



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

Writ Petition No. 5025 Of 2006
With
Civil Application No.10547 Of 2024
and
Civil Application No.10549 Of 2024

Suman Anantrao Lamture,
Age: 30 years, Occu.: Nil,
R/o. Bhimnagar, Ahmedpur,
District Latur.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai.
2. Swami Ramanand Teerth
Marathwada University,
Nanded, through its Vice Chancellor.
3. The Grievance Committee,
Swami Ramanand Teerth
Marathwada University,
Nanded, through its President.
4. Vichar Vikas Mandal,
Ahmedpur, District Latur.
5. Mahatma Gandhi College,
Ahmedpur, District Latur.
6. Ramesh Madhavrao Biradar,
Age Major, Occ. Service,
R/o C/o Mahatma Gandhi
College, Ahmedpur,
District Latur.

.. Respondents

* Mr. Ajay S. Deshpande, Advocate for the petitioner.

- * Mr. R.S. Wani, Additional Government Pleader for respondent No.1 /State.
- * Mr. Uday S. Malte, Advocate for respondent No.2 & 3.
- * Mr. V.D. Gunale, Advocate for Respondent No.4 & 5.
- * Mr. Ameya N. Sabnis, Advocate for Respondent No.6 (**Absent**).

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.**

Date On Which The Arguments Were Heard : 27 SEPTEMBER 2024

Date On Which The Judgment Is Pronounced : 18 OCTOBER 2024

J U D G M E N T [Per Shailesh P. Brahme, J.] :

. Rule. Rule is made returnable forthwith with the consent of the parties. Heard both the sides finally.

2. The petitioner who is seeking appointment as a Lecturer in the respondent no.5/College, is challenging decision of the respondent no.4/Grievance Committee taken in the meeting dated 02.12.2005 and is also challenging the approval given to the respondent no.6 due to lapsing of reservation.

3. The petitioner belongs to scheduled caste category. She was holding qualification of M.A.(English). Respondent no.6 is from unreserved category who is his contemporary whose approval is under challenge. Respondent no.5/College is aided one which is run by the respondent no.4/Institution. The college is affiliated to respondent no.2/University. Respondent no.3 is the

Grievance Committee constituted under the provisions of Maharashtra Universities Act of 1993.

4. It is the case of the petitioner that advertisement for the recruitment of two posts of SC/ST category alongwith other posts were issued on 02.07.2000. Petitioner and respondent no.6 had applied in pursuance of the advertisement. The Selection Committee interviewed them and they were appointed on 13.10.2000. The petitioner was appointed against second post whereas the respondent no.6 was appointed against first post. The first post was being advertised for sixth time and therefore there was no lapsing of reservation.

5. The service of the petitioner was approved for the year 2000-2001 temporarily against ST category vide order dated 16.02.2001 issued by the University. The service of respondent no.6 was approved for the year 2000-2001 against ST/SC category temporarily vide order dated 19.05.2001. The petitioner made complaints to the respondents as she was belonging to SC category and eligible to be appointed permanently. She was continued in services up to 2003. Her services were terminated on 13.07.2003.

6. The petitioner approached the respondent no.3/Grievance Committee vide representation dated 14.10.2005. The management was called upon by the Grievance Committee. Inquiry was conducted and in a meeting dated 02.12.2005, the decision was taken overruling the objection of the petitioner

which was approved by the Management Council on 08.12.2005. Against the said decision, present petition is filed.

7. Learned Counsel for the petitioner submits that petitioner was eligible to be appointed against the post of SC instead of respondent no.6. In view of Government Resolution dated 05.12.1994, the petitioner should have been appointed in the year 1999/2000 when the interviews were conducted on 13.10.2000. She was more meritorious than the respondent no.6. It is further submitted that selection of the respondent no.6 was illegal and against the policy of reservation. To corroborate this, reliance is placed on the written protest submitted by Mr. Prabhakar Pohare who was nominee of Vice Chancellor in the Selection Committee. The appointment of respondent no.6 is against written instructions dated 07.04.1998 issued by the Deputy Registrar of the respondent/University.

8. Respondent Nos. 4 to 5 contested the petition by filing affidavit-in-reply. The remaining respondents adopted the submissions of the respondent/Management. Learned Counsel Mr. V.D. Gunale appearing for respondent no.4 and 5 submitted that there were two posts of lecturer for English earmarked for SC/ST category. One post was advertised on 28.11.1995, but suitable candidate was not available. As per Government Resolution dated 05.12.1994, after attempting to recruit the posts from that category for five times, the advertisement for the said post was published on 6th occasion in 2001. Respondent no.6 being candidate of unreserved category was appointed,

simultaneously the petitioner was given appointment to the second post of ST category. It is further contended that the management tendered their reply to the objection of the petitioner on 30.04.2001.

9. The petitioner was appointed against the second post of the reservation in pursuance of advertisement dated 04.12.2001, which was its 5th time. The petitioner was continued in the service up to 2003. She was terminated vide letter dated 15.06.2003 due to appointment of one Mr. L.D. Jogdand who was belonging to SC category and having NET/SET. The petitioner did not challenge the termination. Thereafter she was continued from 14.07.2003 and lastly terminated on 28.02.2004.

