

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6472 OF 2015
YOUNG BOYS EDUCATIONAL INDUSTRIAL CIRCLE THROUGH ITS PRESIDENT
HABIBURRAHEMAN ABDUL MAJID.

VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Santosh S. Jadhavar
AGP for respondents : Mr. S.G. Chincholkar.

CORAM : S.S. SHINDE & A.M. BADAR,JJ.
DATE : 6th October,2015.

PER COURT:

1] Heard learned counsel for the petitioner and learned AGP for the State. With their able assistance, perused the pleadings in the petition, annexures thereto, reply filed by the Education Officer and also other documents placed on record. The fact that the petitioner institution is a minority institution is not in dispute. The counsel for petitioner invited our attention to the provisions of Section 3(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (Hereinafter referred to as, "the MEPS Act" for sake of brevity) and submitted that it is the choice of the petitioner as to whom it should appoint as Head Master. It is further submitted that totally unsustainable grounds are assigned while refusing approval to the appointment of petitioner No.2 as Head Master of the School. It is submitted that on an earlier occasion, when petitioner No.1 applied for approval to the appointment of petitioner No.2 as Head Master, said approval was denied on the ground that no prior permission from the respondent No.2 was taken before his appointment. The petitioners were required to approach the High Court by filing a writ petition in which directions were issued to respondent No.2 to reconsider the proposal of the petitioner No.1, for approval to the appointment of petitioner No.2 as Head Master. Counsel for petitioner, therefore, submits that the petition deserves

to be allowed.

2] On the other hand, learned AGP relied upon averments made in the affidavit in reply and also reasons assigned in the impugned communication to urge that petitioner No.1 was supposed to appoint the senior-most teacher as Head Master. Apart from that, there is a dispute pending before the Assistant Charity Commissioner, Dhule regarding management of the petitioner institution and, therefore, approval has rightly been refused.

3] We have given careful consideration to the rival submissions. As stated earlier, the fact that the petitioner No.1 is a minority institution is not in dispute and, therefore, in view of Sub-Section (2) of Section 3 of the MEPS Act, 1977, it is the choice of the management managing the minority institution, as to whom the management should appoint as Head of the School. Merely because a dispute is pending before the Assistant Charity Commissioner, is no ground to withhold the approval to the appointment of petitioner No.2 as Head.

4] In that view of the matter, for the reasons aforementioned, the petition is partly allowed in terms of prayer clause (C). Subject to the outcome of the dispute pending before the Assistant Charity Commissioner, Dhule, respondent No.2 is directed to grant approval to the appointment of petitioner No.2, within 3 weeks from today. Petition stands disposed of. So far as other reliefs claimed in the petition are concerned, in case in future occasion arises, it will be open for the petitioners to seek the said reliefs.

[A.M. BADAR, J]

[S.S. SHINDE, J]

grt/-