

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5849 OF 1995

Smt.Ansari Naz Mohammed Bashir Ahmed ...Petitioner

Vs.

Jadeed Anjuman-e-Taleem's
Managing Council of College
Education, J.A.T. Arts,
Science and Commerce College, Nashik & Ors. ...Respondents

Mr.R.R. Dube-Patil I/b. Santosh Vishwakarma for Petitioner.

Mr.N.R. Bubna for Respondent Nos.1,2 and 5.

Mr.Rajendra Anbhule for Respondent No.3.

CORAM : S.C. GUPTE, J.

DATE : 29 JUNE 2018

P.C. :

Heard learned Counsel for the Petitioner and the Respondents.

2 This petition challenges an order passed by the College Tribunal on a miscellaneous application. The miscellaneous application was filed in an appeal under Section 42B(1) of the Poona University Act, 1974. The Petitioner was working as a lecturer with Respondent No.1 college. Though her appointment was of 30 June 1990 and was temporary, she claimed to have worked upto 22 September 1993. In 1993-94, a selection committee was constituted by the college *inter alia* for selection of two posts of Urdu lecturers. Four candidates applied for the posts. These included the Petitioner. It is the Petitioner's case that she was second in the merit list prepared by the committee and her name was, accordingly, sent to the University for approval. Whilst the matter of approval was pending

before the University, a letter was addressed by the management of the college to the University pointing out to the latter that the inclusion of the Petitioner's name in the list forwarded to the University for approval was a clerical mistake through oversight. On the basis of this communication, the Petitioner's appointment was orally terminated. The Petitioner carried the matter before the Tribunal in an appeal under Section 42-B of the Poona University Act. The appeal was disposed of by the Tribunal on 28 April 1994. The Tribunal allowed the appeal and quashed and set aside the order of termination and directed that the Appellant be reinstated as a lecturer in Urdu. The Tribunal, however, directed that this appointment would be purely on temporary basis and continuance of her appointment on probation would depend upon the result of an inquiry which shall be held by the University of Poona in the matter of selection of candidates by the selection committee in its meeting held on 23 August 1993; if the committee found that the Appellant was not selected by the selection committee, her appointment would stand cancelled and her services terminated forthwith. There is a communication from the University of Poona dated 2 June 1995, which is on record. By this communication, the University informed the Presiding Officer of the College Tribunal at Pune that pursuant to the order of the Tribunal in the appeal, a committee consisting of Dr.U.B. Bhoite and Dr.J.K. Godha was appointed by the management council of the University. The committee made an inquiry, and called for remarks of Vice Chancellor's nominee on the selection committee. The Vice Chancellor's nominee, Principal Raosaheb Shinde, vide his letter dated 14 December 1994, informed the University about the preferential order of selected candidates in future. The order indicated that the Petitioner was at Serial No.4 and not at Serial No.2 as originally communicated by the college to the University. The University, accordingly,

communicated to the Tribunal that the appointment of the Petitioner as lecturer in Urdu in the first Respondent college could not be approved. It appears that on the same day, i.e. 2 June 1995, the Petitioner took out the present miscellaneous application praying for compliance of the order passed earlier in the appeal and penal action against the Respondent for disobedience and contempt of the Tribunal. The Tribunal, by its impugned order, rejected that application.

3 The Tribunal, whilst rejecting the Petitioner's misc. application, relied on the letter of the University dated 2 June 1995. The Tribunal noted the University's stand that according to the selection committee the name of the Petitioner was placed at Serial No.4 in the merit list and accordingly, she did not merit the appointment. The grievance of the Petitioner basically is that the report of the inquiry committee constituted by the University was not placed before the Tribunal; what was placed was the University's communication indicating the result of the inquiry purportedly made by the committee. It is submitted that this court, accordingly, by its order dated 23 December 2016, had directed the Respondent University to forward a copy of the Inquiry Committee's report, but the University through its affidavit dated 5 April 2018 claimed inability to do so, on the ground that despite diligent search, the report could not be traced.

4 There is nothing on record to question the communication of the University of Poona made as far back as on 2 June 1995. The communication was addressed by a responsible officer of the University, namely, its law officer, and it was addressed to the Presiding Officer of the College Tribunal. In that official communication addressed to a court of law, the law officer of the University put on record the facts of constitution

of a committee consisting of Dr.U.B. Bhoite and Dr.J.K. Godha by the Management Council, the remarks of Principal Raosaheb Shinde, Vice Chancellor's nominee on the selection committee originally constituted for selection of lecturers for the subject of Urdu and the merit list prepared by the selection committee as confirmed by the Vice Chancellor's nominee which puts the name of the Petitioner at Serial No.4. There is nothing to cast any doubt on the veracity of this communication or the facts stated therein. This is an old matter. If in 2018, the University is unable to produce the report of the committee constituted in 1994-95, it cannot be termed as a deliberate attempt to defeat the ends of justice or an unreasonable stand. No useful purpose would, in the premises, be served by remanding the matter to the college tribunal.

5 The Petitioner had accepted the original order passed by the college tribunal in her appeal. The order directed her reinstatement but made it temporary and subject to an inquiry by the University. Whether the original termination stands or could be given a go-by was to depend on that inquiry. The University appears to have conducted a proper inquiry and even communicated the result of such inquiry through its official communication to the college tribunal. In the premises, no fault can be found with the impugned order of the college tribunal refusing to issue any further directions or order penal action against the Respondent. Accordingly, there is no merit in the petition. The petition is dismissed.

(S.C. GUPTE, J.)