

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 592 OF 2017

DISTRICT: - AURANGABAD

Association of Pharmacy Teachers of India,
 Through its Members,
 Saber Hussain Fazal s/o Husain Akhtar
 Age. 60 years, Occ. : Service,
 R/o 27-B, N-12, Professor Colony,
 Opp. :Himayat Bagh, Aurangabad,
 District Aurangabad 431 001.

-- APPLICANT

V E R S U S

1. The State of Maharashtra
 Through its Secretary,
 Department of Higher Technical
 Education, Mantralaya, Mumbai.

[Copy to be served on the
 Chief Presenting Officer,
 Maharashtra Administrative Tribunal,
 Mumbai, Bench at Aurangabad]

2. Dy. Secretary,
 Maharashtra Public Service Commission,
 Bank of India Building,
 3rd Floor, Hutatma Chowk, M.G. Road,
 Fort, Mumbai 400 001.
3. The Director,
 Directorate of Technical Education,
 3, Mahapalika Marg,
 Mumbai 400 001.
4. The Director,
 All India Council of Technical Education,
 (Statutory Body of Government of India)
 Nelson Mandela Marg, Vasant Kunj,
 New Delhi 100 067.

[copy to be served to the
 Standing Council for A.I.C.T.E]

-- RESPONDENTS

APPEARANCE : Shri A.N. Kakade, learned Advocate for the applicant.
: Shri L.M. Acharya, learned Special Counsel for Respondent State
: Shri M.R. Kulkarni, learned Special Counsel for the respondent no. 2.

CORAM : **JUSTICE M.T. JOSHI, VICE CHAIRMAN
AND
ATUL RAJ CHADHA, MEMBER (A)**

RESERVED ON : **25.2.2019**

PRONOUNCED ON : **15.03.2019**

J U D G E M E N T

(Per : Atul Raj Chadha, Member (A))

The present Original Application has been filed by the Association of Pharmaceutical Teachers of India. The Association is established by the Teachers / Principals imparting the education in Pharmacy in the colleges of India.

2. The main dispute is regarding Recruitment Rules dated 13.1.2017 for the various posts of Maharashtra State Board of Technical Education viz. Director, Joint Director or Director, Maharashtra State Board of Technical Education, Deputy Director or Secretary, Maharashtra Board of Technical Education & Assistant Director or Deputy Secretary, Maharashtra Board of Technical Education and Assistant Secretary of Maharashtra

Board of Technical Education of Maharashtra Engineering Administrative Services Group –A.

3. Applicant had sought a direction in the un amended OA to modify or amend the recruitment rules to the extent of clause 3 to 7 of the notification dated 13.1.2017 to consider the higher qualification of Pharmacy as a qualification of administrative posts in the Directorate of Technical Education. However, by way of amendment sought a direction to respondents to consider Pharmacy under the clause of **Technology** as stated in the Recruitment Rules dated 13.1.2017

4. The said Recruitment Rules were published on 13.1.2017 by the State Government in exercise of powers conferred by proviso to Article 309 of the Constitution. The relevant Rules regarding qualification is Rule 3 which reads as under :

“3. Appointment to the post of Director of Technical Education, Maharashtra State shall be made by nomination from amongst the following candidates, who

(i) are not more than fifty years of age :

Provided that, upper age limit may be relaxed up to five years in case of candidates already in service of Government;

*(ii) possess Master’s Degree in first class or an equivalent grade in a point scale wherever grading system is followed in **Engineering or Technology** duly recognized by AICTE and passed out from the institute affiliated to a University recognized by UGC;*

*iii) possess Doctorate of Philosophy (Ph.D.) in **Engineering or Technology** from Indian or Foreign University or autonomous academic institutes duly recognized by UGC or have published minimum five research papers in referred International Journal;*

(iv) Possesses experience of not less than twenty years either in the field of teaching at degree or diploma level in engineering educational institutes or in administration of technical education or collectively in these fields, gained after acquiring degree in Engineering or Technology. --

