

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

**WRIT PETITION NO.6101 OF 2015**

**Sham's Education Society and others. Vs. The State of  
Maharashtra and others**

**WITH**

**C.A.NO.12647 OF 2015.**

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|------------------------------------------------------------------------------------------------------------|---------------------------|
| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's orders |
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Mr.S.S.Jadhavar, advocate for the Petitioner.  
Mr.S.Y.Mahajan, A.G.P. for the State.

**CORAM : S.V.GANGAPURWALA AND  
K.L.WADANE, JJ.**

**Date : 31.08.2016.**

**PER COURT :**

1. Heard.

2. We are considering the petition only on behalf of the petitioner Nos.3 and 4. The petitioners Nos.1 and 2 are not necessary parties to the present petition, as such they stand deleted.

3. The proposal seeking approval to the appointment of the petitioners has been rejected on the following grounds :

a) Prior permission of the Education Department is not obtained for filling in posts;

b) The teacher who was directed to be absorbed with the School is not absorbed;

c) The Minority institution certificate is not filed by the Management.

4. It is submitted by Mr.Jadhavar, learned counsel for petitioner Nos.3 and 4 that the Minority status certificate has been issued on 30.5.2016.

5. If the institution is a Minority institution, the rigours of the ban on employment would not apply. Learned A.G.P. relies on Government Resolution dated 13.7.2015 to state that the surplus candidates of one Minority institution are required to be absorbed in another Minority institution. In the present case the appointments of petitioner Nos.3 and 4 are of the years January-February 2015 i.e. prior to the issuance of said Government Resolution. Even otherwise, the said Government Resolution would not apply to the appointments of petitioner Nos.3 and 4.

6. Considering that the Minority status certificate is produced on record, we quash and set aside the impugned order rejecting the proposal seeking approval to the appointment of petitioner Nos.3 and 4. The Education Officer shall re-consider the said proposal and shall not reject it only on the ground that prior permission of the Education Department was not obtained for their appointments. Interested parties may present themselves before the Education Officer if they so wish to. The said proposal be decided expeditiously, preferably within four (4) months.

7. The Writ Petition is disposed of. No costs.
8. In view of disposal of Writ Petition, the Civil Application also stands disposed of.

**( K . L . WADANE , J . )**

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

Dt.31.08.2016.  
asp/office/wp6101.15

