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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO.12227 OF 2017
WITH
CIVIL APPLICATION NO.9070 OF 2024**

- 1) Sau. Prabhawati Laxmanrao Mundhe,
Age: 46 years, Occ. Service – Librarian
at Rajiv Gandhi College, Karmad,
Taluka and District Aurangabad,
R/o. Shri. Sai Yog Housing Society,
P-3, Plot No.7, CIDCO, N-8,
Aurangabad
- 2) Dr. Ramdas Bhujangrao Kendre,
Age: 46 years, Occ. Service – Physical Instructor
at Rajiv Gandhi College, Karmad,
Taluka and District Aurangabad,
R/o. C/o. Chiranjilal Untwal,
Sonar Lane, Padampura,
Aurangabad

....PETITIONERS

VERSUS

1. The State of Maharashtra,
through its Secretary,
Department of Higher & Technical Education,
Mantralaya, Mumbai
2. The Joint Director,
Higher & Technical Education,
Aurangabad Region,
Aurangabad
3. Dr. Babasaheb Ambedkar Marathwada University,
Aurangabad,
through its Registrar
4. Rajiv Gandhi Senior College,
Karmad, Taluka and District Aurangabad
through its Principal

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5. Bhartiya Shikshan Samvardhan Prasarak Mandal,
Through is Secretary,
Rajiv Gandhi Kala Vanijaya Mahavidyalaya,
Tq. Karmad, Dist. Aurangabad
(deleted as per order dated 16/02/2018)

6. Mrs. Shailaja Bhalchandra Vaidya,
Age: 56 years, occ. Service,
R/o. House No.8/8, Sahyandri Nagar,
N-5, Cidco, Aurangabad

....RESPONDENTS

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Mr B. L. Sagar Killarika, Advocate a/w Smt. Amita D. Chate,
Advocate for Petitioners
Mrs Kalpalata Patil Bharaswadkar, AGP for Respondent Nos.1 &
2/State
Mr Amol N. Kakade, Advocate for Respondent No.3
Mr Sushant V. Dixit, Advocate for Respondent No.5

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**CORAM : KISHORE C. SANT
AND
SUSHIL M. GHODESWAR, JJ.**

**RESERVED ON : 27th JANUARY, 2026
PRONOUNCED ON : 09th FEBRUARY, 2026**

JUDGMENT (PER : SUSHIL M. GHODESWAR, J.) :-

1. Heard learned Advocate Mr Killarika for the petitioners,
learned AGP Mr Patil for respondent Nos.1 and 2, learned Advocate
Mr Kakade for respondent No.3 and learned Advocate Mr Dixit for
respondent No.5.

2. Rule. Rule made returnable forthwith by consent of the
parties.

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3. The petitioners have approached this Court under Article 226 of the Constitution of India, praying for following reliefs :-

“B. By issuing an appropriate writ in the nature of mandamus or any other appropriate writ, order or direction in the like nature, the respondent No.4 College and its Principal may please be directed to submit the appropriate proposal seeking permanent approval for continuation of approval granted by order dated 19/04/2017 at Exhibit ‘F’ within stipulated period.

C. By issuing an appropriate writ in the nature of writ of mandamus or any other appropriate writ, order or direction in like nature, the respondents No.2 and 3 may please be directed to grant permanent approval in the light of order of approval dated 19/04/2017 and the ongoing litigation between members of managing committee vis-a-vis long standing interim orders passed by the Hon’ble Supreme Court, if required, by exempting the other terms and conditions, within stipulated period.”