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For the other posts of Joint Director, Deputy Director & Assistant Director, the appointment is prescribed by the rules either strictly by seniority from the feeder cadre with at least three years of service or by nomination in which Master Degree in First Class in Engineering **or** Technology duly recognized by A.I.C.T.E. & passed out from the Institute duly recognized by the A.I.C.T.E. The lowest cadre is of the Assistant Secretary (Technical) in which recruitment is prescribed by nomination in which minimum qualification of Bachelor's Degree in First Class or equivalent grade in Engineering **or** Technology or by transfer / deputation from amongst the persons holding the post of Lecturer, in case the post cannot be filled by nomination

5. In short, the recruitment is by way of nomination either at the level of Director (highest level of pyramid) or Assistant Director (Technical) (lowest level of pyramid) and for intervening cadres strictly by seniority with at least three years of service in

the feeder cadre. Though, in the eventuality of non-availability of three years of service in the feeder cadre option for nomination with Master's Degree in first class in **Engineering or Technology** with other prescribed qualification is provided in the Rules.

6. The applicant submits that "technical education" is governed under the All India Council for Technical Education Act, 1987 (A.I.C.T.E.) in which following faculties are included:

- (i) Engineering*
- (ii) Pharmacy*
- (iii) Management*
- (iv) Architecture*
- (v) Hotel Management*
- (vi) Master of Computer Science*
- (vii) Master of Computer Applications."*

For imparting education to above branches, Government of Maharashtra established various institutes.

7. The Applicant relied on Section 2(g) of the A.I.C.T.E. Act which defines "Technical Education" as under :

"2(g) "Technical Education" means program of education, research and training in Engineering Technology, Architecture, Town Planning, Management, Pharmacy and applied Arts and Crafts and such other program or areas as the Central Government may, in consultation with the Council, by notification in the official Gazette declared."

The Applicant by relying on above provision emphasise on the fact that the faculty of “Pharmacy” is included in ‘ Technical Education) under AICTE Act

8. The Applicant also relied on the Rule 2 (c) of the Recruitment Rules dated 13.01.2017 i.e. definition of ‘Collective Experience’ which is also one of the essential qualification for the purposes of Recruitment Rules :

“2(C) ‘Collective experience’ means total experience gained in various employments related to engineering or technical education.”

In short the Applicant submits that though the experience in ‘Technical Education”, which includes experience in Pharmacy Education, is considered but Degree in Pharmacy is not considered as a qualification for the purposes of the Recruitment Rules dated 13.01.2017.

9. Applicants have also relied on Para 63 of the Kerala High Court judgment dated 16.12.2013 in Writ Petition No. 31862/2008 wherein relying on the earlier constitutional bench judgment the Hon'ble High Court made following observations :-

“63. The principles laid down in three Judges Bench decision and the Constitutional Bench followed by unreported decision referred to above clearly indicate the norms, if at all State or any authority authorised intends to form, can never be lesser than the norms fixed by the

AICTE or the Council or the body meant for the particular purpose. It would not be invalid if the norms are higher than the minimum bench mark fixed by the concerned authority or body. In the present case, introducing Rule 6A to the Special Rules is nothing but fixing the qualification norms much below the bench mark indicated by the AICTE, therefore, viewed from any angle, Rule 6A cannot be approved and it deserves to be quashed being repugnant to the norms fixed by AICTE. ”

(quoted from paper book page 218)

In short, by relying on above judgement Applicant emphasised that no Rules can be framed which are lower than the standards prescribed by the AICTE Act.

10. The Applicant submits that at present members of the Association are stuck up to the level of Principal only and they have all rights for further progression in Directorate of Technical Education and policy making in technical education.

11. The Applicant also relied upon the AICTE notification of the year 2016 for the similar posts on deputation in which all the faculties included in Technical Education were allowed to participate. As well as that some of the States also allow Pharmacy field for the similar posts.

12. Before approaching this Tribunal, the Applicant has made a detailed representation to the Respondent no 1 (Page 36& 37 of the Paper Book)

13. In reply to Original Application (un-amended) M.P.S.C. submitted that issue of recruitment rules pertains to the jurisdiction of the State and it has merely issued the advertisement as directed by the State.

