



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2169 OF 2024

Dr. Shwetambari d/o Rameshwar Kathale
(Dr.Shwetambari w/o Parag Andhe)

-Vs.-

Rashtrasant Tukdoji Maharaj, Nagpur University and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's Orders.
or directions and Registrar's orders.

Mr. H.V.Thakur, Adv. for the petitioner.
Mr.Adv.for the respondent No.1
Mr.Akshay A. Naik, Sr.Adv. a/b Mr. R.R.Deo, Adv.for the respondent
Nos.2 and 3.
Mr. S.A.Sonak, Adv.for the respondent No.4.
Mr. R.K.Maheshwari, Adv.for the respondent No.5.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATE : 12TH FEBRUARY, 2025

Heard Mr.Thakur, for the petitioner, Mr.Naik,
learned senior counsel for the respondent Nos.2 and 3,
Mr.Sonak, learned counsel for the respondent No.4 and
Mr.Maheshwari, learned counsel for the respondent No.5.

2. The petition questions the communication dated
04/01/2024 (Pg.50) by which the respondent No.1 has
refused to grant approval to the appointment of the
petitioner to the post of Assistant Professor with the
respondent No.3, in pursuance to her selection, consequent
to the advertisement dated 30/04/2023 (Pg.44).

3. Mr. Thakur, learned counsel for the petitioner

submits, that since the issue of appointment of teachers and the qualifications for such appointment, is governed by the AICTE Regulations, the refusal on part of the respondent No.1 on the ground, that the petitioner did not possess the requisite qualifications on the date of the advertisement, which is indicated by the impugned order cannot be sustained. It is his contention, that in terms of the applicable AICTE Notification dated 01/03/2019 and specifically regulation 5.1(e) (Pg.66), the minimum qualifications for appointment of a person to the post of Assistant Professor, in the faculty of Hotel Management and Catering Technology, was a minimum of four years bachelor degree in HMCT and Master's Degree in HMCT or in relevant disciplines with first class or equivalent in one of the two degrees and as the petitioner satisfied that qualification, the question of the petitioner not being eligible on the date of the advertisement did not arise. He further submits, that the advertisement dated 13/04/2023, was faulty inasmuch as, the qualification required as enumerated in clause A(2) of the said advertisement (Pg.44) required, that the candidate must have cleared the National Eligibility Test or had been awarded a Ph.D.degree. He submits that since this is not the qualification necessary, for the appointment of a teacher in terms of the AICTE Notification as indicated by the notification dated 01/03/2019, the insistence of the respondent No.1 for the satisfaction of that requirement, was clearly not sustainable. It is also contended, that though the UGC Notification dated 18/07/2018, Clause 3.10 (Pg.53) indicated that Ph.D.degree was mandatory

qualification for direct recruitment to the post of Assistant Professor in the university w.e.f. 01/07/2021, however, the same came to be amended on 11/10/2021 by indicating, that the recruitment to the post of Assistant Professor was to be in the department of the University. It is contended that the respondent Nos.2 and 3, are not departments of the university, but are affiliated institutions on account of which, the UGC Notification would not be applicable. He, therefore, submits that the impugned communication cannot be sustained in the eyes of law.

4. Mr. Naik, learned senior counsel for the respondent Nos.2 and 3 as well as Mr. Sonak, learned counsel for the respondent No.4 state, that it is the AICTE Regulations prescribing minimum qualifications, which would be applicable, for the purpose of appointment of a person, to the post of Assistant Professor. In that view of the matter, the requirement of NET or Ph.D.degree, was clearly one, which was not required for the purpose of the filling of the post. This is further clear from the language of the UGC Notification dated 18/07/2018, Clause 3.10, as it stands amended on 11/10/2021, which indicates that the Ph.D. degree is a mandatory qualification for direct recruitment to the post of Assistant Professor in departments of the university. As is the admitted position on record, the respondent Nos.2 and 3 are affiliated to the respondent No.1 and are not departments of the respondent No.1 on account of which Clause 3.10 of the UGC Notification dated 18/07/2018, as it stands amended by the notification dated 11/10/2021 (Pg.55) does not apply. In that view of the

matter, the impugned communication dated 04/01/2024 (Pg.50) cannot be sustained and is required to be quashed and set aside, which is accordingly done. As a necessary consequence to what has been discussed above, the requirement as spelt out in Clause A(2) of the advertisement dated 30/04/2023 would also not hold good. In these circumstances, what we find is, that it would be necessary for the respondent Nos.2 and 3, to re-advertise the post of Assistant Professor in the subject of Hotel Management and Catering Technology again, indicating therein that the required qualifications would be that as indicated by Clause 5.1(e) of the AICTE Notification dated 01/03/2019. This is necessary, for the reason, that on account of the additional qualifications as indicated in the advertisement dated 30/04/2023, a limited number of persons, would have applied. Since the permission dated 06/03/2023 by the State, for filling in the aforesaid post does not have any mention of any qualifications for any post, the same NOC would continue to hold good for the advertisement, which is now to be issued by the petitioner for filling the post of Assistant Professor in the subject of Hotel Management and Catering Technology. We, therefore, allow the petition in the above terms. Considering the circumstances, no costs.

(ABHAY J. MANTRI,J)

(AVINASH G. GHAROTE, J)