

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 1076 of 2018

Md. Salatur Rahman, aged about 60 years, S/o (L) Md. Angoushaha, a resident of Thoubal Moijing, P.O. & P.S. Thoubal, District Thoubal, Manipur.

---Petitioner

-Versus-

1. The State of Manipur through the Commissioner/Secretary (Higher Education), Government of Manipur, Manipur Secretariat (New Block), Ground Floor, P.O. & P.S. Imphal West, Imphal West District, Manipur, Pin No. 795001.
2. The Director of University and Higher Education, Government of Manipur, Near Governor Road, P.O. & P.S. Imphal West, Imphal West District, Manipur, Pin No. 795001, Imphal, Manipur.
3. The Manipur Public Service Commission through the Secretary (MPSC) Imphal, Near North A.O.C., P.O. & P.S. Imphal, Imphal West District, Manipur, Pin No. 795001.
4. The Department of Personnel and Administrative Reforms through the Commissioner/Secretary, D.P. Manipur Secretariat (New Block), Ground

Floor, P.O. & P.S. Imphal West, Imphal West
District, Manipur, Pin No. 795001.

---- **Respondents**

BEFORE
HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the Petitioner :: Mrs. G. Pushpa, Advocate

For the Respondents :: Mr. Lenin Hijam, AG for
Respondents No. 1, 2 and 4;

Dr. R.K. Deepak, Advocate for
Respondent No. 3.

Date of Hearing and
reserving Judgment & Order :: 18.08.2022

Date of Judgment & Order :: **07.09.2022**

JUDGMENT AND ORDER
(CAV)

The writ petition has been filed to set aside the impugned advertisement dated 27.10.2018 and to direct the respondents to fill up the post of Principal of L.M.S. Law College, Imphal by following the provisions prescribed in the relevant Recruitment Rules framed for the purpose.

2. The case of the petitioner is that on 22.9.1988, he was initially appointed as Lecturer in LMS Law College against the post created vide Government Order dated 1.4.1986 for a period of 6 months or till the post is filled up on regular basis,

whichever is earlier. The petitioner's service as Lecturer in LMS Law College was regularised along with other Lecturers of the other Government Colleges on the recommendation of the Special DPC held on 12.3.1993. In the line of promotion, the status of the petitioner was upgraded from Senior Lecturer to Associate Professor and thereafter he was appointed as Principal in-charge of LMS Law College on 22.12.2012 as per the order of the Commissioner, Higher Education. Since then the petitioner has been discharging his function as Principal in-charge of the said College. While so, without taking into consideration the provisions prescribed by the Bar Council of India, the Secretary, MPSC issued the impugned advertisement on 27.10.2018 calling for applications for the post of Principal in three Colleges, including LMS Law College with eligibility conditions/qualifications which is also otherwise in violation or in total non-consideration of the Recruitment Rules set for appointment to the post of Principal of Centre for Legal Education by the Bar Council of India, depriving the fundamental rights of the petitioner for appointment as Principal. Hence, the writ petition.

3. The third respondent MPSC filed affidavit-in-opposition stating that the Bar Council of India has nothing to do in the appointment of Principal of LMS Law College, as the Bar Council of India is not the appointing authority. The role of the Bar Council of India is primarily to inspect and supervise the Colleges/Institutions imparting legal education with regard to minimum standard and infrastructural facilities. The impugned advertisement was issued in accordance with law as also in accordance with the UGC Regulations. There is no violation of the Bar Council of India Rules and the Bar Council of India has nothing more to do with the appointment of the Principal of the LMS Law College.

4. Assailing the impugned advertisement, Mrs. G. Pushpa, the learned counsel for the petitioner submitted that the petitioner entered into service in LMS Law College as Lecturer in the year 1988 and his service was regularized on 12.3.1993 and he was also accorded sanction to the placement of Selection Grade. He would submit that the petitioner along with one Gopeswar Singh were conferred the grade of Associate Professor with effect from 1.1.2006 by the order dated 25.10.2012.

5. The learned counsel further submitted that prior to the petitioner's appointment as Principal in-charge of the LMS Law College, Gopeswar Singh was functioning as Principal in-charge of the College and on attaining the age of superannuation, by the order dated 22.12.2012 the petitioner was appointed as Principal in-charge of LMS Law College.

