

**UNREPORTED**

**IN THE HIGH COURT OF JUDICATURE AT**

**BOMBAY**

**BENCH AT AURANGABAD.**

**WRIT PETITION NO.2876 OF 2015.**

1. Mohammadiya Education Society,  
7189, Rang Bhavan, Kopra,  
Sarjepura, Ahmednagar,  
through its Secretary,  
Shaikh Abdus Salam Abdul Aziz,  
Age 60 years, Occ.Retired,  
R/o 25, Bagroza, Delhi Gate,  
Ahmednagar.
2. Smt.Khatijatul Kubra Khalil  
Ahemad, Age 36 years, Occ.Service,  
R/o At Post Pimpalgaon Mavi,  
Tq. Nagar, Dist.Ahmednagar. ... Petitioner.

**Versus**

1. The State of Maharashtra,  
through its Secretary,  
School Education and Sports  
Department, Mantralaya,  
Mumbai-400 032.
2. The Deputy Director of  
Education, Pune Region,  
17, Dr.Babasaheb Ambedkar  
Road,Pune-01.
3. The Education Officer  
(Secondary), Zilla Parishad,  
Ahmednagar, Dist.Ahmednagar. ... Respondents.

...

**WRIT PETITION NO.3178 OF 2015**

1. Mohammadiya Education Society,  
7189, Rang Bhavan, Kopra,  
Sarjepura, Ahmednagar,  
through its Secretary,  
Shaikh Abdus Salam Abdul Aziz,  
Age 60 years, Occ.Retired,  
R/o 25, Bagroza, Delhi Gate,  
Ahmednagar.

2. Sayyed Matin Gani,  
Age 35 years, Occ.Service,  
R/o Civil HUDCO, Savedi,  
Ahmednagar, Tq and Dist.  
Ahmednagar. ... Petitioners.

Versus

1. The State of Maharashtra,  
through its Secretary,  
School Education and Sports  
Department, Mantralaya,  
Mumbai-400 032.

2. The Deputy Director of  
Education, Pune Region,  
17, Dr.Babasaheb Ambedkar  
Road,Pune-01.

3. The Education Officer  
(Secondary), Zilla Parishad,  
Ahmednagar, Dist.Ahmednagar. ... Respondents.

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Mr.A.D.Shinde, advocate for the Petitioners.  
Mrs.S.A.Dhumal, Mr.D.R.Korde, Asstt. Govt.  
Pleaders for the State.

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

**Date : 29.06.2015.**

**ORAL JUDGMENT (Per S.V.Gangapurwala, J.)**

1. Heard.

2. Rule. Rule returnable forthwith. With the consent of the parties, the petitions are taken up for final hearing.

3. Mr.Shinde, learned counsel for the petitioners submits that the proposal seeking approval to the appointment of the petitioner No.2 in both the Petitions is rejected basically on the ground that vide Government Resolution dated 2.5.2012 there was a total ban on recruitment. According to the learned counsel, the said Government Resolution does not apply to the petitioner as it is a Minority Institution. Learned counsel relies on the Judgment of the Division Bench of this Court in W.P.No.5633/2013 dated 7<sup>th</sup> October, 2013. According to the learned counsel, after giving advertisement and following selection procedure, the petitioner No.2 is selected.

4. Learned Asstt. Govt. Pleader states

that at the relevant time, there was total ban on fresh recruitment. Various deficiencies were noticed, the order is rightly passed.

5. The Government Resolution dated 2.5.2012, could not have been made the sole basis for rejecting the approval. It is nowhere on record that the petitioner institution was directed to accommodate surplus teachers. The advertisement seems to have been issued. Also the requirement of prior permission is not spelt out from any of the Rules. Considering the same, the impugned order is quashed and set aside. The Respondent Education Officer shall reconsider the proposal submitted by the petitioner No.1 seeking approval to the appointment of petitioner No.2 on its merits expeditiously, preferably within four (4) months. The same shall not be rejected on the ground of applicability of Government Resolution dated 2.5.2012 nor on the ground that prior permission was not obtained of the Education Officer or on the ground of absorption of surplus candidates.

5. The Writ Petitions stand accordingly disposed of. No costs.

**(V.K.JADHAV, J.)**

**(S.V.GANGAPURWALA, J.)**

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