

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 7362 OF 2019

Ms.Bhagyashala Arjun Jadhawar. ... Petitioner.

V/s.

The State of Maharashtra and others. ... Respondents.

WITH

WRIT PETITION NO. 6468 OF 2021

The Principal, Dr. Ashok Gujar Technical
Institute's Dr.Daulatrao Aher College of
Engineering, Karad.

... Petitioner.

V/s.

Shivaji University Kolhapur and another. ... Respondents.

WITH

WRIT PETITION (ST) NO. 11184 OF 2021

Yogesh B. Jadhav.

... Petitioner.

V/s.

Shivaji University, Kolhapur and another. ... Respondents.

Mr.J.P. Kharge for the Petitioner in WP-7362/2019.

Mr.Kiran Bapat, Senior Advocate with Mr.Avinash Fatangare and
Mr.Gaurav S. Gawande for the Petitioner in WP-6468/2021 and
Respondent Nos.2 and 3 in WP-7362/2019.

Mr.Rajesh S. Datar for the Petitioner in WP-11184/2021.

Mr.S.B.Kalel, AGP for the Respondent- State.

Mr.Vikram N. Walawalkar for the Respondent- University.

**CORAM : NITIN JAMDAR, AND
M.M. SATHAYE, J.J.**

DATE : 22 February 2024.

P.C.:

These three writ petitions are connected and they have been heard together from time to time. They are disposed of by this common order.

2. Ms.Bhagyashala Arjun Jadhawar, the Petitioner in Writ Petition No.7362/2019 is working with Dr. Ashok Gujar Technical Institute's Dr.Daulatrao Aher College of Engineering, Karad. Mr.Yogesh B. Jadhav, the Petitioner in Writ Petition No.11184/2021, is also working with the College. The third Writ Petition No.6468/2021 is filed by Dr. Ashok Gujar Technical Institute's Dr.Daulatrao Aher College of Engineering, Karad. ("the College" for short). The State of Maharashtra and Shivaji University are the common Respondents in all the petitions.

3. Writ petition filed by Ms.Jadhawar is first in point of time. After that, a writ petition is filed by the College, and the last petition is filed by Mr.Yogesh Jadhav. The subject matter of the dispute is the post of Assistant Professor, Computer Science and Engineering. Ms.Jadhawar and Mr.Jadhav both are claiming the said post.

4. When Ms.Jadhawar filed her writ petition, her grievance was that there was no approval for the Petitioner's appointment. The Petitioner's grievance was also that, she was orally terminated. The learned counsel for the Petitioner- Jadhawar, states that the approval has now been granted for the Petitioner's appointment. This order of approval is the subject matter of challenge in Writ Petition No.6468/2021 and Writ Petition (St) No.11184/2021, where the Petitioner- Ms.Jadhawar is a Respondent. Regarding oral termination, the learned counsel for the Petitioner states that in view of the reply filed, the Petitioner will not press that grievance. Therefore, this writ petition does not survive.

5. Therefore, the challenge to the order of approval granted to Ms.Jadhawar by the Respondent- Shivaji University on 9 September 2019 remains.

6. Seven posts were notified in the advertisement issued by the College for Assistant Professor, Computer Science and Engineering. Out of these, two were for Open, one for Scheduled Caste (SC), one for Scheduled Tribe (ST), one for Vimukta Jaatis-A (VJA), and two for Other Backward Class (OBC). Initially, the College had sent a proposal in favour of Ms.Jadhawar. Thereupon, the Respondent- University raised a question with the College on 4 October 2016 as to why the proposal with respect to Ms.Jadhawar, Nomadic Tribes-D (NTD) candidate, was sent when one VJA candidate was available. The Respondent- University, in its reply

affidavit, has referred to the response of the College by communication dated 30 August 2019, which refers to the explanation sought by the University and stated that though there was a VJA candidate available in the interview, the Selection Committee had found him not suitable and, therefore, the Selection Committee had recommended the name of Ms.Jadhawar. It is as per the Selection Committee's recommendations that her name was forwarded to the University. This was the explanation given by the College. Thereupon, the Respondent- University granted approval for the appointment of Ms.Jadhawar. Therefore, once the College had forwarded the name of Ms.Jadhawar with an explanation above, which has been accepted by the University at the behest of the Petitioner- College, we are not inclined to examine the merits of the matter.

7. Turning now to the third petition, which is filed by Mr Yogesh Jadhav, it is the contention of Mr Yogesh Jadhav that he was completely unaware of this communication between the University and the College, and it is, at the first time, he came to know about the order in respect of Ms Jadhawar. According to Mr.Yogesh Jadhav, he belongs to the Banjara community and was the only eligible candidate for being appointed from the VJA category recognized as VJA(IV). According to him, if a suitable candidate is unavailable, a person from another reserved category cannot be appointed immediately, and the reservation has to be carried forward. According to the Respondent- University and

Ms.Jadhawar, it is not necessary to adopt such course of action.

8. Considering the grievance of Mr.Yogesh Jadhav that he was unaware of the developments and that he could not put forth his version before the University, we are of the opinion that an opportunity needs to be given to Mr.Yogesh Jadhav to put forth his case before the University that he is the only eligible candidate for the post earmarked for VJA(IV). The learned counsel for the University is agreeable to giving an opportunity to Shri Yogesh Jadhav. Since the approval has already been granted in favour of Ms.Jadhawar, the Respondent- University will give an opportunity to both Mr.Yogesh Jadhav and Ms.Jadhawar and decide the claim of Mr.Yogesh Jadhav.

9. Accordingly, we dispose of Writ Petition No.7362/ 2019 filed by Ms.Jadhawar as it does not survive.

10. Writ Petition No.6468/2021 filed by the College is dismissed for the above reasons.

11. Writ Petition (St.) No.11184/2021 filed by Mr.Yogesh Jadhav, is disposed of with the following directions.

12. The Respondent- University will decide the *inter se* claims between Ms.Jadhawar and Mr.Yogesh Jadhav for the post of Assistant Professor, Computer Science and Engineering in

Dr.Daulatrao Aher College of Engineering. The Respondent-University will give an opportunity to Mr.Yogesh Jadhav, Ms.Jadhawar and the representative of the College to file their submissions and will give opportunity of hearing. Let the Respondent take the decision- University within twelve weeks, subject to earlier time-bound commitments and urgent public duties. All parties will co-operate with the Respondent- University for speedy disposal.

13. As regards the merits of the rival contentions between Mr.Yogesh Jadhav and Ms.Jadhawar, the same are kept open to be considered by the Respondent- University.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)