6. The learned counsel submitted that certain Colleges such as Medical College, Law College, Hindi Teacher's Training College, D.M. College of Teacher's Education Engineering College has their own regulating body. For Colleges like Hindi Teacher's Training College, D.M. College of Teacher's Education are regulated by the NCTE, the Law College is regulated by Bar Council of India and the Medical College by Medical Council of India, now renamed as National Medical Council being a Professional College has some uniqueness and differs from the other Government Colleges. The B.Ed. Colleges offers Bachelor of Education Programme being a professional course that prepares the teachers for upper level classes and is bound by norms and standards of Bachelor's Education program under which the minimum standard of qualification for appointment to the post

of Professor/ Head/ Reader/ Associate Professor/ Lecturer/ Assistant Professor have been provided.

7. He submits that the petitioner belongs to the Law College which is a professional college and is regulated by the Bar Council of India and that Part IV of the Bar Council of India Rules deals with minimum infrastructural facilities required in the Centre of Legal Education for applying permission to run law courses with affiliation from Indian University.

8. The learned counsel urged that the petitioner has been holding the post of Principal on in-charge basis since the year 2012 and that the post of the petitioner has been re-designated as Associate Professor with the approval of the Finance Department with effect from 25.10.2012 and he is due to retire in July, 2023.

9. The learned counsel next submitted that since the MPSC or the Government of Manipur should not side line the mandatory regulations provided by the Bar Council of India for running a Centre for Legal Education and must bear in mind that the Bar Council of India has power to derecognize the Centre

for Legal Education on account of non-fulfilment and violation of the Rules, the impugned advertisement is to be set aside.

10. The learned counsel then submitted that the UGC vide its public notice dated 16.10.2018 notified minimum qualifications for appointment of Teachers and other academic staff in Universities and Colleges and other measures for maintenance of Standards in Higher Education Regulations, 2018 in the Gazette of India on 18.7.2018. The eligibility criterion as notified by the impugned advertisement is not found under the UGC guidelines, however, the same has been inserted as an eligibility condition for such appointment. Thus, the act of the respondent authorities in issuing the impugned advertisement is in violation of total non-consideration of the Recruitment Rules set for appointment to the post of Principal of Centre for Legal Education by the Bar Council of India which is the regulating body. Thus, a prayer is made to set aside the impugned advertisement

11. Dr. R.K. Deepak, the learned counsel for the respondent MPSC submitted that the Bar Council of India is primarily concerned with inspection and supervision of Colleges/Institutions imparting legal education with regard to

minimum standard and infrastructural facilities and is not concerned with the appointment of the Principal of LMS Law College, as it is not the appointing authority.

12. The learned counsel further submitted that since the educational qualification as required under the advertisement is in consonance with the UGC Regulations, 2018, there is no violation of the BCI Rules or the Regulations of the UGC and any other laws of the land. Thus, a prayer is made to dismiss the writ petition.

13. Mr. Lenin Hijam, the learned Advocate General appearing for the respondent State reiterated the submissions made by the learned counsel for the respondent MPSC. The Bar Council of India has nothing to do in the appointment of Principal of LMS Law College, as the Bar Council of India is not the appointing authority. The role of the Bar Council of India is primarily to inspect and supervise the Colleges/Institutions imparting legal education with regard to minimum standard and infrastructural facilities. The impugned advertisement was issued in accordance with law as also in accordance with the UGC Regulations. There is no violation of the Bar Council of India Rules and the Bar Council of India has nothing more to do

with the appointment of the Principal of the LMS Law College. According to the learned Advocate General, there is no arbitrariness in issuing the impugned advertisement and thus, prayed for dismissal of the writ petition.

14. This Court considered the rival submissions and also perused the materials available on record.

15. The petitioner challenged the impugned advertisement mainly on the ground that it has overlooked the minimum educational requirements as provided by the Bar Council of India Rules and also not in accordance with the University Grants Commission Guidelines/Instructions.

16. Before advertng to the merits of the matter, it is pertinent to refer the required educational qualification for being appointed as Principal, LMS Law College as per the impugned advertisement:

- (a) Master's Degree in Law;
- (b) Ph.D. Degree in concerned/ allied/ relevant discipline(s) in the institution concerned;

- (c) Professor/ Associate professor with a total service/ experience of at least 15 years of teaching/ research in Universities, Colleges and other institutions of higher education;
- (d) A minimum of 10 research publications in peer-reviewed or UGC-listed Journals;
- (e) A minimum of 110 research score a score as per Appendix-II, Table-2 of UGC Regulations 2018.