4. According to the petitioners, they are serving as ‘Librarian’ and ‘Physical Instructor’ respectively in Respondent No.4/Rajiv Gandhi Senior College, Karmad, Dist. Aurangabad. Respondent No.4/College is being run through Respondent No.5/Education Society, namely, Bharatiya Shikshan Samvardhan Prasarak Mandal, Aurangabad. The said respondent No.4/College is also affiliated to Babasaheb Ambedkar Marathwada University, Aurangabad. The petitioners further contend that respondent No.5/Education Society had submitted application to respondent No.2/Joint Director of Higher and Technical Education, Aurangabad

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for filling up the posts, which came to be granted on 20/11/2006. Accordingly, advertisement came to be published on 12/04/2007 in 'Daily Sakal' newspaper, inviting applications through qualified and eligible candidates. In pursuance to the said advertisement and selection process, the petitioners came to be appointed to the post of 'Librarian' and 'Physical Instructor', respectively vide appointment letters dated 22/07/2006 and 20/06/2007, respectively.

5. Since there were two factions in respondent No.5/Management/Education Society, the litigations came to be filed, which went upto Hon'ble Supreme Court and directions came to be issued to the parties to maintain status-quo as on 13/01/2009 with regard to the management of the Society and the Management was also restrained from taking major policy decisions of the Trust. Therefore, the petitioners contend that, though they were continuously in service, their proposal could not be forwarded for approval. Thereafter, in the year 2012, proposals came to be submitted by the Secretary of the Society and In-charge Principal of the College to respondent No.3/University. Since the University granted approval for the period of six months by exercising the powers under Statute 219(3)(A), on 24/05/2017, the petitioners submitted joint representation to respondent No.3, requesting to grant permanent approval to their

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service. Since till date, the petitioners have not been granted permanent approval, they have approached this Court by filing the present petition with the aforesaid reliefs.

6. Learned Advocate for the petitioners submits that the petitioners have been appointed through the valid recruitment process and they are continuously in service since 2006-2007. According to him, respondent No.4/College and respondent No.5/Management were granted proper permission to advertise the posts. He relies upon two advertisements to claim that, in pursuance to said advertisements, the petitioners had applied, and accordingly, got appointed through the valid recruitment process. He then submits that, in view of certain litigations between two factions of the Management, the proposal of the petitioners could not be forwarded to the University for approval. Though the University had granted temporary approval for certain period, that incident goes to show that they are deserving for permanent approval. He further submits that the Management has therefore, already forwarded the proposal to the authorities and same is required to be considered by the respondents/authorities positively.

7. On the contrary, Learned Advocate for respective respondents strongly oppose the contentions of the petitioners. Mr

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Dixit, learned Advocate appearing on behalf of respondent No.5/Education Society relies upon the affidavits filed by respondent No.5. According to him, the petitioners were never appointed on sanctioned posts and they are also not qualified to be appointed. He then submits that the petitioners were never working in the College on full time basis. To substantiate his contentions, he submits that petitioner No.1 had been shown to have appointed on the post of 'Librarian' vide letter dated 22/07/2006, however, no advertisement of such recruitment is pointed out by the petitioners. He submits that the petitioners relied on advertisement dated 12/04/2007, which is subsequent to the alleged appointment of the petitioner No.1. He further submits that, appointment order dated 22/07/2006 of petitioner No.1 is a false document, wherein Mr H. D. Salunke is shown as Secretary of respondent No.5/Society at the relevant time, however, in fact, Mr Salunke was not Secretary of respondent No.5. Such appointment order is alleged to have been given on the post of 'Librarian'. Mr Dixit vehemently submits that, in fact, at the relevant time, the post of 'Librarian' was subject matter of appeal preferred by another employee Smt. Shailaja Bhalchandrarao Vaidya, who was working as 'Librarian' vide appointment order dated 06/06/1994 in respondent No.4/College. Said Shailaja Vaidya was restrained from

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signing muster roll and was orally terminated on 11/04/2005. Therefore, she had preferred appeal before the learned University and College Tribunal, Aurangabad in Appeal No. BAMU-3/2005. Learned Presiding Officer of the University and College Tribunal, Aurangabad, vide his order dated 29/04/2005, had granted ad interim relief, directing respondent Nos.4 and 5 not to fill up the post of 'Librarian' of which, the said Vaidya was working. Subsequently, on 14/03/2007, the appeal filed by Smt. Vaidya came to be allowed, thereby setting aside her oral termination dated 11/04/2005 and further directed to reinstate her immediately. In view of the said reinstatement, Smt. Vaidya is working as 'Librarian' in respondent No.4/College. Thus, at no point of time, the post of 'Librarian' was vacant at the time of alleged appointment of petitioner No.1.

8. Mr Dixit further submits that, though the appointment orders have shown to have been signed by Mr H. D. Salunke, being Secretary of the Society, however, said Mr Salunke was not working as Secretary and still his signatures are used as Secretary of the Management. Thus, according to Mr Dixit, appropriate action under the provisions of the Indian Penal Code against the petitioners need to be taken as they have mislead this Court thereby falsely stating that they are validly appointed. He then submits that petitioner No.1 was

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not qualified to be appointed as 'Librarian' as she had not passed NET/SET or Ph.D. in the relevant subject at the time of her alleged appointment. He further submits that, even petitioner No.2 was also not appointed through valid recruitment process. The alleged appointment of petitioner No.2 as shown on 19/06/2007 is on temporary basis and he was working on clock hour basis in the workload approved by the Joint Director, and therefore, even if it is assumed that petitioner No.2 was appointed on temporary basis or on clock hour basis, this also does not give right to him to seek permanent approval in his favour.

9. Mr Dixit then submits that, initially the petitioners have not filed the copies of advertisements with the petition and they have placed the same before this Court by way of an additional affidavit. Even in the additional affidavit, the advertisement dated 14/07/2006, no name of newspaper is mentioned on the said advertisement and the said advertisement is shown for filling up posts of 'Library Science on Clock Hour Basis'. The said advertisement was not for the post of 'Librarian' as claimed by petitioner No.1 in the petition. Even as far as appointment of petitioner No.2 is concerned, the advertisement dated 12/04/2007 was for the subject of physical education and not for physical education instructor. Petitioner No.2 is staking claim on the

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post of 'Physical Instructor' and not for the subject of physical education.

10. He then submits that, at the relevant time, one Mr Manoj Devkar was working as an In-charge Principal during period from 28/08/2008 to 14/09/2010, who had also informed that the petitioners were not appointed in his tenure and even no signatures on the muster were obtained. Hence, Mr Dixit vehemently submits that, at no point of time, the petitioners have been appointed through the valid and legal recruitment process, and therefore, the instant petition deserves to be dismissed.

11. After hearing learned Advocates for the respective sides and after verifying the record available with the Court, it appears that the Petitioners have failed to satisfy this Court as regards the valid recruitment process undertaken by respondent No.5/Education Society to appoint them on their respective posts. There is no valid permission from the authorities to undertake the recruitment process and there is also no valid advertisement for the appointment of the petitioners of their respective subjects. The advertisements which are produced before this Court in respect of petitioner No.1 is shown to have been published after his appointment, whereas in respect of petitioner No.2,

it is in respect of 'Physical Instructor'. The petitioners also have failed to point out before this Court that the appointment orders issued by the then Secretary Mr Salunke, was the Secretary at the relevant time and was authorized to appoint them. There are various disputed questions of facts, which this Court can not go into. The petitioners also failed to approach this Court with clean hands and as such, they do not deserve any relief from this Court. The submissions made by respondent/Management assume significance as the same are based upon the valid grounds and legal proposition. No case, therefore, is made out calling for interference at the hands of this Court while exercising jurisdiction under Article 226 of the Constitution of India.

12. The writ petition stands dismissed. Rule is discharged.
No order as to costs.

13. Rule stands discharged.

14. Pending civil application does not survive and the same is also disposed of.

[SUSHIL M. GHODESWAR, J.]

[KISHORE C. SANT, J.]