10. It is contended that the complaint of the petitioner was rejected by the Deputy Registrar of the University vide letter dated 26.04.2004. The respondent no.6 tendered voluntary retirement on 29.02.2004. The petitioner did not agitate against her termination. She belatedly approached the Grievance Committee and therefore her claim was rightly held to be not tenable.

11. We have considered the rival submissions of the parties.

12. The operation of the reservation policy and the interchangeability of the reserved posts is regulated by Government Resolution dated 05.12.1994. It is stipulated that if the post reserved for a particular category cannot be filled in for

want of availability of suitable candidate then such a post would be kept vacant for five times. During the five years, attempts to recruit suitable candidate need to be met. After five years, it is permissible to recruit the post by interchangeability. If the candidate is not available in the 6th attempt also then from the next year, the reservation would lapse. Same modality is reiterated by written instructions dated 07.04.1998 issued by the University.

13. In the present matter, two posts for SC/ST were earmarked for subject English. The attempts of the Management to recruit these posts can be demonstrated from page no.27 of the paper book which is as follows :

S.T. (First Post)		S.T. (Second Post)
1.	First Attempt Interview date 28.11.1995 Candidate : B.T. Lahane	
2.	Second Attempt Interview date 20.07.1996 Candidate : R.M. Biradar (Respondent No.6) (Open Category)	
3.	Third Attempt Interview date 13.12.1997 Candidate : R.M. Biradar (Respondent No.6) (Open Category)	1. First Attempt Interview date : 13.12.1997 Candidate : V.J. Chavan
4.	Fourth Attempt Interview date 19.09.1998 Candidate : R.M. Biradar (Respondent No.6) (Open Category)	2. Second Attempt Interview date : 19.09.1997 Candidate : V.J. Chavan
5.	Fifth Attempt Interview date 15.09.1999 Candidate : R.M. Biradar (Respondent No.6) (Open Category)	3. Third Attempt Interview date : 15.09.1999 Candidate : S.A. Lamture (Petitioner) (Scheduled Caste Category)
6.	Sixth Attempt ST/SC (Sixth Advertisement for one post) Interview date 13.10.2000 Candidate : R.M. Biradar (Respondent No.6) (Open Category)	4. Fourth Attempt Interview date : 13.10.2000 Candidate : S.A. Lamture (Petitioner) (Scheduled Caste Category)

14. The petitioner for the first time appeared for the interview in the year 1999-2000 alongwith respondent no.6. Interviews were held on 15.09.1999 and she was appointed against the second post vide order dated 18.09.1999. She accepted the appointment and did not raise any grievance. Thereafter in the next academic year, again the advertisement was issued which was 6th consecutive attempt for the first post and 4th attempt for the second post. The petitioner was appointed on the second post on 13.10.2000 and simultaneously respondent no.6 was appointed against the first post as the suitable candidate was not available for the first post. She could have raised the protest for her appointment against second post. It was open for her to claim the first post which was advertised for the 6th time for which she was eligible. For the reasons best known to her, no grievance was made, nor she approached Grievance Committee/forum.

15. The advertisement dated 02.07.2000 was 6th attempt and the respondent no.6 was appointed against it, due to interchangeability. In the next year, reservation stood lapsed by virtue of the approval granted by the University. The respondent no.6 being a candidate of unreserved category was rightly appointed to the de-reserved post. Simultaneously, the petitioner was appointed against second post which was advertised for the 5th occasion. Thus the petitioner acquiesced the right in the academic year 1999-2000 and again in 2000-2001, by the time, on 16.02.2001, she was given temporary approval vide letter dated 16.02.2001. Respondent no.6 was granted approval by

letter dated 19.05.2001 with a rider that in the next year steps should be taken for de-reservation of the post. The approvals were also not challenged by the petitioner in time.

16. The petitioner made complaints in writing on 19.02.2004 and thereafter on 11.03.2004. Her objections vide application dated 26.02.2004 were overruled by Joint Registrar of the University vide letter dated 26.04.2004. She approached the respondent no.3/Grievance Committee on or about 14.10.2005. The cognizance of her complaint was taken by the Grievance Committee. The respondent/Management submitted reply to the grievance made by the petitioner then inquiry was conducted by the Grievance Committee on 02.12.2005. The objections were overruled and her claim was rejected.

17. Interestingly the petitioner preferred to work with the respondent/Management temporarily against the second post in the year 1999-2000 up to 2003-2004. During this period she could have approached appropriate forum ventilating her grievances. It appears that when her services were terminated by letter dated 28.02.2004 by the Management, she persuaded remedy with the Grievance Committee. We do not find any illegality in overruling her objection by the Grievance Committee she had approached the Committee after four years.

18. We are of the considered view that the petitioner acquiesced with the situation for more than six years because when she was appointed in the year 1999-2000, she had a cause

to approach the Grievance Committee.

19. After the termination of the petitioner from services vide letter dated 28.02.2004, she ceased to be employee of the respondent/Management. Respondent no.6 continued to render services with the respondent/Management till his resignation was accepted on 29.02.2004. This petition was filed on 15.04.2006, challenging the decision of the Grievance Committee rendered in the meeting dated 02.12.2005. The petitioner is out of services since last 20 years. It is not possible to grant any relief to the petitioner due to acquiescence and lapse on her part which are not explained properly.

20. The writ petition is dismissed. Rule is discharged. Civil Applications are disposed of.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

najeed..