17. The UGC Regulations 2018 provides the educational qualification for being appointed a College Principal as follows:

- (i) Ph.D. Degree;
- (ii) Professor/Associate Professor with a total service/experience of at least 15 years of teaching/research in Universities, Colleges and other institutions of higher education;

- (iii) A minimum of 10 research publications in peer-reviewed or UGC listed Journals;
- (iv) A minimum of 100 research score (Appendix-II, Table-2)

18. The Bar Council of India Rules provides Rules of Legal Education in Chapter IX. Rule 53 deals with minimum qualification required for teaching assignments for (1) Assistant Professor; (2) Associate Professor; (3) Professor/Principal/Dean as under:

“(1) For Assistant Professor

(2) For an Associate Professor

Essential qualification and experience: (i) Consistently good academic record leading to Ph.D. Degree in the concerned subject/specification, (ii) a Consistently good academic record shall mean that in all public examination starting from School leaving Certificate till the Master degree in the subject with not less than 55% marks or with equivalent Grade or CGPA, in case of

Management Science 60% or its equivalent Grade; (iii) A minimum of eight years teaching and/research experience in a position of Assistant Professor or equivalent, which shall not include years of research leading to Ph.D. degree; (iv) publication of at least five papers in peer group reviewed National and International journals and publishing books as evidence of academic contribution or creativity; and (v) a minimum score as stipulated in the Academic Performance Indicator (API) based on Performance based Appraisal System (PBAS) set out in UGC Regulations, 2010 in its annexure and put here in the Annexure.

(3) For a Professor/Principal/Dean:

Essential qualification and experience: (i) same as in the case of Associate Officer; (ii) same as in the case of Associate Professor; (iii) a minimum of 15 years of experience in teaching/research/academic administration in

a University or/and in any of its affiliated College or/and Research Institute or for Ph.D. and published at least eight papers in singular or as joint authorship in peer group reviewed national or international journals; (v) same as in the case of Associate Professor.”

19. The argument of Mrs. G. Pushpa, the learned counsel for the petitioner is that LMS Law College being a professional College and unlike other Government Colleges which confer general education in the field of Arts, Science and other allied subjects, the regulating Body cannot be taken into account only to that of the University Grants Commission and that the Bar Council of India provides the rules/regulations for appointment of Principals in the Legal Education Centres and the Rules framed by the BCI is occupied the field in matters to relating Centre for Legal Education.

20. Countering the argument of the learned counsel for the petitioner, the learned counsel for the MPSC submitted that the BCI is primarily concerned with inspection and supervision of Colleges/Institutions imparting legal education with regard to minimum standard and infrastructural facilities

and it is not concerned with the appointment of the Principal of Law Colleges, including LMS Law College, as the BCI is not the appointing authority. This Court finds some force in the submission made by learned counsel for the respondent MPSC.

21. Mr. Lenin Hijam, learned Advocate General argued the case by pointing out that the advertisement was issued as per the UGC, and the petitioner was not having the qualification of Ph.D. and hence, he approached this Court and challenged the advertisement on the flimsy ground that the advertisement was made in the line of the Bar Council of India. After obtaining the interim order, the petitioner has technically prolonged his in-charge Principal post till date. He further states that the advertisement was issued as per the procedure of the UGC and the Bar Council of India has nothing to do with the appointment of the Principal of Law College. The petitioner is also not having teaching experience of 15 years as prescribed by the UGC.

22. Assuming that the Bar Council of India's role is mandatory in the appointment of the post of Principals in Law Colleges, Schedule III of the Bar Council of India Rules provides that a Principal for a constituent or affiliated Centre for Legal

Education of a University shall have minimum prescribed qualification in law as prescribed by the University Grants Commission.

23. There is no basis in the contention of the learned counsel for the petitioner that the impugned advertisement has overlooked the minimum requirements as provided by the Bar Council of India and also not in accordance with the UGC guidelines/instructions. On the other hand, having gone through the materials available on record and the relevant rules/regulations occupied the filed in matters relating to the appointment of Principals in the Law Colleges, this Court finds that the impugned advertisement was issued considering the relevant rules and guidelines, including the BCI Rules and the UGC Regulations, 2010 and the UGC Regulations, 2018 and there is no violation of the BCI Rules and the UGC Regulations and any other law in issuing the impugned advertisement as alleged by the petitioner. Resultantly, the challenge made by the petitioner has no basis and the same is liable to be dismissed.

24. As far as the holding of the post of Principal of LMS Law College is concerned, the petitioner was appointed as in-

charge Principal on 22.12.2012 and since then he is holding the in-charge post.

25. The contention of the petitioner is that the MPSC without taking into consideration of the provisions prescribed by the BCI under its Rules issued the impugned advertisement inviting applications for the post of Principal in three Colleges, including LMS Law College with eligibility conditions/qualifications in violation has been negated by this Court in the earlier paragraph by holding that there is no violation in issuing the impugned advertisement. On the other hand, the impugned advertisement legally sustainable in the eye of law.

