

(2018) 04 MP CK 0009

In the Madhya Pradesh High Court

Case No : Writ Petition No.1910, 769, 2588, 2994, 6174, 8605, 12398, 14239
OF 2017, 1257 OF 2018

Dr. Sahdev Prasad Gupta & Others

APPELLANT

Vs

State Of Madhya Pradesh & Ors & Others

RESPONDENT

Date of Decision : 02-04-2018

Acts Referred:

Madhya Pradesh Bhoj Open University Adhiniyam, 1991 — Section 25
Madhya Pradesh Vishwavidyalaya Adhiniyam 1973 — Section 49(2)

Citation : (2018) 04 MP CK 0009

Hon'ble Judges : VANDANA KASREKAR, J

Bench : Single Bench

Advocate : R.N. Singh, Arpan Pawar, Neeraj Singh Chouhan, P.L Shrivastava,
Anjali Shrivastava

Final Decision : Allowed

Judgement

,,,,

All these above writ petitions are being decided by this common order as the common question as well as the facts are involved in all these writ,,,,

petitions. However, for the sake of brevity, the facts are taken from Writ Petition No.1910/2017." ,,,,

2. The petitioners have filed this writ petition praying for direction to the respondents to issue an order of appointment in their favour for the post of,,,,

Professor/Associate Professor/Assistant Professor in the Education Department.,,,,

3. Madhya Pradesh Bhoj Open University has issued an advertisement on 09/12/2015 inviting applications for appointment on the post of,,,,

Professor/Associate Professor/Assistant Professor in various subjects. The petitioners being eligible for the same, applied for appointment on the said" ,,,,

posts through proper channel. After scrutiny of their credentials, the petitioners were called for interview by the competent authority. Thereafter the",,,,

petitioners were interviewed by the selection committee duly constituted by the Chancellor and were selected. Â Even after their selection," ,,,,

appointment orders have not been issued in favour of the petitioners. The petitioners, therefore, preferred number of representations, but, to no avail." ,,,,

Â Thereafter the petitioners have received an information under the Right to Information Act and it came to their notice that the select list was placed,,,,,

before the Board in its 65th Board Meeting on 01/08/2016 and the same has been approved. By the aforesaid proceedings, the petitioners came to",,,,

know that they have been selected and their names have been included in the select list. It is also revealed by perusal of the 66th meeting of the,,,,,

Management Board dated 27/10/2016 that certain complaints were received by the authorities regarding the selection procedure conducted for,,,,,

appointment to the posts in question. To weed out the irregularities so pointed out through representation, a committee was constituted.Â The",,,,

committee thereafter inquired into the genuineness of the said complaint and forwarded a report in sealed envelope before the Management Board in,,,,,

its regular meeting, however, the said report was not acted upon pursuant to the directions issued vide letter of Principal Secretary of His Excellency",,,,

the Governor. Â The appointment orders were not issued in favour of the petitioners, the petitioners, therefore, filed the present writ petition." ,,,,

4. Learned counsel for the petitioners argues that Bhoj Open University has been constituted under Madhya Pradesh Bhoj Open University,,,,,

Adhiniyam, 1991. Section 25 of the said Adhiniyam gives power to the university to frame the Statutes. He submits that as per the statute applicable to",,,,

the Bhoj University, it is well within the power of Board of Management of the university to approve the appointments of the petitioners, thus, the",,,,

State Government or any other authority of the State has no authority to question the appointments. He further argues that the selection for the posts,,,,,

in question was made strictly in accordance with the principles laid down in the Statutes which constitutes the powers and functions of the Board of,,,,,

Management. He further submits that in view of Statute 2(8) of the University Statutes, it is the respondent No.2 who has primacy over respondents",,,,

No.1 and 2 in the matter of selection and appointment of the teachers of the university. Â He further submits that all the petitioners were eligible for,,,,,

appointment on the said post. The committee which was constituted for examining the complaint made against the said appointments has given,,,,

findings in favour of the petitioners stating that no illegality has been committed by the selection committee in making those appointments. Â He,,,,

further argues that Hon'ble Apex Court in the catena of judgments has categorically held that cancellation of entire selection process is not mandatory,,,,

when the respondents are in position to weed out the discrepancy in the selection process. Â For the said purpose, he relies upon the judgment passed" ,,,,

by the Apex Court in the case of Union of India Vs. Rajesh P.U. Puthuvalnikathu and another, reported in (2003) 7 SCC 285. In the present case, the" ,,,,

selection process was conducted by the Registrar under his signature, therefore, now the Registrar cannot raise any objection regarding the selection." ,,,,

Â Learned counsel for the petitioners also relies upon the judgment delivered by the Apex Court in the case of State of Punjab and another Vs.,,,,

Sardari Lal and other, reported in (2003) 10 SCC 253." ,,,,

5. Respondent No.2 has filed reply dated 21/03/2017. In the said reply the respondents have stated that the appointment of the petitioners were made,,,,

in accordance with the procedure prescribed under the Act as well as the Statute. In para-12 of the said reply, the respondents have stated that" ,,,,

recommendations of the selection committee were subjected to consideration before the Board of Management in its 65th Meeting held on,,,,

01/08/2016. The Board of Management presided by the Vice-Chancellor considered the recommendations of the various selection committee and,,,,

observed that the aforesaid recommendations are as per law in the angle of the facts that reservation roster is followed, the posts are duly sanctioned," ,,,,

the selection committee is duly constituted by the Kuladhipati the evaluation of API is done and in view of the fact that the university is in need of,,,,

vacancies being filled up for the functioning of the new and old departments, the university was suffering NAAC inspection UGC affiliations in further" ,,,,

period, in absence of faculty members, the strength of the university is decreasing day by day, therefore, the selection was approved by the Board of" ,,,,

Management and the Vice-Chancellor was given the authority for further action.

Â It has further been submitted that in between few anonymous and,,,,

named complaints were made to the authorities. Before the appointment orders were issued, a communication was received by the Registrar from the" ,,,,

Under Secretary, Department of Higher Education to hold and examine certain complaints. Accordingly, five members committee was constituted",,,,,

presided by retired Judge of the M.P. High Court. Thereafter the committee was notified and the date was fixed for the meeting of the committee.,,,,,

Â The examination and enquiry of the said complaints including Registrar's mark was completed by the five members committee and a report was,,,,,

forwarded to the Board of Management in a sealed cover. Â The respondent-university was supposed to consider the findings of the enquiry,,,,,

committee in the Board of Management as notified and resolved earlier. However, a communication made to the Registrar dated 10/11/2016 sent by",,,,,

the Principal Secretary of His Excellency the Governor was referred in which it was mentioned that no consideration on the selection in subject to be,,,,,

made till further orders of Secretary of His Excellency the Governor. Â The respondents have further stated that entire selection is as per the law,",,,,

however, in view of the intervention of the State Government and the Secretary of His Excellency the Governor, no further action has been taken yet.",,,,

6. Respondent No.2 has again filed reply on 28/06/2017 contending that earlier reply filed on behalf of respondent No.3 may not be considered and,,,,,

separate reply has been filed on behalf of respondent No.3. In the said reply, respondent No.3 has stated that two advertisements i.e. dated",,,,,

09/02/2015 and 11/02/2015 have been published for inviting applications for Professor, Associate Professor and Assistant Professor for the different",,,,,

department of the university. In the above advertisements, some posts have been sanctioned by the Higher Education Department, Govt. of Madhya",,,,,

Pradesh and some posts have been created by the Board of Management for which no prior approval has been taken from the Government. Â Before,,,,,

the above two advertisements, the Government of Madhya Pradesh, Higher Education Department vide its order dated 11/12/2014 has directed that",,,,,

for the sanctioned teaching posts in the universities, roster should be according to the University-Grant-Commission, roster preparation rules and M.P.",,,,,

Lok Seva (Anusuchit Jatiyon, Anusuchit Jan Jatiyon Aur Anya Pichhade Vergon Ke Liye Arakshan) Adhiniyam, 1994 amended 2002. Â It has also",,,,,

directed that roster should be prepared by ascertaining reservation according to the model form prepared by the Rani Durgawati University, Jabalpur.",,,,,

7. The respondents have also stated that in above two advertisements, there is no reservation for the women and physically handicapped persons and",,,,,

the reservation roster has also not been prepared in accordance with the direction given by the Higher Education Department, Govt. of Madhya Pradesh in the format of the Rani Durgawati University, Jabalpur. In the reservation roster, two posts of professors and six posts of Assistant Professor have been sanctioned by the State Government vide letter dated 08/10/1997 which were to be filled up on deputation and not by regular appointment but these posts have also been included in the reservation roster prepared by the committee. The qualifications which prescribed in the said advertisement for the teaching posts are as per the UGC Regulation, 2010. In UGC Regulation, in addition to other qualifications academic record has to be defined by the university concerned, but the university has not specified the same in the advertisement. Thus, the advertisement suffers from initial illegalities. As per amended UGC Regulation, for category-I, the minimum API score required for teacher is 75 based on the self- assessment. 300 points API is required to be considered by the selection committee. It is pertinent to mention here that the selection committees have been constituted by the Kuladhipati under Section 49(2) of the M.P. Vishwavidyalaya Adhiniyam, 1973.

8. Statute No.9 of the respondent-university provides constitution of selection committee for the appointment of the head of the department, Vice President, Course Writer/Coordinator for which the committee includes four subject experts nominated by Kuladhipati. One of the expert out of the four will be from Open University, but, in the above direct recruitment process the aforesaid provisions have not been followed and due to this, the whole process has become defective and illegal and on that basis the selection for all the appointments cannot be permitted legally and liable to be cancelled with liberty/direction to re-advertise for fresh appointment. The selection committee of the subject post concerned, has not followed the norms prescribed by the UGC Regulation and API statement have not been filled in the prescribed form. The committee has not examined and scrutinized the academic records of each applicant minutely and the statement of summary of marks awarded by the committee are also in typed manner and some of the columns of marks are blank, without any explanation. It has further been submitted that from perusal of the above statement of the summary marks, it is clearly depict therefrom that the proposed candidates have been favoured out of the way by awarding highest marks in

interview. The respondents have further submitted that complaints were made against the said selection to the Higher Education Department. The,,,,

Higher Education Department vide its letter dated 19/09/2016 asked Registrar of the University to submit point-wise facts with documents, report.",,,,

Accordingly, the Registrar of the university has submitted detailed factual report to the State Government vide report dated 04/10/2016. Thereafter",,,,

His Excellency the Governor's office vide order dated 10/11/2016 has directed the university that the matter of the selection of teaching posts should,,,,

not be placed before the Board of Management till further orders of His Excellency the Governor's Secretariat. In spite of various complaints and,,,,

State Government direction, the matter has been placed before the Board of Management. The Board of Management in its 66th meeting dated",,,,

27/10/2016 without examining the complaints, itself, has constituted a five members committee. The meeting of the said committee was held on",,,,

04/11/2016 and on the same day, the said committee has submitted its report. The respondents have further submitted that the committee has not",,,,

examined the subject matter in question properly and thoroughly and in the said report no reasoned findings have been given by the committee. Thus,",,,,

in light of the aforesaid, learned counsel for the respondents submit that the selection process from beginning suffers from legal defect as well as",,,,

illegal and, therefore, the same cannot be permitted to be implemented and on that basis, the petitioners are not entitled to be appointed on the said",,,,

post.Â Learned counsel for the respondents relied upon the judgments delivered by the Apex Court in the cases of Director, SCTI for Medical",,,,

Science & Technology and another Vs. M. Pushkaran reported in (2008) 1 SCC 448, East Coast Railway and another Vs. Mahadev Appa Rao and",,,,

others, reported in (2010) 7 SCC 678 and State of U.P. and others Vs. Rajkumar Sharma and others reported in (2006) 3 SCC 330.",,,,

9. The petitioners have filed the rejoinder to the reply filed by the respondents. The petitioners have stated that respondent No.2, in his counter reply",,,,

dated 21/03/2017 that the vacant posts in question were duly advertised and selection committee was properly constituted and selections were made in,,,,

a fair manner. It has also been stated that respondent No.2 in counter reply stated that the selection of the petitioners was approved by the Board of,,,,

Management which is the highest body in the university. During pendency of the said writ petition, there was a change in the office of the Vice",,,,

Chancellor of M.P. Bhoj Open University and with the same a second reply came to be filed by the new incumbent. In the second return/reply of the,,,,

Vice Chancellor and Registrar, it is stated that counter reply filed earlier on 21/03/2017 may not be considered and their version in the subsequent",,,,,

return/reply may be treated to be the stand of the university. Â No reason or justification has been given for filing of the second return/reply in the,,,,

matter. There is no application either for withdrawal of the counter reply dated 21/03/2017. there is no provision for filing second return/reply and it is,,,,

not permissible under the rules. Â,,,,

10. One Manoj Kumar Tiwari, who is Registrar was involved in the entire selection process of Associate Professor/Assistant Professor right from",,,,,

issuance of advertisements dated 09/02/2015 and 11/02/2015. It was Manoj Tiwari, Registrar, who got the advertisements issued, constituted a",,,,,

committee for scrutiny of application forms and thereafter issued call letters for interview dated 30/11/2016. It is stated that in the 65th meeting of the,,,,

Board of Management held on 21/07/2016, Registrar Manoj Tiwari justified the vacancies and the reservation roster that was being followed. Â So far",,,,,

as the creation of posts and vacancies is concerned, it is submitted that the same does not require any approval of the State Government as M.P. Bhoj",,,,,

Open University is a self-financed autonomous institution. Every decision for creation of posts and for determining the vacancies has been taken by,,,,

the competent body i.e. Board of Management of the university. Â Even the State Government, time and again, has clarified that the M.P. Bhoj Open",,,,,

University, being a self-financed institution, the financial burden of the posts sanctioned therein is to be borne by the said university alone. Â So far as",,,,,

non-providing of reservation to woman candidate is concerned, it is submitted that a corrigendum dated 11/02/2015 was published in that regard by the",,,,,

Registrar Manoj Tiwari whereby provision for reservation to woman candidate was made. The State Government has no authority under the Act of,,,,

1991 to question the selection made by the M.P. Bhoj Open University. The Chancellor is not bound by the letter written by the Higher Education of,,,,

the State Government. The Board of Management of university is highest body which is competent to create posts, fill up the vacancies, finalize the",,,,,

reservation roster, approve the selections etc. Â The decision of the Board of the Management with regard to selection made for the posts in question",,,,,

are final and have not been challenged before the Chancellor or before any Court of law. In light of the aforesaid, it is submitted by the petitioners that",,,,,

the writ petitions deserve to be allowed.,,,,,

11. Respondent/State Government has also filed reply and in the reply has stated that several complaints were received by the department that the,,,,

irregularities have been committed during the course of selection. Accordingly, respondent No.1 asked the Registrar to conduct an enquiry and submit",,,,,

report. Respondent No.3 submitted their return explaining that the irregularity has been committed in the selection process. The respondents after,,,,

collecting all the material placed a report before the Principal Secretary and then to His Excellency the Governor/Chancellor for taking cognizance in,,,,

the matter. Office of His Excellency the Governor/Chancellor has issued letter to respondent not to make any appointment till further orders.,,,,,

12. Heard learned counsel for the parties and perused the record.,,,,,

13. From perusal of the record, it reveals that an advertisement was issued by the M.P. Bhoj Open University on 09/12/2015 inviting applications for",,,,,

the post of Professor/Associate Professor/Assistant Professor in various subjects. The petitioners, being eligible, submitted their applications for",,,,,

appointment on the said post. After scrutinizing the documents submitted by the petitioners, they were called for interview. Â Thereafter the",,,,,

petitioners came to know that they have also been selected for appointment on the said posts. However, as the appointment orders have not been",,,,,

issued in favour of the petitioner, therefore, they have submitted various representations to the respondents, but, no action has been taken in the",,,,,

matter. The petitioners thereafter applied under Right to Information Act and at that time the petitioners came to know that some complaints were,,,,

made against the selection of the petitioners and on the basis of said complaint, the Secretary of Higher Education Department asked the Registrar to",,,,,

submit report and on the basis of the report submitted by the Registrar, Principal Secretary of His Excellency the Governor directed the Registrar not",,,,,

to issue any appointment order in favour of the petitioners. Against that, the petitioners have filed the present writ petition.",,,,,

14. The State Government has enacted an Act known as M.P. Bhoj Open University Adhiniyam, 1991 for promotion of open university and distance",,,,,

education systems in the field of higher education. Section 15 of the said Act

provides for constitution of the Board of Management. Section 15 reads,,,,,
as under :,,,,,

15. The Board of Management.- (1) The Board of Management shall be the principal executive body of the University which shall consist of not,,,,,
more than eleven members out of which not more than five shall be Government Officers,,,,,

(2) The constitution of the Board of Management, the term of office of its members and its powers and functions shall be prescribed by the",,,,,

Statutes.â??,,,,,

15. Section 25 of the said Adhiniyam empowers the university to frame Statutes. Section 25 reads as under :,,,,,

25. Statutes.- Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely :-",,,,,

(a) the manner of appointment of the Kulpati, the term of his appointment, the emoluments and other conditions of his service and the powers and",,,,,

functions that may be exercised and performed by him;,,,,,

(b) the manner of appointment of Directors, Registrars, Finance Officer and other officers, the emoluments and other conditions of their service",,,,,

and the powers and functions that may be exercised and performed by each of the officers;,,,,,

(c) the constitution of the Board of Management and other authorities of the University, the terms of office of the members of such authorities and",,,,,

the powers and functions that may be exercised and performed by such authorities;,,,,,

(d) appointment of examiners and moderators;,,,,,

(e) the appointment of teachers and other employees of the University, their emoluments and other conditions of service;",,,,,

(f) the principles governing the seniority of service of the employees of the University;,,,,,

(g) the procedure in relation to any appeal or application for review by any employees or student of the University against the action of any officer or,,,,,

authority of the University, including the time within which such appeal or application for review shall be preferred or made;",,,,,

(h) the forum and procedure for the settlement of disputes between the employees or students of the University and the University;,,,,,

(i) the co-ordination and determination of standards in University;,,,,

(j) all other matters which by the Act are to be, or may be provided by the Statutes.â??",,,,,

16. As per Section 26 of the said Adhiniyam, the first Statutes shall be framed by the Co-ordination Committee and shall be effective from such date",,,,,

as the Co-ordination Committee may specify. In exercise of powers under Section,,,,

25, the university has framed Statutes. Â Statue No.5 of the Statutes provides for constitution, powers and functions of the Board of management.",,,,,

Sub-clause (d) of Clause-11 reads as under :,,,,

â??d) to approve the appointment of such Professors, Readers, Lectures and other teachers and academic staff as may be necessary on the",,,,,

recommendations of the selection committee constituted for the purpose.,,,,

As per the said sub-clause, the Board of Management has power to approve the appointment of such Professors, Readers, Lectures and other",,,,,

teachers on the recommendations of the selection committee. Â Thus, as per the said Statute, it is only the Board of Management which is",,,,,

empowered to approve the appointments and the State Government has no role in the matter.,,,,

17. The Apex Court in the case of Sardari Lal and other (supra) in para-3 has held as under :,,,,

â??3.â?|.....â?

|.....â?|..... The University is an autonomous body,,,,

and, therefore, the State Government will not be entitled to interfere with the internal administration of the University notwithstanding the fact that the",,,,,

State Government is the funding body until and unless the University Statutes provide for the same or there is any Act of legislation conferring that,,,,

power on the State Government.â??,,,,,

18. In the present case, on the basis of the complaint made by some persons, five members committee was constituted and the committee after",,,,,

scrutinizing the complaints has given its report stating that the appointments are made in accordance with law. Â The minutes of the said meeting,,,,

reproduces as under :,,,,

cSBd fnukad 04-11-16 le; 12%00 cts LFkku cksMZ :e,,,,

fo'ofok|ky; ds izc/a k cksMZ dh cSBd fnukad 28-10-16 ds fu.kZ; vuqlkj fo'ofok|ky;
ds i= dz- 1646 fnukad 03-11-16 xBr lfeR dh cSBd vkt lEiUu,,,,

gqbZA ,oa fuEukuqlkj lnl; mifLFkr jgs&,,,,

1- U;k;k/kh'k Jh ih-,l-pkSgku] lsok fuo`Rr izeq[k lfpo] fof/k ,oa fo/kk;h dk;Z
foHkkx] e-iz- 'kklu] HkksikyA",,,,

