



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13571 OF 2023

Dr. Arun Kisanrao Gambhire,
age 51 years, Occ. Service as Professor,
In Karmaveer Mamasahab Jagdale Mahavidyalaya,
Washi, R/o. 1683, 'Krishnakamal,' Samata Nagar,
Washi, Tq. Washi,
Dist. Osmanabad (Dharashiv) Petitioner.

Versus

1. Shri Shivaji Shikshan Prasarak
Mandal, Barshi, Through
Secretary, Karmaveer Nagar,
Barshi, District Solapur.
2. The State of Maharashtra,
Through the Principal Secretary,
General Administration Department,
Mantralaya, Mumbai – 400 032.
3. The Director of Higher Education,
Maharashtra State, Central Building,
Pune 411 001.
4. The Joint Director of Higher Education,
Aurangabad Region, Aurangabad 431 001.
5. Assistant Commissioner,
B.C. Cell, In the office of the
Divisional Commissioner,
Pune Region, Pune-411011.
6. Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad, Through
It's Registrar, University Campus,
Aurangabad. Respondents.

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Mr. Sudhir Patil, Advocate for petitioner.
Mr. P.S. Patil AGP for respondent Nos.2 to 5

Mr. A.D. Kulkarni, Advocate for respondent no.1.
Mr.S.S. Tope, advocate for respondent No.6 (vc)

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CORAM	: SMT. VIBHA KANKANWADI & S. G. CHAPALGAONKAR, JJ.
Dated	: 2nd May, 2024

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FINAL ORDER :- (Per S.G. Chapalgaonkar, J.)

1. The petitioner has approached this Court under Article 226 of the Constitution of India, with following prayers :-

“b. That, it may kindly be declared that Principal’s post being a solitary post, reservation and roaster would not be applicable to such solitary post ;

c. That, the Roster sanctioned by the Respondent No.2 pursuant to the submissions of respondent no.5 on the proposal submitted by the Respondent No.1 Society may kindly be quashed and set aside ;

d. That, the Advertisement dated 18.9.2023 published by the Respondent No.1 for the appointment of Principal in Karmaveer Mamasahab Jagdale Mahavidyalaya, Washi, District Osmanabad and the process of recruitment pursuant to that may kindly be quashed and set aside.”

2. Mr. Sudhir Patil, learned advocate appearing for the petitioner submit that the petitioner is a Professor working with Karmaveer Mamasahab Jagdale Mahavidyalaya, Washi, District Osmanabad, which is run by respondent no.1-Society. The petitioner holds qualification of M.A. M.Phil and Ph.D. The petitioner possesses teaching experience of more than 22 years. He has been accorded with professor Grade Pay-14 in the year 2019.

3. Respondent no.1 published an advertisement dated 18.9.2023 inviting applications for the post of Principal in Karmaveer Mamasahab Jagdale Mahavidyalaya as well as Rajashri Shahu Law College, at Barshi. Out of these two posts, one is reserved for VJNT and another is earmarked for SC category. According to the petitioner, post of Principal being isolated, could not have been reserved and could have been advertised as an open post. Mr. Patil would submit that the advertisement dated 18.9.2023 published by the respondent no.1 is based on misconception of law. He would submit that this Court considered provisions of The Maharashtra Educational Institutions (Reservation in Teachers' Cadre) Act, 2021 vis-a-vis the provisions contained in Section 2(61) of Maharashtra Public Universities Act, 2016 and after interpreting different clauses, declared that Government Resolution dated 23.9.2016 still holds the field which excludes the isolated post from applicability of reservation policy. Mr. Sudhir Patil would further point out that the Supreme Court of India has uphold the decision of this Court in case of **Marathwada Legal and General Education Society Vs. Dr. Babasaheb Ambedkar Marathwada University, Aurangabad and others (WP 3108/2023)**. He further submit that this Court has reiterated the aforesaid legal position in Writ Petition No.2877 of 2024 in case of **Shri Sharada Bhuvan Education Society, Nanded Vs. The State of Maharashtra and others**.

4. Mr. P.S.Patil, learned AGP appearing for respondent nos.2 to 5 fairly concedes to submissions on legal aspects advanced on behalf of the petitioner and placed on

record the communication dated 14.3.2014 addressed by the Desk Officer, Maharashtra State directing implementation of the decision of this Court in Writ Petition no.3108 of 2023 which has been approved in SLP No.4172 of 2024 and further correspondence made by the Director of Education, Pune and Joint Director, Higher Education, Pune.

5. In light of the aforesaid submissions advanced by learned advocates appearing for the respective parties and legal position as espoused by this Court and correspondence referred above, the post of Principal advertised by respondent no.1 depicting reservation cannot be sustained. Consequently, the Writ Petition deserves to be allowed in terms of prayer clauses “**b,c and d**”. The Respondent no.1 shall be at liberty to advertise the post of ‘*Principal*’ as an isolated post without earmarking for the reserved category. Writ Petition is accordingly **disposed off**. No costs.

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

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