14. Respondent nos. 1 to 3 have filed an affidavit in reply opposing the Original Application. Following portions of reply dated 4.1.2018 affirmed by Deputy Secretary in Higher Education Department is necessary to be highlighted :-

“Para4I may, however, point out that the entire basis of the above application is seeking to make a representation to the Central Government, the All India Council for Technical Education and the Pharmacy Council of India about the distinction between Engineering & Technology Education and Pharmacy Education and hinting at bifurcation of both the education. In other words, the applicant wants a separate directorate for Pharmacy Education in the State of Maharashtra. This is no uncertain terms evidence from the pleadings generally in the body of the original application.....”

“6. The term ‘technical education’ also takes within its fold other streams such as Applied Arts. Architecture, Management etc. and all these streams are subject to regulatory powers of A.I.C.T.E. and Directorate of Technical Education. The Applicant cannot seek an except for Pharmacy stream and a differential treatment to the exclusion of all other streams falling within the term ‘technical education’. Further, the Applicants also completely ignores that the so-called claim of the teaching staff on the administrative posts belonging to other streams have never been provided for in any of the rules framed so far. These Respondents have prepared a chart to demonstrate this fact. Hereto annexed-----.”

“7. Most importantly, under section 2(g) of the A.I.C.T.E. Act, the subject of pharmacy is regulation falls within the definition of ‘Technical Education’. The said

term is defined under section 2(g) of A.I.C.T.E. is reproduced hereunder :

“Technical education means programmes of education, research and training in engineering technology, architecture, town planning, management, pharmacy and applied arts and craft and such other programme or areas as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare.”

Thus, even pharmacy education is subject to regulations framed by A.I.C.T.E. The Applicant, however, by the present is seeking to distinguish between Engineering Stream and Pharmacy Stream and thereby seeking to distance itself from technical education. In my respectful submission, the prayer sought for by the Applicants is contrary to the provisions of the A.I.C.T.E. Act and hence, ought not to be entertained unless the legality, and validity of the relevant provisions of A.I.C.T.E. are challenged.”

8. I say that one other aspect of the matter which needs to be considered is that the post of Director of Technical Education is a statutory post. This being so, the applicant cannot seek representation on the said post to the exclusion of or other streams and that too contrary to the Recruitment Rules formed under Article 309.

“9. -- -- -- --
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I, however, would like to specifically deny the Applicant’s contention that the Recruitment Rules take away the rights of the pharmacy division candidates for consideration of their claim for the administrative posts. I say that the Applicants did not have any such rights prior to framing of the present Recruitment Rules vide Notification dated 13.1.2017. This being so, the contents of paragraph-8 is denied. I also categorically deny the differentiation attempted to be made out by the Applicant and make it a basis for seeking the reliefs sought for in the above Application and put the Applicants to the strict proof thereof. I also further categorically deny the Applicant’s contention that the Department of Technical Education cannot administer and supervise the Pharmacy education in just and proper manner, as

alleged or at all. I say that the Directorate of Technical Education merely regulates the functioning of all the technical courses / colleges in accordance with the policies framed by the Apex Body, the Central Government and the Respondent State. ”
(Emphasis supplied)

(quoted from paper book pages 98, 99, 100 & 101)

15. To summarise, the Respondent no 2 M.P.S.C., submits that it has followed the Recruitment Rules framed by Respondent no 1 and it is for the Respondent no 1 State to reply. Though, it is not the case of the Applicant, the Respondent no. 1 State avers that Applicant is seeking special treatment to the field of Pharmacy over the other fields defined under the technical education. The respondent no 1 categorically admitted that the Recruitment Rules dated 13.01.2017 confers right to Applicant's member in selection process.

16. The Applicant in the Original Application alleged that the Applications made by several members from the faculty of Pharmacy were rejected on the ground of non-possession of requisite qualification. However, no instances were given in the un-amended Original Application that their candidature was rejected owing to having qualification of Pharmacy.

