



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 10548 / 2023

Dnyanopasak Shikshan Mandal,
Parbhani through its President
Shri. Ganeshrao N. Dudhgaonkar
Age : 77 years, Occ. Retired,
R/o Parbhani, Dist. Parbhani.

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai.
2. The Director,
Higher and Technical Education Department,
Maharashtra State, Central Building, Pune.
3. The Joint Director,
Higher and Technical Education,
Nanded Region, Nanded.
4. The Registrar,
Swami Ramanand Tirth Marathwada
University, Dnyantirth Vishnupuri,
Nanded, Dist. Nanded.
5. Assistant Commissioner,
B.C. Cells in the office of the
Divisional Commissioner,
Aurangabad Region, Aurangabad.

...Respondents

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Ms. Priyanka R. Deshpande, Advocate for the Petitioner.

Mr. R.S. Wani, AGP for Respondent Nos. 1 to 3 and 5/State.
Advocate for Respondent No.4 : Mr. A.M. Gaikwad

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**
DATE : 16 JULY 2024

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

. Heard both the sides finally at the admission stage.

2. Petitioner is an educational institution which runs two senior colleges. The posts of Principal fell vacant. The petitioner proposed to fill in the post and it was confronted with instructions dated 13.09.2022 issued by respondent no.5, directing the petitioner to reserve one post for scheduled tribe and another for open category. With this cause of action, the present petition is filed, challenging the letter dated 13.09.2022 and further seeking mandamus/declaration that posts of Principal being isolated posts shall not be regulated by policy of reservation.

3. Petitioner's claim that both the vacant posts of Principal in its colleges are isolated posts, are based upon the

pronouncement in the following matters :

- a. Shri Sharda Bhavan Education Society Vs. State of Maharashtra and Anr., in Writ Petition No.5118/2009;
- b. Post-Graduate Institute of Medical Education and Researched, Chandigarh Vs. Faculty Association and Others, AIR 1998 SC 1767
- c. Bharat Shikshan Sanstha, Omerga Vs. State of Maharashtra and Others, in Writ Petition No.5795/2015
- d. Marathwada Shikshan Prasarak Mandal Vs. State of Maharashtra and Others, Writ Petition No.3189/2015
- e. Marathwada Legal and General Education Society, Aurangabad Vs. Dr. Babasaheb Ambedkar Marathwada University, Aurangabad and Others, Writ Petition No.3108/2023.

4. It is further informed by learned Counsel for the petitioner that judgment rendered in the last matter i.e. Marathwada Legal and General Education Society, Aurangabad (supra) was carried to the Supreme Court and the SLP was dismissed vide order dated 04.03.2024. In view of this settled position of law, it is submitted that the petition deserves to be allowed.

5. The respondent no.5 has filed affidavit-in-reply contesting the petition.

6. The respondent nos. 1 to 3 have also filed reply on 04.07.2024, accepting the legal position proposed by the petitioner. In view of the judgment rendered by the bench in the matter of Marathwada Legal and General Education Society, Aurangabad (supra) and dismissal of SLP by the Supreme Court on 04.03.2024, recently instructions have been issued vide communication dated 14.03.2024 to various authorities by the respondent no.1. We have considered communication dated 14.03.2024 which directs various authorities concerned with the higher education in the State of Maharashtra to implement the principle laid down in the matter of Marathwada Legal and General Education Society, Aurangabad (supra).

7. In view of the statement made on affidavit by the respondent nos. 1 to 3 and written communication dated

14.03.2024, petition deserves to be allowed. We, therefore, pass following order :

ORDER

- I. The impugned letter dated 13.09.2022 issued by the respondent no.5 is quashed and set aside.
- II. It is hereby declared that both the posts of Principal being isolated posts in the colleges run by the petitioner, shall not be governed by policy of reservation.
- III. The Writ Petition is allowed in above terms.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE

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