



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 6731 / 2024

Marathwada Shikshan Prasarak Mandal,
A Public Trust, Office at Deogiri College
campus, Railway Station Road,
Chhatrapati Sambhaji Nagar,
Through Administrative Officer

...Petitioner

Versus

1. Dr. Babasaheb Ambedkar Marathwada
University, Chhatrapati Sambhaji Nagar,
Through Registrar.
2. The State of Maharashtra,
Though, Secretary, Higher Education
Department, Mantralaya, Mumbai.
3. The Regional Joint Director,
Higher Education,
Chhatrapati Sambhaji Nagar.

...Respondents

Mr. Nandkumar B. Khandare, Advocate for the Petitioner.

Mr. S.S. Tope, Advocate for the Respondent No.1.

Mr. K.S. Patil, AGP for Respondent No.2 & 3/State.

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

DATE : 01 AUGUST 2024

FINAL ORDER [Per: Shailesh P. Brahme, J.] :

. Heard both the sides finally.

2. Petitioner is an educational institution which runs various schools and colleges in Marathwada region. It is approaching this Court, challenging the communication dated 28.05.2024 (Exhibit-A) and seeking declaration that posts of Principal are single cadre and isolated posts to which policy of reservation doesn't apply.

3. By the impugned communication, respondent/University instructed petitioner that posts of Principal in the colleges run by it are governed by policy of reservation. The impugned communication and the approach of the University cuts across settled legal position that post of Principal is isolated one and policy of reservation is not applicable to it. This is a consistent view taken in the following matters :

- i Post Graduate Institute of Medical Education & Research Vs. Faculty Association and Others, (1998) 4 SCC 1).
- ii Marathwada Shikshan Prasarak Vs. State of Maharashtra and Others, 2016(1) Bom.C.R. 529.
- iii Marathwada Legal and General Education Society, Aurangabad Vs. Babasaheb Ambedkar Marathwada University, (Dr.) Aurangabad and Others, 2023 DGLS(Bom.) 3118.

4. The decision rendered by our bench referred to above in the matter of Marathwada Legal and General Education Society,

Aurangabad (supra) was carried to the Supreme Court and SLP against it was dismissed vide order dated 04.03.2024.

5. In pursuance of our decision and its confirmation by the Supreme Court, the State Government issued instructions vide letter dated 14.03.2024 to Non-agricultural Universities as well as Higher Education Department, not to apply policy of reservation to isolated post of Principal. Considering the supervening events, the present petition succeeds.

6. The writ petition is allowed in the terms of prayer clause A and B which read as under :

“A. By issue of writ of certiorari or any other appropriate writ or directions in the nature of writ of certiorari, the Hon’ble court may call for record of the case from university Respondent No.1, in relation of communication dated 28.05.2024 (EXHIBIT ‘A’) to the petition and after examining legality, validity and correctness, quash and set aside the same.

B. To hold and declare that the post of principal in a college is a single cadre and isolated post hence is open and reservation is not applicable.”

7. There shall be no order as to costs.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE