

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 30 OF 2015

YOUNG BOYS EDUCATIONAL @ INDUSTRIAL CIRCLE,
DHULE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. Jadhavar Santosh S.
AGP for Respondents: Mr.G.K.Thigale.
...

CORAM : **S. V. GANGAPURWALA and**
V. L. ACHLIYA, JJ.
DATE : 04th February, 2015.

P.C.:

. The proposal seeking approval to the appointment of Petitioner No.2 as Headmaster is rejected vide the impugned order.

2 Mr.Jadhavar, learned counsel submits that the Petitioner is a minority institution and the reason for which the proposal has been rejected would not apply to the minority institution.

3 Mr.Thigale, learned AGP submits that in the affidavit in reply, detailed reasons are given. The same would show that Petitioner No.2 is not entitled to get his appointed approved.

4 It appears that the Petitioner is a minority institution. In view of Section 3(2) of the MEPS Act, the minority institution is entitled to appoint the head and three teachers. Section 3(2) of the said Act reads as under:

“3.

(2) Notwithstanding anything contained in sub-section (1), the provisions of this Act shall not apply to the recruitment of the Head of a minority school and any other persons (not exceeding three) who are employed in such school and whose names are notified by the Management to the Director or as the case may be, the Deputy Director for this purpose.”

5 No doubt, the person appointed as head has to possess necessary qualification. The Education Officer can go through the said aspect. However, the reason given for rejection of approval that the permission is not taken of the Education Department before issuing advertisement cannot be sustained.

6 In light of the above, we pass the following order:

- I. The impugned order is quashed and set aside.
- II. The Education Officer shall consider the proposal submitted to it seeking approval to the appointment of Petition No.2 as headmaster, on its own merits in accordance with law and shall not reject it on the ground on which it was rejected vide the order impugned (Exhibit – 'L').
- III. The said proposal be considered, expeditiously, preferably within three months.
- IV. In the meantime, the Education Officer shall not withhold the salaries of the members of the staff of

Petitioner No.1 – Institution.

V. Accordingly, the writ petition is disposed of. No costs.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

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