2- izk-s ,e-,e- lkyqUds] iwoZ dqyifr] ;a'koar jko pOgk.k egkjK"VÂ^a
vksiu ;qfuoflZVh] ukfldA",,,,

3- MkW- mn; tSu] iwoZ dqyifr] vo/ks'k izrki flag fo'ofok|ky;] jhokA,,,,

4- izk-s ,l-ih-xqIrk] ls-fu- izk/;kid] m-iz- jkt""khZ VMa u fo'ofok| ky;]
bykgkckn] ,oa izca/k cksMZ lnl;A",,,,

5- MkW- ,u-,l-oekZ] l-sfu- dqylfpo] e-iz- 'kklu] mPp f'k{k foHkkx",,,,

6- izHkkjh LFkkiuk] e-iz- Hkks eqDr fo'ofok|ky;] izLrqr drkZ vf/kdkjhA cSBd dk
dk;Zokgh fooj.k fuEukuqlkj gS&,,,,

fo'ofok|ky; dh LFkkiuk 'kk[kk }kjk lfefr ds le{k izca/k cksMZ dh cSBd fnukad
01-08-16 ds fu.kZ; dz- 65&17 izLrqr fd;k x;k ,oa bl fu.kZ; esa",,,,

fo'ofok|ky; ds 'kS{kf.kd inksa ij fu;qfDr grs q lEiUu dk;Zokgh tks mYysf[kr gS
mldks lfefr ds le{k izLrqr dh xbZ tks fuEuor~ gS%&,,,,

1- izca/k cksMZ }kjk foKkfir ftu 27 'kS{kf.kd inksa ij fu;qfDr;ka vuqeksfnr dh xbZ
gS os lHkh in e-iz- 'kklu mPp f'k{k foHkkx ,oa fo'ofok|ky; ds",,,,

izkf/kdkjh }kjk Lohd`r gSA,,,,

2- ;wthlh ds fu/kkZfjr ekin.Mksa ds vuqlkj fo""k;ksa ds vYQkcsfVdy vkMZj dze
esa jkLs Vj lfefr }kjk jksLVj cuk;k x;k gS tks fo'ofok|ky; ds l{ke",,,,

iz'kklu }kjk vuqeksfnr gSA,,,,

3- mDr fu;qfDr;ksa ds fy;s fo'ofok|ky; }kjk vko';drk izfrikfnr dh xbZ gS ftlds rkjRE;
esa mYy[s kuh; gS fd ;wthlh ds funsZ'kkuqlkj fo'ofok|ky; esa lpa,,,,

kfyr ikB;dze ds fy;s ml fo""k; ds f'k{k miyC/k gkus s dh vfuok;Zrk crkbZ xbZ gS
vU;Fkk ikB~;dze lapkyu ij jksd yxkus ds funsZ'k gS ,oa bl lca a/k",,,,

esa dqylfpo } kjk ;wthlh dks ,fQMsfQV fn;k x;k gS fd fo'ofok|ky; esa 'kS{kf.kd
fu;qfDr;k;a 'kh?kz dh tk jgh gS blh izdkj ,ulhVhbZ ,oa vkjlhvkbZ us Hkh",,,,

f'k{kdkksa dh miyC/krk vfuok;Zrk dh gS ,oa uds eYw ;kadu gsrq Hkh 'kS{kf.kd
fu;qfDr;ka vko';d gS ,oa jkT; 'kklu ,oa jktHkou ls",,,,

Hkh fu;qfDr;ka djus gsrq funsZ'k izkIr gq;s FksA,,,,

dzekad,"dqylfpo }kjk izLrqr

vkifRr","fo'ofok|ky; }kjk

izLrqr vfHkys[k dh
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fd;k x;k fd p;u
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lfpoky; }kjk lapkfyr dh
xbZ tks fd LFkkiuk
foHkkx ds ek;/e ls
lapkfyr gksuk FkhA","Nku&chu lfefr ds
izfrons u esa
funs'kd LFkkiuk ds
gLrk{kj gS ftls
izekf.kr gS fd p;u
dk;Zokgh LFkkiuk
foHkkx ds ek;/e ls
lapkfyr
gqbZ gSA","Nku&chu
lfefr dk
izfrons u","lqlxa r
vfHkys[kksa
ds voyksdu
ls vkifRr
fujk/kkj ikbZ
xbZA
2-,"MkW- deys'k
cksjkuk] MkW- vta
yh lqgkus] MkW-

ubZek doj] MkW-
jkgqy fla?kbZ dk
,lksfl,V izksQslj ds
inksa ij p;u fd;k x;k gS
ijra q ;g fujra j 08
o""kZ dk lgk;d izk/;kid
ds :i esa vuqHko ugha
j[krs gS ,oa budk
vuqHko vLFkk;h
f'k{kd ds :i esa
NksVh&NksVh
vof/k;ksa dk gSA ,oa
;g vuqHko ih,p-Mh-
vokMZ gkus s ds
mijkar 08 Ok""kZ dk
gkus k pkfg;s tks fd
ugha gSA","mDr vkosndksa ds
vkons u i=ksa ,oa
NkUk&chu lfefr
ds izfrons u esa bu
vkons dksa dk
vuqHko 08 o""kZ ls
vf/kd gS tks fd
vLFkk;h lsok dh
NksVh&NksVh
lsokvksa dk gS ,oa
ih,p-Mh- vof/k
budh dqy
vuqHkoksa esa
lsÂ Â Â ?kVkus

ds ckn Hkh budk
vuqHko 08 o""kZ ls
Hkh vf/kd
gSA","1- ;wthlh
fu;e] 2-
vkons dksa
ds vkons u
i=]
3-
Nku&chu
lfefr ds
izfrons u","lqlxa r
vfHkys[kksa
ds voyksdu
ls vkifRr
fujk/kkj ikbZ
xbZA
3-,"ihvkbZ dk ewY;kadu
djus gsrq fo""k; okj
fo'ks""kK lfefr;ka xfBr
ugha dh xbZA blfy;s
p;u
ewY;kadu mfpr ugha
gSA","ihvkbZ dk
ewY;kda u
egkefge dqykf/kifr
}kjk ukfer p;u
lfefr;ksa }kjk fd;k
x;k gS tks fd
fOk""kokj fo""k;

fo'ks""kKksa ls
xfBr gSA","Pk;u
lfefr;ksa ds
izfrons u ds
lkFk layXu
p;u
lfefr;ksa ls
gLrk{kfjr
,ihvkbZ
ewY;kadu
i=dA","Lkqlaxr
vfHkys[kksa
ds voyksdu
ls vkifRr
fujk/kkj ikbZ
xbZA
4,"jKT; 'kklu ,oa jktHkou
dh in Lohd`fr miyC/k
ugha gSA","jKT; 'kklu ,oa
fo'ofokky; ds
l{ke izkf/kdkfj;ksa
} kjk fu;qfDr v/khu
leLr in Lohd`r
gSA","Lkqlaxr
Lohd`fr
vkns'k","Lkqlaxr
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ds voyksdu
ls vkifRr
fujk/kkj ikbZ

xbZA
5-,"izc/ak cksMZ dh
cSBd fn- 0108-16 ds
dk;Zo`Rr izc/ak
cksMZ ds lnL;ksa dks
iznku ugh fd;s x;s ftlls
mUgsa fVdk&fVIi.kh
djus grs q lleqfpr e;
ugh feykA","izc/ak cksMZ dh
cSBd fn- 01-08-16
ds dk;Zo`Rr izca/k
cksMZ ds lnL;ksa
ds 01-0816 dks gh
iznk; fd;s x;s
ftuddks 05 fnol dh
leqfpr
vof/k mijkra fn-
0508-16 dks
lnL;ksa us bud
dk;Zo`Rrksa dks
vuqeksfnr fd;k ftlds
gLrk{kj
dk;Zo`Rrksa ij gSA","izc/ak ckMs
Z ds
dk;Zo`Rr ds
fu.kZ; dz-
65¼17½","lqlxa r
vfHkys[kksa
ds voyksdu
ls vkifRr

fujk/kkj ikbZ
xbZA
6-,"izc/ak ckMs Z ds
dk;Zo`Rrksa esa ors
ueku vuq'kaflr ugha
fd;k x;k gSA","fu;qfDr
foKkiu@izca/k
cksMZ ds
dk;Zo`Rrksa esa
mYysf[kr gS fd
leLr izko/kku
;tw hlh ds fu/kkZfjr
ekin.M ds ikyu
fd;s tk;xsa sA","foKkiu]
izc/ak ckMs
Z ds
dk;Zo`Rr
,oa ;wthlh
ds ekin.M","lqlxa r
vfHkys[kksa
ds voyksdu
ls vkifRr
fujk/kkj ikbZ
xbZA
7-,"fo'ofokj; esa fof/k
ikB~;dze u gkus s ds
dkj.k Hkh fof/k fo""k;
esa fu;qfDr;ka dh tk
jgh gSA","Pk;u izfdz;ka 30-
0716 ds iow Z dh

gS vkSj
,y,y-,e- ikB~;dze
;tw hlh }kjk flrEcj
2016 eas can fd;k
x;k gS vr% ,fof/k
fo""k; esa
fu;qfDr;ka ugha dh
tk jgh gSA",";tw hlh dk
ekU;rk
vkns'k flrEcj
2016 ,oa p;u
izfrons uA","fo'ofol ky;
}kjk bl in
ij
fu;qfDr u
djus dk
izLrko fd;k
x;k gS vr%
vkifRr
vizklafxd
gSa
8-,"fu;qfDr;ksa dh
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izfrikfnr ugha gSa",";tw hlh] ,ulhVhbZ]
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funsZ'kkuqlkj
fu;qfDr;ksa vko';d
gS vU;Fkk
ikB~;dze lapkyu ij
jksd yxkbZ tk ldrh

gS ,oa fu;qfDr;ka
usd ewY;kadu ds
fy;s Hkh vko';d
gSA",";tw hlh
,ulhVhbZ ,
oa
vkjlhvkbZ ds
lqlxa r i= ,oa
dqylfpo
}kjk
'kS{kf.kd
LVkQ dh
miyC/krk dh
dk;Zokgh
lapkyu
lac/akh
;tw hlh dks
Hkstk
x;k
,fQMsfQVA","lqlxa r
vfHkys[kksa
ds voyksdu
ls vkifRr
fujk/kkj ikbZ
xbZA
9-,"jkT; 'kklu ,oa izca/k
cksMZ }kjk Lohd`r
inksa dk jksLVj
i`Fkd&i`Fkd gksuk
pkfg;s tcfd jksLVj esa

