

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
ORIGINAL APPLICATION NO.52 OF 2019**

**DISTRICT : KOLHAPUR**

1. Pallavi Vijaykumar Shelke Patil, )  
Age 24 years, occ. Lecturer, )  
C/o Vijaykumar Shelke, Advocate, )  
Bhagirathi Niwas, Thodga Road, )  
In front of Ravindranath Tagor School, )  
Ahmedpur, District Latur )
  
2. Ganesh Chandrakant Falle, )  
Age 29 years, Occ. Sr. Executive Merchandising, )  
R/o Ganeshnagar, Post Mallewadi, Tal. Miraj, )  
District Sangli 416 410 )
  
3. Sunil Ramchandra Pakhandi, )  
Age 30 years, Nandani Road, Jaysingnagar, )  
Jaysingpur, Tal. Shirol, Kolhapur 416 101 )
  
4. Amol Sadashiv Malkar, )  
Age 28 years, Dy. Manager, Indocount Ind. Ltd., )  
Kagal, Kolhapur, R/at 783, Sanagar Galli, Kagal,) )  
A/P Kagal, District Kolhapur 416 216 )..Applicants

Versus

1. The State of Maharashtra, )  
Through the Secretary, Higher & Technical )  
Education Department, Room No.441, 4<sup>th</sup> Floor, )  
Mantralaya, Mumbai 400032 )
2. Maharashtra Public Service Commission, )  
Through the Secretary, 5<sup>th</sup>, 7<sup>th</sup> & 8<sup>th</sup> Floor, )  
Cooperage, Mumbai 400001 )
3. Directorate of Technical Education, )  
Maharashtra State, Mumbai 400001 )  
Through the Director, )
4. All India Council for Technical Education, )  
Nelson Mandela Marg, Vasant Kunj, )  
New Delhi 110070 )  
Through The Chairman/Member Secretary )
5. Shivaji University, Kolhapur, Through Registrar )
6. Dattajirao Kadam Technical Education Society's )  
Textile & Engineering Institute, Ichalkaranji )..Respondents

Shri S.S. Dere – Advocate for the Applicants

Ms. S.P. Manchekar – Chief Presenting Officer for Respondents No.1 to 5

Shri Y.P. Narvankar – Advocate for Respondent No.6

CORAM : Smt. Justice Mridula Bhatkar, Chairperson

Smt. Medha Gadgil, Member (A)

RESERVED ON : 5<sup>th</sup> December, 2023

PRONOUNCED ON: 5<sup>th</sup> February, 2024

PER : Smt. Medha Gadgil, Member (A)

### **J U D G M E N T**

1. In this OA the applicants challenge the impugned declaration dated 5.7.2018 issued by the MPSC terminating the process of selection initiated vide advertisement No.85/2013 published by MPSC for the post of Lecturer in Dress Designing and Garment Manufacturing declaring that none of the candidates were found eligible in view of Government communication dated 8.12.2017 received by MPSC.

**Brief facts:**

2. The Government had sent a requisition to the MPSC for recruitment of various vacant post of Lecturer in the Maharashtra Polytechnic Teachers Services Group A under the Directorate of Technical Education in Government Polytechnic. The MPSC issued an advertisement No.85/2013 dated 30.10.2013. As per the advertisement the essential qualification required for the said post was from the faculty of Engineering and Technology i.e. Dress Designing and Garment Manufacturing. Equivalent faculties considered as per the GR dated 6.5.2013 are as follows:

*“Graduate Level:- Dress Designing and Garment Manufacturing or Apparel Manufacturing and Design or Garment Manufacturing or Fashion Technology.*

*Post Graduate Level:- Master’s Degree in Dress Designing and Garment Manufacturing or Apparel Manufacturing and Design or Garment Manufacturing or Fashion Technology or 2 years post graduate diploma in above field.”*

3. As the application forms were invited online no documents were asked from the candidates in support of the claims made by them in their online application. While applying online the candidates mentioned their qualifications as per the advertisement and hence their applications were accepted. By applying the short-listing criteria, 43 candidates were called for interview, however, at the time of interview while scrutinizing the documents it was found that the candidates do not possess the educational qualification in Dress Designing and Garment Manufacturing as per the equivalency vide GR dated 6.5.2013 hence most of the candidates were held ineligible for the interview.

4. The MPSC referred the matter to Government and the Government referred the matter to the Directorate of Technical Education who in turn formed a committee of 3 Experts to decide the equivalence and the eligibility of the said candidates. The said committee submitted its report dated 16.8.2017 which reads as under:

*“तसेच दोन निदर्शनास आले कि दिनांक ६ मे २०१३ रोजीच्या समतुल्यतेच्या शासन निर्णयानुसार जी अर्हता देण्यात आलेली आहे ती अभ्यासली असता असे जाणवते या गोष्टीचा विशेष अभ्यास झालेला नसावा कारण महाराष्ट्रात कुठेही पदवी अस्तित्वात नाही व नावाच्या साध्यमुळे इतर विद्यापिठांच्या उमेदवारांना समकक्षता वाटते पण अभ्यासक्रमाला विचार तसेच AICTE चा विचार केला असता दोघांमध्ये मोठा फरक आहे.*

*तसेच दोन उमेदवार (ज्यांची नावे Hide करण्यात आलेली नाहीत ) ज्यांचे सर्टिफिकेट Bachelor of Textile असून Fashion Technology हा ग्रुप आहे परंतु त्यांचे हे शिक्षण DDGM या AICTE कोर्स करीता पूरसे नाही कारण यांचे शिक्षणही तुलनात्मकरित्या प्रायमरी लेवलचेच वाटते. Garment Industry मध्ये Supervisory Job करीता त्यांना*

तयार करण्याच्या दृष्टीने विषय आहेत परंतु DDGM विभागाकरीता आवश्यक असणारे *Garment Construction, Garment Creation तसेच Business Management* शी संबंधित शिक्षणाचा अभाव जाणवतो. त्यामुळे समिती या सर्व उमेदवारांचे शैक्षणिक अर्हता पाहता DDGM अभिव्याख्याता म्हणून नाकारत आहे आपल्या माहितीकरिता व पुढील कार्यवाहीकरिता सादर.”

5. Only 3 candidates i.e. applicants no.2 to 4 were interviewed. Resultantly, MPSC enquired with the Government vide its letter dated 15.6.2015 as to whether the qualification possessed by the candidates are equivalent or not and also sent copies of the documents of the candidates to the concerned administrative department for verification. Government vide its letter dated 8.12.2016 informed the MPSC on the basis of the report of the respondent no.3 that none of the candidates is eligible for post in question. Accordingly by taking into consideration the orders dated 23.1.2015 and 18.3.2016 passed by the Aurangabad Bench of this Tribunal in OA No.25/2015 (Pallavi Vijaykumar Shelke Patil Vs. The State of Maharashtra & Ors.) and the Government opinion vide letter dated 8.12.2017 the MPSC made a declaration on 5.7.2018 that considering the Government opinion that no eligible candidates are available and hence it did not recommended any candidate for the post. Para 18(a) and (b) of the said order dated 23.1.2015 passed by this Tribunal in OA No.25/2015 reads as under:

“18. In these premises, in order to meet ends of justice, the MPSC can be ordered as follows:

(a) In case, the MPSC wants to correct its procedure and call eligible candidates and reinitiating the process for selection. It can and may do so, and re-do entire selection procedure from the stage of

*enlisting eligible candidates, re-fix Bench mark, re-do the process of selecting the candidates for interview.*

*(b) MPSC would be able to undertake this exercise, even without un-doing selection process and interviews, so far conducted.”*

Para 5 & 6 of the said order dated 18.3.2016 passed by this Tribunal in OA No.25/2015 reads as under:

*“5. In view of the above mentioned facts, in this case, it is quite clear that no further orders are required to be given by this Tribunal. We therefore confirm the order of this Tribunal given in paragraph 18(a) and 18(b) on 23<sup>rd</sup> January, 2015.*

*6. OA is disposed of accordingly with no order as to costs.”*

6. The Ld. Advocate for the applicant challenges the declaration dated 5.7.2018 issued by the MPSC thereby terminating the process of selection initiated vide advertisement dated 85/2013 declaring that none of the candidates were found to be eligible for the post of Lecturer in Dress Designing and Garment Manufacturing in view of Government communication dated 8.12.2017.