26. It is apposite to mention that the petitioner was appointed as in-charge Principal of LMS Law College on 22.12.2012 and nearly ten years he is holding the in-charge post. When the respondent MPSC issued the impugned advertisement in the year 2018 calling for applications for filling up of three posts of Government College Principals, including LMS Law College, the petitioner has filed the writ petition. By the order dated 23.11.2018, this Court suspended the impugned advertisement in so far as it relates to recruitment of

Principal LMS Law College, Imphal and the said interim order still continuing. Thus, from the above, it is clear that by the lethargic attitude of the concerned officials of the Department for nearly six years, the petitioner was serving as in-charge Principal and from 23.11.2018 under the protection of the interim order of this Court. No initiative and/or steps have been taken by the respondent authorities to file an application to vacate the said interim order. This clearly shows the lethargic attitude of the respondent authorities.

27. That apart, nothing prevented the officials concerned in filling up the post of regular Principal after the retirement of in-charge Principal Gopeswar Singh. Why the officials of the concerned Department has not taken care in the appointment of regular Principal of LMS College, Imphal is not known and has not been properly explained by the respondent authorities. Even no sincere efforts has been taken by the officials in calling for applications for filling up of the post of regular Principal between the years 2012 and 2018. The aforesaid act of the officials concerned is required to be enquired/examined by the Chief Secretary, Government of Manipur.

28. As stated supra, no steps has also been taken by the respondents to vacate the interim order dated 23.11.2018 passed by this Court suspending the impugned advertisement in so far as it relates to the recruitment of Principal, LMS Law College, Imphal. In such scenario, this Court is of the view that there is no second thought but to hold only with the collusion of the officials of the concerned Department, the petitioner is continuing in the post of Principal in-charge for nearly ten years. The failure on the part of the Department concerned in not filling up the post of regular Principal in LMS Law College, Imphal at the relevant point of time is highly condemnable. Thus, there is total lapse on the part of the official respondents in not taking steps in filling up the post of regular Principal in LMS Law College, Imphal for the past 10 years and above.

29. At this stage, the argument of the learned counsel for the petitioner that the petitioner is due to retire in July, 2023 and therefore he shall be strictly prohibited so as not to place him under distress, cannot be countenanced for the reason that in collusion with the concerned officials, he is holding the in-charge post for nearly ten years and after calling for applications by the impugned advertisement, on flimsy grounds he is

challenging the same in order to avoid filling up of the post of regular Principal till his retirement.

30. Mere long continuance of the in-charge post could not create any equity in favour of the petitioner. Knowing very well that the in-charge post would be filled by regular appointment, to stall the recruitment process, the petitioner has filed the present petition. It is not the case of the petitioner that the respondent authorities have no right to call for applications from the eligible candidates for filling up the post of Principal, LMS Law College. The contention of the petitioner that the impugned advertisement has overlooked the minimum educational requirements as provided by the BCI Rules has been rejected by this Court in the earlier paragraph.

31. It is reiterated that the Chief Secretary, Government of Manipur should enquire and take action against the erring officials who are involved in this matter. For all the reasons stated above, this Court is of the view that there is no merit in the writ petition and the writ petition is liable to be dismissed.

32. In the result,

- (i) *The writ petition dismissed.*
- (ii) *The interim order granted by this Court dated 23.11.2018 and extended from time to time shall stands vacated.*
- (iii) *The respondent authorities are directed to proceed for appointment of regular Principal, LMS Law College, Imphal, in accordance with law and complete the proceedings within a period of three months from the date of receipt of a copy of this order.*
- (iv) *The Chief Secretary, Government of Manipur is directed to take appropriate action against the officials concerned for not taking steps to advertise the post between the years 2012 and 2018 and also in permitting the petitioner to continue as in-charge Principal, LMS Law College, Imphal for nearly ten years and submit a report to this Court*

within a period of two months from the date of receipt of a copy of this order.

(v) The Chief Secretary, Government of Manipur is also directed to take action against the erring officials in not taking steps to file an application to vacate the interim order in this case.

(vi) The Chief Secretary, Government of Manipur may also see as to whether similar situation in any other Government Colleges and if it is so found, take appropriate action in accordance with law.

(vii) No costs.

33. The Registry is directed to list this writ petition on 14.11.2022 for reporting compliance.

34. Issue copy of this order to both the parties and to the Chief Secretary, Government of Manipur.

JUDGE

FR/NFR

Sushil