari,
Age-62 years, Occu:Principal,
R/o-'Aboli', Near SBI, Waki Road,
Jamner, District-Jalgaon.

...RESPONDENTS

...
Ms. Neha B. Kamble Advocate for Petitioner.
Mr. S.K. Shirse, A.G.P. for Respondent Nos.1 and 2.
...

**CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 30th JANUARY, 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Writ Petition has been filed for following reliefs:-

"B) By issuing writ of mandamus the action of the Selection Committee of the respondent No.3 to not take petitioner's interview be declared illegal and be quashed and set aside.

C) By issuing writ of mandamus or any other appropriate writ the order dated 8.12.2023 passed by the respondent No.3 be quashed and set aside.

D) By issuing writ of mandamus the respondent No.3. and 4 be directed to appoint the petitioner on the post of Principal in respondent No.5 school as per the Advertisement dated 28.8.2023."

2. Heard learned Advocate for the petitioner and learned APP appearing for respondent Nos.1 and 2.

3. The facts leading to the Petition are that respondent No.4 had issued an advertisement for the post of Principal in

respondent No.5 college, which was stated to be for the second time, in *Divya Marathi*, newspaper, Jalgaon Edition, on 28th August 2023. The advertisement provided the eligibility as well as general conditions to be followed. The petitioner applied for the said post on 4th September 2023. He had annexed the copy of his bio-data, academic / research score, NOC (No Objection Certificate), research papers and books and other necessary documents along with his application on his volition though not mentioned in the advertisement. Application of the petitioner came to be rejected vide letter dated 12th September 2023 on the ground that - (1) the form does not include recommendation letter by the current employer, (2) NOC from the management wherein the petitioner is working and (3) as per GR dated 8th March 2019, ARS (Academic Research Score) Certificate is not submitted. Thereafter the petitioner gave clarification letter on 16th September 2023. After the petitioner as well as other applicants made complaint with respondent No.3, the applications of the petitioner as well as others came to be validated. Respondent No.4 had issued interview call letter on 13th October 2023 and his interview was scheduled to be conducted on 27th October 2023 at 10.00 a.m. at the institute office. Petitioner was directed to bring :- (1) original, recent and

specific 'No Objection Certificate' from his institute (2) Principal ARS (Academic Research Score) Certificate as per Government Resolution dated 8th March 2019. It was the mandatory condition for the interview. In all five candidates were called for the interview, out of which three did not turn up and one candidate who had reported at the venue, still gave undertaking in writing that due to mental stress he was unable to give the interview. The petitioner had gone to the venue with documents but the committee refused to conduct his interview on the ground that No Objection Certificate from his employer and Academic Research Score Certificate (for short "ARS Certificate") from Jalgaon University has not been submitted. The earlier Principal i.e. respondent No.6, who was on the verge of retirement, was granted extension of his service tenure. According to the petitioner the act of refusing him to interview by the selection committee is illegal. Hence the petitioner has approached this Court, with above-said reliefs.

4. We have considered the submissions on behalf of the petitioner, especially, as even the notice was yet to be issued. Those submissions were to see whether the grounds are made even to issue notice to the respondents.

5. The petitioner himself has stated that the advertisement did not say anything regarding the documents to be supplied along with the application but according to him, he himself had sent those documents. It is not clearly mentioned in the Petition that petitioner had sent all those documents in its original form. Further, the call letter says that petitioner should submit the mandatory documents at the time of registration i.e. registration for the interview. If along with the application the petitioner would have already supplied those documents, then the said call letter would not have made a mention that the petitioner should bring those documents thereby stating that the original documents should be brought. Now, in subsequent communication as well as in the Petition, the petitioner said that those documents were with the petitioner just prior to the interview at the venue. However, there is nothing on record to indicate that at any point of time the original documents were submitted. It was mandatory to produce those documents and after submission of those documents only the candidate would have been held eligible for interview. Learned Advocate for the petitioner once submitted that along with the application the original documents were sent. But if we consider the copy of the

application Exhibit-B, it does not say that those documents were in the form of original.

6. After the scrutiny of petitioner's application, respondent No.4 had issued a letter dated 12th September 2023 and informed him about the shortfall in the documents. It appears that no reply was given in writing by the petitioner to this letter dated 12th September 2023. Petitioner has produced on record his communication to the Vice Chancellor of the University i.e. respondent No.3, dated 16th September 2023 which was after the alleged scrutiny. Even this letter does not say that the original documents were annexed to the application. Rather the petitioner has questioned the requirement which states that his application does not bear the recommendation of his employer. According to the petitioner, such condition is uncalled for. Same is the case as regards no objection certificate from his earlier institution. The petitioner had not obtained no objection certificate from his employer institution and therefore, it appears that he has raised objection regarding the same. On 27th October 2023 i.e. the date on which his interview was to be conducted, it appears that immediately he was refused to be interviewed, petitioner gave a letter to respondent No.3. In the said letter, the

petitioner says that he has produced original documents at the time of registration for interview. There is nothing on record to support his contention. The selection committee, therefore, was of the opinion that the petitioner cannot be interviewed in view of the non-compliance of the mandatory requirements.

7. Therefore, it would be a disputed question of fact, as to whether the petitioner was holding the original documents with him at the time of registration for interview or not. When the selection committee found that those originals have not been brought, then the selection committee was justified in refusing to interview the petitioner. The disputed question of fact cannot be entered into in the constitutional powers of this Court under Article 226 or 227 of the Constitution of India, hence the Writ Petition deserves to be dismissed, at the threshold.

8. Accordingly, the Writ Petition is dismissed.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE