



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6841 OF 2017

Dattatraya s/o Janardhan Sanap,
age 32 years, Occ. Service as Junior
Research Assistant, CPMCC Scheme,
Department of Agri Economics,
MPKV, Rahuri, F-24, Vivekanand
Colony, MPKV, Rahuri, Tq. Rahuri,
District Ahmednagar.

Petitioner

VERSUS

1. The State Of Maharashtra
through its Principal Secretary,
Department of Agriculture,
Mantralaya, Mumbai – 32.
2. The Director General of Maharashtra,
Council of Agricultural Education,
and Research, Pune.
3. The Vice Chancellor,
Vasantrao Naik Marathwada
Vidyapeeth, Parbhani.
4. Vasantrao Naik Marathwada
Vidyapeeth, Parbhani,
Through it's Registrar.
5. The District Health Officer,
Zilla Parishad, Osmanabad.
6. Dr. Jayshri Baburao Tawale,
age 33 years, Occ. Service
presently working at College of
Agriculture, Osmanabad
Tq. & District Osmanabad.
R/o College of Agriculture,
Osmanabad,
Tq. & Dist. Osmanabad.

Respondents

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Advocate for the Petitioner : Mr. A.S. Deshpande
AGP for Respondent no.1 : Mr. N.S. Tekale
Advocate for Respondent no.2 : Mr. S.R. Deshpande
Advocate for Respondent nos.3,4 : Mr. V.D. Patnurkar
Advocate for Respondent 5 : Mr. S.V. Deshmukh
Advocate for Respondent No.6 : Mr. V.D. Salunke

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

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Reserved on : 08th February, 2024
Pronounced on : 29th February, 2024.

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JUDGMENT :- (Per S.G. Chapalgaonkar, J.)

1. Rule. Rule made returnable forthwith. With consent of the parties, heard finally at admission stage.

2. The petitioner approaches this Court under Article 226 of the Constitution of India, thereby assailing appointment of respondent no.6 on the post of Assistant Professor, Agricultural Economics with respondent no.4 i.e. Vasantrao Naik Marathwada Vidyapith, Parbhani. The petitioner contends that, respondent No.4 University had issued an advertisement dated 10.3.2015 thereby inviting applications from the eligible candidates for recruitment of various posts including the post of Assistant Professor, Agricultural Economics. In response to said advertisement, in all five candidates, including petitioner and respondent no.6 had submitted their candidature. However, petitioner and respondent no.6 were actually present for interview before the Selection Committee. Finally, Respondent no.6 has been

declared as selected candidate and appointment order came to be issued in her favour.

3. Petitioner obtained the information under the Right to Information Act relating to selection process. On perusal of the documents, he noticed that he secured 77.90 marks and respondent no.6 secured 79.80 marks as per assessment of candidates by Selection Board Members. According to the petitioner, respondent no.6 was favoured by the Selection Committee. Further, award of marks to respondent No.6 on count of experience is based on manipulated documents. The experience certificates relied upon by respondent no.6 were either not issued by the concerned authorities or those were based on the manipulated record. According to the petitioner, if marks given to respondent no 6 against manipulated experience certificates are deducted, the petitioner would emerge more meritorious and suitable for appointment against the post of 'Assistant Professor.' The petitioner made various complaints to authorities including office of Prime Minister of India and Governor of Maharashtra. Those complaints were forwarded to the Chief Secretary, Government of Maharashtra, Mumbai for requisite action. In pursuance of the said communication, Inquiry Committee was appointed and report of such inquiry was submitted to respondent no.1. However, details of such inquiry report were not made known to the petitioner. Accordingly, petitioner prays to quash and set aside the appointment order issued in favour of respondent no.6 and

appoint the him on the post of Assistant Professor, Agriculture Economics being meritorious and suitable candidate.

4. Respondent nos.3 and 4 as well as respondent no.6 filed affidavit-in-reply and refuted averments in the petition. It is submitted that petitioner has suppressed material facts and documents pertaining to qualification and experience of respondent no.6. She holds requisite qualification and experience. On interview by duly constituted selection committee, her name was recommended for appointment. The assessment of the candidates appeared in the interview was as per prescribed norms and assessment. It is further submitted that allegations as regards to the complaints/objection raised by the petitioner were inquired into by a Committee setup by the University. The Committee submitted a report of inquiry dated 25.10.2016. The Committee was headed by Director (Research) of the University alongwith two members. As per report of the Committee, no substance was found in the complaints made by the petitioner.

5. In affidavit-in-reply filed on behalf of respondent nos.3 and 4, apart from the aforesaid stated facts, it is averred that the petitioner by using his political connection made communication with respondent no.2, seeking probe in the matter of selection process. Eventually, respondent no.2 directed respondent no.3 to cause inquiry. Respondent no.3 constituted a fact finding committee. The fact finding committee submitted report, that has been forwarded to the

State Government on 24.10.2016, but no further directions are issued by the Government. As such, there is no substance in the petition, which is liable to be rejected.

6. Mr. Ajay Deshpande, learned advocate appearing for the petitioner submits that in pursuance of the complaint made by the petitioner, the State Government had referred the matter for inquiry to the Maharashtra Council of Agriculture, Education and Research, constituted under section 12 of the The Maharashtra Agricultural Universities (Krishi Vidyapeeths) Act, 1983 (for short the Act of 1983). The Council had appointed two members Committee to inquire into the complaints made by the petitioner. The inquiry Committee, which consists of Director of Education and Joint Director of Administration, Agriculture Education and Research Council has caused detailed inquiry and recommended to either cancel entire selection process and cause afresh selection or appoint the candidate by correcting assessment in terms of observations in the report. Mr. Deshpande, would further point out that the aforesaid report of the Inquiry Committee is already forwarded to the Deputy Secretary, Ministry of Agriculture, Mumbai alongwith communication dated 14.2.2017. However, no action is taken in pursuance of the said report. Therefore, he urges to issue directions to act upon the report of the Committee and allow the petition in terms of prayers.

7. Mr. V.D. Salunke, learned advocate appearing for respondent no.6 and Mr. V.D. Patnurkar, learned advocate

appearing for respondent nos.3 and 4 vehemently opposed the prayer contending that Inquiry Committee at University level has already concluded the issue finding no fault in the process of assessment of the candidates and consequential selection. They would further submit that there are no directions from the State Government or the Council of Agriculture and Research to the University based on so-called report of inquiry submitted by the Director of Education alongwith his communication dated 14.2.2017.

8. We have considered the submissions advanced by learned advocates appearing for the respective parties. The petitioner seeks to set aside the appointment of respondent no.6 on contention that the selection process was not fair. Respondent no.6 has been favored by the Members of the Selection Committee and extra grades are given to her based on the manipulated record. Pertinently, complaint made by the petitioner has been responded by the Vice Chancellor of the University and three Members' Committee was appointed at the University level, which consists of the Director (Research), Assistant Dean (Education) and Head of Department, Education Extension Department of the University. The Committee submitted its report to Registry alongwith communication dated 25.10.2016. Perusal of the findings recorded by the Committee shows that the selection process was carried in accordance with the rules and established procedure. The marks are appropriately given based on the material relied by the candidates.

9. Pertinently, the petitioner contends that the State Government had taken cognizance of his complaint and directions were given to the Council of Agriculture and Research to cause an inquiry regarding complaints in the matter of appointment of respondent no.6 and selection process undertaken by the Respondent-University. Pursuance of the directions, the Two member Committee submitted a report to Government. The report records substance in the complaints, and recommended to cancel selection process for post of Assistant Professor or issue an order of appointment of next meritorious candidate.

10. No doubt, a report of inquiry has been submitted by the two members' Committee appointed by the Council of Agriculture, Research and Education, said report is forwarded to the Government alongwith communication dated 14.2.2007. Pertinently, there is nothing on record to indicate that the observations or recommendations of the Inquiry Committee have been accepted by the Government or the Council has approved recommendations of Inquiry Committee. Even, there is nothing to indicate that Government has issued any directions pursuance to the said inquiry report.

11. Apparently, there are two reports on record as regards to the selection process. First report is submitted by the Three members Inquiry Committee appointed by the Vice Chancellor that finds no fault in the selection process and another report submitted by the Two member Committee appointed by the Maharashtra Council of Agriculture,

Education as per the directions given by the State Government. Therefore, question arises as to whether any directions can be issued in the present writ petition based on the report submitted to government by the Director of (Education) of the Maharashtra Council of Agriculture Education and Research.