17. The Applicants have sought permission to amend the Application to show that the candidatures of the Applicants have

not been considered by Respondent no. 2 for not having requisite qualification. The same was granted and accordingly additional Para 26-A has been inserted in O.A. The added Para 26-A reads as under :

26-A) That, when the candidates from Pharmacy Stream tried to apply online for the post, the website is not accept their information on the official portal, due to non-possessing of the requisite qualification. The portal accepted the information of the candidates of Engineering (B.E.) or Technology (B.Tech.) qualifications. Due to the above scenario the candidate from Pharmacy stream could not apply to the advertisement issued by respondent no. 2. Due to the non-acceptance of their applications, they were not considered for the said post and its amounts to rejection of their application / an opportunity. The relevant documents are annexed herewith and marked as ANEXURE M.A. – 1 colly.”

(quoted from paper book pages 23 & 24-A)

In support the Applicant have submitted certain e-mails to include Pharmacy in domain of Technology including POP up message emerged while applying on-line on website of MPSC that they do not possess requisite qualification. Surprisingly, on page 235 it is clear from the reply of M.P.S.C. that Degree code were only B.E. or B.Tech and M Phrma was not in the field while applying on line.

18. The M.P.S.C. further elaborated its reply on 18.2.2019 on the amended O.A. Relevant para's 5, 6, 7, 8 & 9 which are reproduced herein below :-

“5. I humbly say and submit that, though the faculty of Pharmacy has been shown to be included in the definition of ‘technical education’ provided in the AICTE Act 1987, yet, as per the Recruitment Rules of the posts in issue, qualification in Engineering or Technology is required. The Commission being a recommending authority, it is obligatory on the part of the commission to strictly adhere to the Recruitment Rule of the post. Hence as per Recruitment Rules qualification in Engineering or Technology can only be considered. As there no mention about qualification in ‘technical education’ in the Recruitment Rules it cannot be applied for the post.

6. I humbly submit that, All India Council for Technical Education has issued a “Pay Scale, Service condition and Qualifications for the Teachers and other Academic Staff in Technical Institutions (Degree) Regulation-2010” on 05.03.2010.

From the said Regulations-2010, it would be clear that the AICTE itself given a chart of ‘Faculty Norms’ at the end of this Regulation. In the said faculty norms, the AICTE has clearly shown various faculty separately like as Engineering/Technology, MCA, Management, Pharmacy, Hotel Management and Catering Technology, Architecture, Town Planning and Fine Art and also shown the qualifications required for these faculties. Accordingly, for the faculty of Engineering/Technology required qualification is provided as BE/B. Tech, ME/M. Tech. Whereas, the qualification for the pharmacy faculty is Bachelor’s in Pharmacy, Master’s in Pharmacy which is shown separately in the chart of faculty norms. In view of this fact, qualification in Pharmacy did not come under the relevant qualification for Engineering/Technology. Therefore, Bachelor’s in Pharmacy qualification had not been considered as the requirement qualification in Engineering/Technology. A copy AICTE Pay Scale, Service condition and Qualification for the teachers and other academic staff in Technical Institutions (Degree) Regulations 2010, is attached herewith and marked as **Exhibit R-2**.

7. It is further humbly submitted that there is no provision mentioned for ‘equivalent qualification’ in the Recruitment Rules dated 13th January 2017. Therefore,

the qualification other than Engineering/Technology (i.e. MCA, Management, Pharmacy, Hotel Management and Catering Technology, Architecture, Town Planning and Fine Art etc.) cannot be considered for the post in question.

9. Considering the submission made herein above, it is clear that the applicant is not eligible and not entitled to be considered for the post in issue for not having the essential qualifications in Engineering/Technology, required as per the Recruitment Rules of the post. Hence, no relief be granted to the applicant. The present OA being devoid of merit may please be dismissed. Hence , this additional affidavit.”