7. Ld. Advocate pointed out that applicants are aspiring to be Lecturer for the said post and have all completed their Degree course from Dattajirao Kadam Technical Education Society's Textile & Engineering Institute, Ichalkaranji with First Class and distinction. The said college is the only college in the State of Maharashtra for the Degree course in B. Tech. in Fashion Technology. The said college is affiliated to Shivaji University, Kolhapur. He further pointed out that the degree course in B. Tech. in Fashion Technology conducted by the Textile and Engineering

Institute, Ichalkaranji is approved by the All India Council of Technical Education, New Delhi. Ld. Advocate pointed out that the advertisement specifically provides for qualification as Bachelors Degree in Engineering/Technology in the relevant branch with First Class or equivalent. The equivalent qualifications are specifically defined by the Government Circular dated 6.5.2013.

8. Ld. Advocate for the applicants further contended that AICTE norms were sidelined by the Committee which did not have the power to sit in appeal over the decision of the AICTE. He further contended that this committee constituted by the Directorate of Technical Education had neither sanctity in law to overrule the decision dated 6.5.2013 nor has the expertise to assess and compare the courses treated as equivalent vide Government decision. He therefore prayed that the respondents be directed to complete the selection process for the post of Lecturer in question pursuant to advertisement dated 30.10.2013 by treating the applicants as eligible candidates.

9. We have also heard Shri Y.P. Narvankar, learned Advocate for Respondent No.6. He relied on the affidavit in reply dated 24.7.2019 filed by Rajendra Shah, Registrar of respondent no.6. It was pointed out that the said institution is known for its quality education, excellent infrastructure and accreditations. He further pointed out that the dispute in this case revolves around the equivalence of the degrees offered by their institute. The advertisement issued by MPSC dated 30.10.2013 requires a Bachelors Degree in Engineering/Technology in the relevant branch with First Class or equivalent for the post of Lecturer in question. The said advertisement makes reference to the GR dated 6.5.2013 for deciding the equivalence. The equivalence so far as Dress Designing and Garment Manufacturing is concerned is mentioned at Sr. No.31 of the GR which states that the course of as Dress Designing and Garment Manufacturing

is equivalent to the course in Fashion Technology. The Ld. Advocate for respondent no.6 therefore argued that the decision taken by the Director of Technical Education was arbitrary and needed to be set aside.

10. Ld. CPO while defending the stand of the State Government and the MPSC pointed out that during the said selection process the MPSC had asked the State Government in the Department of Higher and Technical Education to verify the educational qualification of the candidates and inform whether they are qualified or not vide its letter dated 19.1.2016. The State Government in turn referred the matter to Directorate of Technical Education who vide letter dated 4.5.2016 formed a committee to resolve the issue of educational qualification. Accordingly, the committee submitted its report vide letter dated 8.6.2016. Subsequently, respondent no.1 asked for more detailed recommendation in terms of qualification of the candidates. The said committee vide letter dated 16.8.2017 informed its conclusion that educational qualification which the candidates possess is in the field of Textile whereas the required qualification is of Fashion Technology which candidates possess of a basic level only. Also subjects like Garment Construction, Garment Creation and Business Management have not been studied by the candidates which is needed as a qualification. The committee came to the conclusion that the degree candidates possess and documents of the concerned universities which committee has gone through reveal that the knowledge of the candidates is insufficient to take on the new challenges of the fast growing fashion world. Based on the above conclusion the committee rejected the candidature of the recommended candidates on the basis of qualification. She further pointed out that the MPSC relied on the letter of the Government regarding qualification and hence the MPSC could not recommend any candidates as one of them has the proper qualification.