LofoRrh; vk/kkj ij
Lohdr in Hkh lfEefyr
gSA","fo'ofokj;esa
lohd`r leLr in gh
Lohd`r D;ksa dh
fo'ofokj; dks jkT;
'kklu ls fdlh Hkh in
grs q LFkkiuk
vuqnku izkIr ugha
gkrs k gS ,oa
;wthlh ds Hkh fu;e
gS fd leLr laoxhZ;
,oa ,d ors ueku ds
leLr inksa dks
,dtkbZ dj jksLVj
fu/kkZfjr fd;k tkos
bl laca/k esa mPp
U;k;ky;Â Â Â Â
Â Â Â Â dh
;kfpdrk esa Hkh
funsZ'k fn;k x;k gS
fd ;tw hlh ds
fu/kkZfjr fu;eksa
ds vra xZr gh
jksLVj
cuk;k tkosA",";tw hlh ds
fu;e ,oa
jksLVj ds
izfr","lqlxa r
vfHkys[kksa

ds voyksdu
ls vkifRr
fujk/kkj ikbZ
xbZA
10-,"Nku&chu lfefr ds
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lnL;ksa ds gLrk{kjksa
ds uhps muds uke
vfadr ugha gSA blfy;s
oS/krk esa langs gSA","Nku&chu lfefr ds
lnL;ksa ds uke
fo'ofokj; }kjk tkjh
lfefr xBu vkns'k
esa mYysf[kr gS
,oa mUgha lnL;ksa
ds gLrk{kj
Nku&chu lfefr ds
lnL;ksa ds gLrk{kj
Nku&chu lfefr ds
lnL;ksa ds gS
ftldks IR;kfir dj fn;k
x;k gS mYys[kuh;
gS fd fo'ofokj; ds
vf/kdkjh
deZpkjhx.k izk;%
gLrk{kj ds uhps
uke mYys[kuh;
ugha djrs tSlk fd
dqylfpoÂ Â }kjk
Hkh fd;k x;k gSA","Lfefr dk

xBu vkns'k","lqlxa r
vfHkys[kksa
ds voyksdu
ls vkifRr
fujk/kkj ikbZ
xbZA
11-,"i= vik= vkosndksa dh
lwph uksfVI cksMZ ij
iznf'kZr ugha dh xbZA","Nku&chu lfefr dk
izfrons u ik=&vik=
vkjons dksa dh
lwph uksfVI ckMs
Z ij lpLik dh xbZ
,oa fo'ofokj;dh ocs
lkbZM ij Hkh
iznf'kf'kZrdh gSA","lacfa/kr
uLrhA","lqlxa r
vfHkys[kksa
ds voyksdu
ls vkifRr
fujk/kkj ikbZ
xbZA
12-,"lk{kkRdkj cqykok i=
dqylfpo }kjk tjh ugha
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lfpoky;
}kjk dh xbZA","tkudkjh izkIr gqbZ
fd dqylfpo egksn;

ǝkjk cɥykok i= ds
izk:i ij gLrk{kj fd;s
x;s Fks ,oa funsZ'k
fn;s x;s Fks ,oa
funsZ'k fn;s x;s
Fks fd bldh
QksVkdś kih djkdj
Nkuchu lfefr ds
izfrons u vuqlkj ik=
vkons dksa ds uke
,oa irksa ds LVhdj
yxkdj LihM iksLV
ls Hkst fn;s tkos
rnkuqlkj dk;Zokgh
dh xbZA cɥykok i=
tkjh djus ds Lohd`fr
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uLrh ij
ekStwn gSA","lacfa/kr
uLrhA","Lqlxa r
vfHkys[kksa
ds voyksdu
ls vkifRr
fujk/kkj ikbZ
xbZA
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vkj{k.k ykxw ugha
fd;k x;k gSA","efgyk ,oa fodykxa
vkj{k.k ykxw djus