(quoted from paper book pages 331 to 333)

19. An additional reply was filed on behalf of Res. nos. 1 & 3 in which have raised a preliminary objection regarding maintainability of the present O.A. in law and even on facts on the following grounds :-

- (a) The present O.A. has been filed by an Association which claims to be registered association under Societies Registration Act. The Association is not a 'Person Aggrieved' within the meaning sec. 19(1) of the Administrative Tribunals Act, 1985. In as much as amongst other things, the Association does not have any fundamental right vested into it.
- (b) The Association is represented by one Shri Saber Hussain Fazal s/o Husain Atttar, who is not introduced himself in the present O.A. except stating that he is a member of the Association and as per reliable information said Shri Atttar is a retired

Teacher and has no personal interest in whatsoever nature in the issue involved in the present O.A. Thus, the applicant in the present O.A. has no locus standi or personal interest of whatsoever nature in prosecuting the matter. Hence, the present O.A. is not maintainable in law.

- (c) In the present O.A. the notification dated 13.1.2017 which contains recruitment rules framed by the State Government under the proviso to Article 309 of the Constitution of India is challenged and ought to have been raised within the scope of judicial review permissible for challenging a legislation.

20. Learned Special Counsel placed reliance on the following two judgements:

- a) **J. Rangaswamy Vs Government of Andhra Pradesh and others ((1990) 1 Supreme Court of India Court Cases 288)**
- b) **Mahindar Kumar Gupta & Others Vs Union of India.Ministry of Petroleum.**

21. The two questions arise before us for deciding the present Original Application.

- a) Maintainability of the Original Application filed by an Association.
- b) Whether the present Recruitment Rules are at variance to the AICTE Act & the mandate of Department of Technical Education including its interpretation made by the Respondent no 1 & 2.

Maintainability of the present Original Application.

22. The Respondent no. 1 opposed the Application vehemently on the ground of its maintainability.

a) In the instant case Association of Pharmacy is a registered Society under Society Registration Act XXI of 1960. The Association has submitted its Registration No. 122 of 1966-67 issued by Registrar of Societies, Uttar Pradesh, Lucknow (page 31 of paper book). The Society in its meeting dated 6th March, 2017 authorized its member Shri Saber Hussain Fazal s/o Husain Akhtar for filing a writ in Aurangabad (page 31A of paper book).

b) Accordingly, a writ petition No. 7993 of 2017 was filed in Aurangabad Bench of Hon'ble Bombay High Court in which following orders were made by Hon'ble High Court on 26th July, 2017 :-

"It would be open to the petitioner to avail of alternate remedies available in law for redressal of his grievances.

Keeping an option open to the petitioner to avail of remedies available in law for redressal of his grievances, petition stands disposed of."

c) Misc. Application No. 331/2017 was filed before registration of this O.A. which was allowed by Hon'ble Chairman vide order dated 21.8.2017, which reads as under:-

"For the reasons mentioned in the M.A., it is allowed in terms of prayer clause 'B' which reads as under :

"That Applicant may kindly be permitted to file Original Application on behalf of Association of

Pharmacy Teachers in India before the Hon'ble Tribunal."

d) As per the provisions in Sec. 19(1) of the Administrative Tribunals Act, 1985 an application should be filed by a "person aggrieved" by any order pertaining to any matter within the jurisdiction of this Tribunal.

e) The jurisdiction and powers and authority of State Administrative Tribunal is defined under sec. 15 of the Administrative Tribunals Act, the relevant portion of sec. 15 of the Act are reproduced herein below :-

"15. JURISDICTION, POWERS AND AUTHORITY OF STATE ADMINISTRATIVE TRIBUNALS. -

*(1) Save as otherwise expressly provided in this Act, Administrative Tribunal for a State shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court ¹[***]in relation to -*

(a) recruitment, and matters concerning recruitment, to any civil service of the State or to any civil post under the State;

(b) all service matters concerning a person [not being a person referred to in clause (c) of this sub-section or a member, person or civilian referred to in clause (b) of sub-section (1) of section appointed to any civil service of the State or any civil post under the State and pertaining to the service of such person in connection with the affairs of the State or of any local or other authority under the control of the State Government or of any corporation or society owned or controlled by the State Government;

(c) all service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in clause (b), being a person

whose services have been placed by any such local or other authority or corporation ²[**]or society or other body as is controlled or owned by the State Government at the disposal of the State Government for such appointment.”

f) The attention is also drawn to the Rule 4(B) of the Administrative Tribunal (Procedure) Rules, 1987, which reads as under :-

“4(b) Such permission can be granted to an association representing the persons desirous of joining in the single application provided, however, that the application shall dispose the class / grade / categories of persons on whose behalf it has been filed (provided that at least one affected person joins such application.”

g) Section 19(1) read with Section 15 of the Administrative Tribunals Act with rule 4(B) of the Administrative Rule empowers the Tribunal to deal with the present application, as the present Association is a registered Association under Society Act. The Association is established for the purpose of Welfare of Teachers working under the Pharmacy College. The object of the Association to work for the welfare of the employees of Pharmacy Faculty and also to uplift the education of Pharmacy (page 5). The applicant submits that persons working with Pharmacy Education are highly qualified and having more than 20 years of experience, but are deprived from the opportunity on administrative posts and their contribution is limited to academics only. (page 19).

As detailed above, the Hon'ble High Court had disposed of the Writ Petition of the applicant with liberty to approach the alternate forum. This Tribunal has permitted the Applicant to file the present O.A. in M.A. no. 331/2017. If the present application is dismissed on account of maintainability by this Tribunal, it will lead to a situation of denying justice for the welfare of its members. More so, we are of the view that the present case does not seek any relief for fundamental right but by amended OA merely sought implementation of rules in recruitment. In the circumstance reliance of Mr. Acharya on the ratio of above cited case of **Mahinder** (cited supra) that an association cannot file writ petition for enforcement of fundamental rights is not applicable in the present case. Similarly the ratio of **J. Rangaswamy** (cited supra) that court cannot consider the relevance of qualification for a post is also not applicable for the reasons forwarded as above. In our view the application is maintainable.

Merit of the Case

23. The second question before us to decide as to whether the present Recruitment Rules are in consonance with AICTE Act and the mandate of the Directorate of Technical Education if so whether the same are correctly interpreted by the respondent nos. 1 & 2 in the present case.

i) It is important to note that under the AICTE Act nowhere the faculties of Engineering OR Technology OR Pharmacy are defined exclusively. We found that under sec. 2(g) of the Act in the ambit of Technical Education faculties of Engineering Technology as well as & Pharmacy are included with other fields of architecture, town planning management and arts & craft are included and an additional clause is included for any such programme or areas as may be identified by the Central Government in consultation with AICTE. The faculty of Engineering Technology are used together without any coma (,) in between which means that faculty of Engineering Technology is considered together as one of the faculty and the faculty of pharmacy and other faculties are separate faculties included in Technical Education.

ii) The Applicant also relied on the advertisement issued by AICTE dated 9.1.2016 in which qualification in all the fields of Technical Education are included for the post of similar nature on deputation which reads as under: -

“Masters Degree in any of the subject of Science or Mathematics or Computer Application or Management including Behavioral Science, Commerce and Business or Pharmacy or Engineering and Technology or Architect and Town Planning are included.”

iii) The respondent No. 2 in Supplementary Affidavit dated 18.02.2019 replying on the amended O.A.(furnishing the instance of rejection of applications of the Members of Association of Pharmacy faculty) relied on the notification issued by the AICTE dated 5.3.2010 regarding Pay scales, Service conditions and Qualification for the Teachers and

other staff in Technical Institutions (Degree) Regulations – 2010. In the chart annexed to the above regulations in which various faculties are shown separately viz. Engineering / Technology, MCA Management, Pharmacy etc. The respondent No. 2 is of the view that the faculty of Pharmacy does not fall in the qualification of Engineering / Technology as other fields are shown separately (Page 359 of paper book). The Respondent No. 2 has interpreted Engineering / Technology as a separate faculty, whereas, the word used in the Recruitment Rules dated 13.1.2017 in the qualification are Engineering **OR** Technology.

