

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1591 OF 2014

SIR SAYYED AHMED KHAN EDUCATIONAL SOCIAL WELFARE
SOCIETY, JALNA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Kazi S. S.
AGP for Respondents 1 and 3: Mrs. S.A. Dhumal
Advocate for Respondent No.2 : Mr. S.S. Tope
Advocate for Respondent No.4 : Mr. D.K. Rajput

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 22nd JUNE, 2015

P.C. :-

1. Mr. Kazi, the learned counsel for the petitioner submits that the proposal seeking approval to the appointment of Mohammad Mustafa Abdul Aziz forwarded by the present petitioner is rejected only on the ground that at the relevant time, as per the Government Resolution dated 2.5.2012 there was ban on fresh recruitment. Learned counsel submits that the petitioner is minority institution and embargo contained in Government Resolution dated 2.5.2012 would not apply. Learned counsel relies on the judgment of the Division Bench of this Court in writ petition No. 5633 of 2013 dated 7.10.2013.

2. Mr. Tope, learned counsel for respondent No.2 submits that

the order refusing approval has been rightly passed. The petitioner has recruited the employees on 15.12.2012 whereas the Government Resolution dated 2.5.2012 has imposed complete ban on fresh recruitment.

3. Learned counsel for respondent No.4 submits that though the order dated 27.1.2014 has been passed directing the petitioner to absorb the present respondent No.4 still the petitioner has not absorbed respondent No.4.

4. We have considered the submissions canvassed by learned counsel for respective parties. It appears that the proposal was submitted by the petitioner seeking approval to the appointment of one Mohammad Mustafa Abdul Aziz as a clerk. Respondent No.4 is also working as junior clerk. This Court in writ petition No. 5633 of 2013 vide order dated 7.10.2013 has observed that the prohibition as laid down in Government Resolution dated 2.5.2012 would not apply to the minority institution.

5. In the light of above, we pass the following order:-

O R D E R

I. The impugned order/letter dated 22.1.2013 is quashed and

set aside. The respondents shall consider the proposal submitted by the petitioner seeking approval to the appointment of one Mohammad Mustafa Abdul Aziz afresh and shall not reject it only on the ground that there was ban on fresh recruitment in view of Government Resolution dated 2.5.2012.

- II. Respondent No.2 shall pass fresh orders with regard to absorption of respondent No.4 in any other institution as may be permissible in law, expeditiously.
- III. Writ petition accordingly stands disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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