11. This case has a long history. The advertisement was issued on 30.10.2013 for the post of Lecturer. The main crux of the matter revolves around the question of equivalence of the degrees possessed by the candidates. In this connection it is useful to look at the advertisement issued by the MPSC. Para 4.3 reads as follows:

*“४.३ शैक्षणिक अर्हता :- Bachelor’s degree in Engineering/Technology in the relevant branch with First Class or equivalent. If the candidate has a Master’s degree in Engineering/Technology, First class or equivalent is required at Bachelors or Master’s level. शासन निर्णय क्रमांक संकिर्ण -२०१३-(४५/१३) तां.शि-२, दिनांक ०६ मे, २०१३ नुसार समकक्ष अर्हता विचारात घेण्यात येतील.”*

12. We have scrutinized the GR dated 6.5.2013 issued by the Department of Higher and Technical Education which deals with the issue of equivalence of degrees. Clause 31 specifically deals with the issue of Dress Designing and Garment Manufacturing. The equivalence as given in the said GR is reproduced below:

31	Dress Designing and Garment Manufacturing	Dress Designing and Garment Manufacturing or Apparel Manufacturing or Garment Manufacturing or Fashion Technology	Master’s Degree in Dress Designing and Garment Manufacturing or Apparel Manufacturing and Design or Garment Manufacturing or Fashion Technology or 2 years Post Graduate Diplome in above field.
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13. On the point of change in terms of conditions, Ld. Advocate for the applicant has relied on the following judgments:

(1) **Bedanga Talukdar Vs. Saifudaullah Khan & Ors. (2011) 12 SCC 85.** In this case it has been pointed out that the relaxation of any condition in the advertisement without due publication is contrary to the mandate of equality in Article 14 and 16 of the Constitution. Paras 29 and 32 of the said judgment reads as follows:

*“29. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There can not be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant Statutory Rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the Rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India.*

*32. In the face of such conclusions, we have little hesitation in concluding that the conclusion recorded by the High Court is contrary*

*to the facts and materials on the record. It is settled law that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Even if there is a power of relaxation in the rules, the same would still have to be specifically indicated in the advertisement. In the present case, no such rule has been brought to our notice. In such circumstances, the High Court could not have issued the impugned direction to consider the claim of respondent No.1 on the basis of identity card submitted after the selection process was over, with the publication of the select list.”*

We are of the view that the ratio of this judgment is not applicable to the facts of the present case as there has been no relaxation of conditions. The issue in this matter revolves around equivalence of the degree and hence is not covered by this judgment.

(2) **K. Manjusree Vs. State of Andhra Pradesh & Anr. (2008) 3 SCC 512.** In this matter the predetermined criteria provides for 75 marks for written examination and 25 marks for interview. Thus prescribing the ratio of 3:1. However, written examination actually held for 100 marks and 25 marks for interview which changed the ratio to 4:1. The Hon'ble Supreme Court reiterated that the selection criteria has to be prescribed in advance and the rules of game cannot be changed afterwards.

14. It is seen that much water has flown under the bridge. The entire selection process is based on an advertisement published in the year 2013. In an earlier round of litigation in OA No.25/2015 the applicant had challenged the fact that she was not shortlisted for the interview and this Tribunal passed the following order dated 23.1.2015, which is again reproduced below:

*“18. In these premises, in order to meet ends of justice, the MPSC can be ordered as follows:*

*(a) In case, the MPSC wants to correct its procedure and call eligible candidates and reinitiating the process for selection. It can and may do so, and re-do entire selection procedure from the stage of enlisting eligible candidates, re-fix Bench mark, re-do the process of selecting the candidates for interview.*

*(b) MPSC would be able to undertake this exercise, even without un-doing selection process and interviews, so far conducted.”*

15. In this matter the main issue revolves around the eligibility of the candidates and whether they were qualified for the said post. Since the application forms were invited online, no documents were asked for from the candidates in support of their claims made by them in their online application. While applying online, candidates mentioned their qualification as required as per the advertisement and hence their applications were accepted. By applying the shortlisting criteria, 43 candidates were called for interview. However, at the time of interview while scrutinizing the documents it was found that the candidates did not possess the educational qualification in Dress Designing and Garment Manufacturing as per the equivalence vide GR dated 6.5.2013. Hence, most of the candidates were held ineligible for interview. Only 3 candidates i.e. applicants no.2 to 4 were interviewed.