iv) The Respondent Nos. 1 & 3 have also filed a detailed affidavit on 18th February, 2019. In this affidavit the reliance is heavily made on the phrase Engineering OR Technology as used in the Recruitment Rules be read as Engineering AND Technology. It is also submitted that non-inclusion of Pharmacy in the Directorate of Technical Education is not a new thing and is in existence since 1976. The Directorate of Technical Education was in existence since 1948 or thereabout. The Directorate was entrusted with the task of administrating Engineering / Technology Institutions for degree & diploma courses. Thereafter, Directorate was entrusted with the work of Vocational Education & Training. In the year 1964 due to enactment of Pharmacy Act, 1948, the faculty of Pharmacy was introduced as an extension activity in the existing Polytechnics in 1965. In the year 1984 Government of Maharashtra bifurcated the Directorate in two parts i.e. Directorate of Technical Education & Directorate of Vocational Education & Training. The former continued

with the additional responsibility of Pharmacy and with the period of time, other courses such as MBA, MCA, HMCT, Architectures, Town Planning were also included in the ambit of Directorate. Originally the Directorate was entrusted with the work of Engineering and Technology.

v) Our attention was also drawn to the Recruitment Rules of 1991 (page 271 of paper book), perusal of which would reveal that for various posts of Directorate the eligible faculty is Engineering only. The attention was also drawn to the Appendix 2 of the Hand Book of AICTE – 2018-19, which would show that faculty of Engineering Technology are different than Pharmacy and other fields viz. Architect & Management etc. entrusted to the Directorate and do not qualify within the purview of Engineering OR Technology.

vi) The mandate of Directorate Technical Education as available on the web-site of the Directorate is reproduced herein below :-

“The Directorate of Technical Education in Maharashtra, has been established to ensure that technical institutions catering to Engineering, Architecture, Pharmacy and Hotel Management & Catering Technology courses across the State of Maharashtra confirm with the policies, rules, guidelines and strategies formulated by the Central and State governments. The Directorate has under it’s development and supervisory ambit, around 1600 Technical Education institutions across the State of Maharashtra.”

vii) The mandate of Directorate is that all the Institutions catering to the needs of all the faculties are run as per policies, rules, guidelines and strategies framed by the Central & State Governments. The

inclusion of one of the faculty and exclusion of all other faculties is apparently of arbitrary nature. May be in past, when other faculties were not included in the Directorate of Technical Education, the Directorate was established for Engineering faculty only. But with changing time when other faculties are included, it would be in the fitness of things that all the faculties be considered and best of the candidate be selected to supervise that the institutions run for various faculties are as per the policy etc. framed by Central & State Government.

viii) The use of conjunction OR by the legislation clearly shows that the intention is to consider all the faculties and to select the best amongst them as done by AICTE while calling applications on deputation basis. It appears the use of the conjunction OR is misunderstood by the Respondent no 2 as Engineering/ Technology and by the Respondent no 1 & 3 as Engineering and Technology.

24. In view of above discussions following orders :

ORDER

a) Original Application is allowed with no cost to either of the parties in terms of Prayer Clause B-1, which runs as under.

“B-1) That the Respondent No. 1 to 3 may kindly be directed to include the Pharmacy under the clause of Technology as stated in the Recruitment Rules

dated 13/01/2017 published by Higher and Technical Education Department for the recruitment of various posts therein.”

b) This Tribunal vide order dated 10.11.2017 directed that all the appointments made if any would be subject to final outcome of the OA. In view of above, if any appointments have been made after 10.11.2017, the same should be re- advertised and fresh appointments be made within a period of eight months from the date of this order as per rules and regulations applicable.

c) In order to overcome administrative exigency, it is directed that the appointees appointed after 10.11.2017 be continued till fresh appointments are made by the Respondents.

(ATUL RAJ CHADHA)
MEMBER (A)

(M.T. JOSHI)
VICE CHAIRMAN

Place : Aurangabad
Date : 15.03.2019.