

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

917 WRIT PETITION NO.9452 OF 2015
WITH CA/1702/2016

BHADGAON TALUKA URDU EDUCATION SOCIETY THROUGH ITS
SECRETARY AMANULLAH KHAN AHEMA

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHERS

...

Advocate for Petitioner : Mr. Kazi S.S.

Mr. UH Bhogale, AGP for Respondents:

Mr. Girish V.Wani, Adv. For Intervenor/applicant.

**CORAM : S.S.SHINDE &
P.R.BORA,JJ.**

DATE : 12th February, 2016.

PER COURT :

1) Heard the learned counsel for respective parties.

2) The learned Counsel appearing for the petitioner/institution submits that, the proposals for grant of approval to the appointments of six teachers, appointed by the petitioner/institution, are not yet decided by Respondent No.2. It is submitted that Respondent No.2 has taken a stand in the affidavit in reply filed before this Court that, unless the surplus teachers are absorbed, no approval can be granted to the services/appointments of those

six teachers. The learned counsel for petitioner placed reliance in the case of Anjuman Ishaat-E-Taleem Trust Vs. The State of Maharashtra (Writ Petition No.5633/2013 decided on 7th October, 2013; and in the case of Sir Sayyed Ahmed Khan Educational Social Welfare Society Jalna Vs. the State of Maharashtra – Writ Petition No.1591/2014 decided on 22nd June, 2015, and submits that, the issue raised in this petition is no longer *res integra* and the said issue is covered by the judgments in the afore mentioned cases.

3) On the other hand, learned AGP appearing for the State submits that, even the teachers, who were declared surplus, are from minority institution and, therefore, the Education Officer has rightly stated in the affidavit in reply that, unless the surplus teachers are absorbed by the petitioner/institution, no approval to the appointments of those six teachers, whose proposal are forwarded by the petitioner, can be granted.

4) Civil Application No.1702/2016 is moved for intervention in the writ petition. Learned counsel

appearing for the applicant/intervenor submits that, the appointments of those six teachers by the petitioner/institution were not in accordance with the procedure established. There are some criminal cases pending against some of the teachers, who were appointed by the petitioner/institution.

5) We make it clear that in case the applicant/intervenor has any grievance, he can raise it before appropriate forum. However, in the present case, we are only concerned with the issue as to whether the Education officer can refuse approval to the appointments of those six teachers made by the petitioner/institution on the ground of refusal to absorb the surplus teachers by the petitioner/institution.

6) It is informed across the Bar that the Education officer has not yet taken a final decision on the proposal submitted by the petitioner for grant of approval to the appointments of those six teachers. In that view of the matter, we direct Respondent No.2 – The Education Officer (Secondary) Zilla Parishad, Jalgaon to take appropriate decision

on the said proposal in accordance with law, however, shall not reject the same on the ground that the petitioner, which is a minority institution, has refused to absorb the surplus teachers. We make it clear that we have not expressed our opinion on merits of the proposal, which is submitted to the Respondent no.2. Respondent No.2 will be free to take appropriate decision in accordance with law and shall not refuse the approval on the ground that the petitioner/institution has refused to absorb the surplus teachers.

6) The writ petition is allowed in above terms.
CA for intervention is also disposed of.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

bdv/