12. Section 12 of the Maharashtra Agriculture Universities Act, 1983 provides for constitution of State Council and defines its powers and functions which reads as under :-

“Section 12(1) in The Maharashtra Agricultural Universities (Krishi Vidyapeeth) Act, 1983 :-

(1) For the purposes of effective co-ordination in the activities of all Agricultural Universities in the State, particularly in relation to teaching, research, extension education and other matters of common interests and for having periodical evaluation of the functioning of the Universities and supervision over the Universities and their academic and financial activities and programmes, the State Government shall constitute a Council to be called "the Maharashtra Council of Agricultural Education and Research".

13. Sub-clause (3) of Section 12 provides for powers and functions of the Council. The Clause 'j' has been emphasized on behalf of the petitioner to contend that Council is the Supreme Authority having supervisory powers over functioning of the University and it can advise State Government on any matters relating to activities of the Universities, which may be referred to it by the State Government. Similarly, sub-clause (4) of Section 12 provides that Council in exercise of powers and discharge of its function shall have the power to issue

necessary directions to the University under intimation to the Chancellor, which shall be final and binding on the Universities. Harmonious reading of section 12(1) with sub-clauses 3(j) and (4) would show that the Council is constituted to supervise and advise the University to approve the annual plans and schemes, construction of the building, starting new faculties, Purchases of equipment and to review the works done by the Universities and also advise the Government to release the funds on any matter relating to the University activities.

14. Evidently, the Council is high powered authority, which caters the function as intermediary between the Government and the University. However, it has no role to play in the matter of internal day-to-day function of the University. Although, Mr. Deshpande, the learned advocate appearing for the petitioner relied upon the Judgment of this Court in case of *Dr. Balaji s/o Ramrao Kawathekar and others Versus State of Maharashtra and others reported in 2010 (3) ALL MR 101* to contend that the Council has authority to supervise over functioning of the Universities. However, we find that it cannot be inferred from the observations of this Court that even in the matters of recruitment at University level, the Council has jurisdiction to advise the University. In the present case, although inquiry was conducted as per requisition by the Government and report of two member committee has been submitted to the Government, there is nothing to show that council accepted said report or any further directions have issued by the State Government or the Council to the University in pursuance to

such inquiry report. Even, considering Scheme of section 12, the Council had no authority or role to issue any directions in the matter of selection process of 'Assistant Professor' conducted at university level. Therefore, when the council refrained itself from exercising powers conferred under section 12 (4) of the Act of 1983 and even the State Government has not acted upon such report, the petitioner does not get any right to seek directions against the University to act upon such report. Consequently, there is no reason for this Court to rely upon such report of Two Members' Committee and pass the consequential directions as prayed for in the writ petition.

15. Although, Mr. Deshpande, learned advocate for the petitioner sought to bring to the notice of this Court certain factual matrix to urge that the Experience Certificate relied upon by the respondent No.6 are doubtful and even the Authorities, who have issued the same, are not in a position to justify issuance of such experience certificate, we refrain ourselves from entering into the factual aspects of the matter, which were subject matter of inquiry undertaken by Three Member's Committee appointed by the Vice-Chancellor and another Committee that was appointed by the Council. It is trite that the power of judicial review under Article 226 does not extend to conducting the microscopic inquiry or the Writ Court cannot place itself as a Fact Finding Commission and cannot go in all the way into facts and microscopic details. Even, this Court cannot assume the role of Appellate Forum in examining whether marks assigned by the Selection Committee in Viva-voce were excessive or not corresponding to the

material before it. The observations of the Supreme Court in the case of *Tajvir Singh Sodhi Vs. State of Jammu and Kashmir (2003) 2 SCC 132* can be referred, wherein, the Apex Court observed thus :-

“12.1 Thus, the inexorable conclusion that can be drawn is that it is not within the domain of the Courts, exercising the power of judicial review, to enter into the merits of a selection process, a task which is the prerogative of and is within the expert domain of a Selection Committee, subject of course to a caveat that if there are proven allegations of malfeasance or violations of statutory rules, only in such cases of inherent arbitrariness, can the Courts intervene.”

16. In view of the legal position as espoused in the aforesaid judgment, no case is made out to cause interference in the selection process conducted by the University under Article 226 of the Constitution of India. As such, there is no merit in the writ petition. Writ Petition stands dismissed. Rule discharged.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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