lac/akh izko/kku
,oa in inksa dk
fooj.k foKkiu ds
ek/;e ls fn;k x;kA","lqlxa r
foKkiuksa
dh izfr;kaA","lqlxa r
vfHkys[kksa
ds voyksdu
ls vkifRr
fujk/kkj ikbZ
xbZA
13 fnukda 27-10-16 dks mDr fooj.k mij mDr laLrqfr,,,,
tks vkifRr;ka dqylfpo vfadr gSaA fooj.k Ã...ij,,,,
us izLqr dh gS mudk 2- fu;qfDr inksa Ã...ij vfadr gSA,,,,
lkj fuEukuqlkj gS& grs q vgZrk esa vfadr gSA,,,,
1- p;u dk;Zokgh ;tw hlh }kjk 2- ;wthlh ds,,,,
dqyifr lfpoky; }kjk fu/kkZfjr fu/kkZfjr,,,,
lEiUu dh xbZA ekin.Mksa dk ikyu fu;e ,oa",,,,
2- ;wthlh }kjk fd;k x;k ,oa bXuw rFkk",,,,
fu/kkZfjr vgZrkvksa iz'kkldh;@vdknfe d vU; eqDr,,,,
dk mYys[k djrs gq, foHkkx tSls&fo| fo'ofol",,,,
ys[k fd;k gS fd fo| kFkhZ lgk;drk ,oa ky;ksa ls",,,,
VfsyQkus,,,,
kFkhZ lgk;drk ,oa {ks=h; lsok;sa]",,,,
ij izkIr,,,,
{ks=h; lsok;sa vdknfed leUo;],,,,
tkudkjh dk,,,,
vdknfed leUo;] ;kstuk ;kstuk foLrkj],,,,
fooj.kA,,,,
foLrkj] izos'k izos'k ewY;kadu,,,,

ewY;kadu vkfn ls vkfn esa bXuw ,oa" ,,,,
lacfa/kr inksa ij eqDr fo'ofokky;ksa ,,,,
foKkiu esa fu/kkZfjresa ikfyr O;oLFkk ,,,,
vgZrk dk mYys[kdks bl fo'ofokky; ,,,,
ugha fd;k gSa esa ykxw fd;k x;k ,,,,
gS ,oa 'kklu }kjk" ,,,,
Hkh bu foHkkxksa ,,,,
esa ftu f'k{kdkksa ,,,,
dks fiNys 15 o""kZ" ,,,,
ls izfrfu;qfDr ij ,,,,
fu;qDr fd;k x;k gS ,,,,
muds fo""kj; Hkh" ,,,,
dyk foKku ,oa" ,,,,
fu;qDr fd;k x;k gS ,,,,
muds fo""kj; Hkh" ,,,,
dyk foKku ,oa" ,,,,
okf.kT; ladk; ls ,,,,
lacfa/kr jgs gSÂ ,,,,
vr% fdlh Hkh fo""k;" ,,,,
ds f'k{kdk bu ,,,,
foHkkxksa dks ,,,,
lapkfy djus esa ,,,,
vgZrk j[krs gS ;gh ,,,,
izfdz;ka bXuw ,oa" ,,,,
vU; eqDr ,,,,
fo'ofokky;ksa esa ,,,,
Hkh viukbZ xbZ ,,,,
gSA ftldh tkudkjh ,,,,
ds iow Z bu ,,,,
laLFkkuksa ls izkIr ,,,,

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e-iz- 'kklu izHkkjh LFkkiuk e-iz- Hkskt eqDr fofo Hkksiky,,,,,

19. The minutes of meeting of the committee was placed before the Board of Director which is highest authority in making the appointment.,,,,,

“ However, in spite of the decision of the committee, the respondents have not issued appointment orders in favour of the petitioners. The petitioners” ,,,,

are otherwise eligible for appointment on the said posts. The committee in its report has found that before issuing the said advertisement, the roster", ,,,

has been followed and the petitioners were held to be eligible for appointment on the said posts. The API also in accordance with the rules.,,,,,

20. So far as judgment relies upon by learned counsel for the respondents that mere selection does not give an indefeasible right to be appointed is,,,,

concerned, in the said judgment the Apex Court has also held that appointment cannot be denied arbitrarily, nor can selection test be cancelled without", ,,,

giving proper justification. Â In the present case, the respondents have not given proper justification for cancellation of appointment. Â It is also to be",,,,,

noted that in the present case two returns have been filed by the respondents and no application has been filed for withdrawal of the first return. Â In,,,,

the first return, the respondents have admitted the claim of the petitioners and stated that the appointment of the petitioners were made in accordance" ,,,,

with law after following the procedure. However, second return has been filed

which is contrary to the first return and no reason has been assigned",,,,,

by the respondents why the second return has been filed. Â,,,,,

21. The Apex Court in the case of M. Pushkaran (surpa) in para-11 has held as under :,,,,

â??11. The law operating in the field in this behalf is neither in doubt nor in dispute. Only because the name of a person appears in the select list, the",,,,,

same by itself may not be a ground for offering him an appointment. A person in the select list does not have any legal right in this behalf. The,,,,,

selectees do not have any legal right of appointment subject, inter alia, to bona fide action on the part of the State. We may notice some of the",,,,,

precedents operating in the field.â??,,,,,

Thus, as per this judgment of the Apex Court, although the selectees do not have any legal right of appointment, subject, inter alia, to bona fide action",,,,,

on the part of the State.,,,,,

In the present case, as has been already stated that M.P. Bhoj Open University is an autonomous institution and the State Government has no role to",,,,,

play, therefore, the order passed by respondent No.1 thereby restraining the university from issuance of appointment orders in favour of the petitioners",,,,,

cannot be said to be bona fide.,,,,,

22. Thus, in light of the aforesaid discussions, all these above writ petitions are allowed. Â Respondents No.3 and 4 are directed to issue appointment",,,,,

orders in favour of the petitioners within 60 days from the date of receipt of certified copy of this order.,,,,,