16. After taking into consideration the qualifications required for the post and those of the applicants the Commission enquired with the Government vide its letter dated 15.6.2015 as to whether the qualification possessed by the candidates are equivalent or not. The respondent no.3 vide letter dated 4.5.2016 formed a committee to resolve the issue of

educational qualification. The committee by letter dated 16.8.2017 informed its conclusion that the educational qualification which the candidates possessed is in the field of Textile and the qualification of Fashion Technology which the candidates possessed was of basic level only. It is important to note that the committee opined that subjects like Garment Construction, Garment Creation and Business Management were not studied by the candidates, which is needed as a qualification.

17. We find no reason to disagree with the findings of the committee which was set up by the Government through Higher & Technical Education Department which is appropriate department for taking such a decision. It is a fact that in order to face the challenge of fast growing fashion world appropriate qualifications were required. This Tribunal cannot go beyond the opinion given by the experts in the said field and we accept the findings of the committee which was set up by the Higher & Technical Education Department.

18. Ld. Advocate for the applicants submits that respondents should consider how many sanctioned posts are there as on today as per new staffing pattern and total filled in posts as on today and total number of students as well as colleges as per the record of the respondents be taken into account while considering the case of the applicants while fixing the student-faculty ratio. He pointed out that it was earlier 1.15 till 2019 and today it is 1.25. Thus, the posts of Professors because of this changed ratio have decreased. Therefore, the earlier ratio if the Government would have applied then the applicant would have been selected.

19. Accordingly respondents have filed affidavit in reply dated 2.11.2023 of Mahendra Keshaw Dawane, Deputy Director (Technical), Directorate of Technical Education, Mumbai. Para 7 of the affidavit reads as under:

*“7. I say that, so far as the post of Lecturer in Dress Designing and Garment Manufacturing subject is concerned and as per the staffing pattern of 2004 the student to faculty ratio was 1:15 due to that the total number of the posts sanctioned of Dress Designing and Garment Manufacturing subject were 42 and till date 24 posts are filled. I further say that now the revised staffing pattern based on the new student to faculty ratio prescribed by AICTE, which is 1:25 is proposed for approval to Government and in the said proposed post of Dress Designing and Garment Manufacturing is 24 Lecturers and the Committee also opined the same that as per the new student to faculty ratio 24 teaching staff is required. This means, at present there is no vacant post for appointment.”*

20. Para 3.1 of the said affidavit reads as under:

As per the norms of the AICTE published from time to time for student to faculty ratio, it is as follows:

Sr. No.	Students to Faculty Ratio (SFR) AICTE Norms	Pay Commission
1	1:15	4 <sup>th</sup> Pay Commission (1986-96) upto 2000
2	1:15	5 <sup>th</sup> Pay Commission (1996-2006) upto 2010
3	1:20	6 <sup>th</sup> Pay Commission (2006-2016) upto 2019
4	1:25	7 <sup>th</sup> Pay Commission (2016 to till date) after 2019

It is true that the ratio has changed and so the posts have decreased. However, this fact would have bearing if at all as per the Experts Committee the applicants educational qualification would have been considered proper as required to that post.

21. The qualification of the candidates were examined by the Expert Committee set up by the Higher & Technical Education Department. Moreover, it is informed that there are no vacant posts available. In view of this we are unable to grant any relief to the applicants.

22. Hence, the Original Application is dismissed. No order as to costs.

Sd/-

**(Medha Gadgil)**  
**Member (A)**  
**05.02.2024**

Sd/-

**(Mridula Bhatkar, J.)**  
**Chairperson**  
**05.02.2024**

Dictation taken by: S.G. Jawalkar.