

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10839 OF 2014

1. Mahatma Gandhi Education Society,
Mudkhed, Through its Secretary,
Narayan s/o Eknathrao Kottawar,
Age-68 years, Occu-Agriculturist,
R/o Choudhari Galli, Mudkhed,
Tq.Mudkhed, Dist.Nanded,
2. Puja d/o Govindrao Choudhari,
Age-25 years, Occu-Service,
R/o Choudhari Galli, Mudkhed,
Tq.Mudkhed, Dist.Nanded

PETITIONERS

VERSUS

1. The State of Maharashtra,
(Through its Secretary
Education Department,
Mantralaya, Mumbai)
2. The Deputy Director of
Education, Office of Deputy Director of
Education, Latur, Division Latur,
3. Education Officer (Secondary),
Zilla Parishad, Nanded,
4. Head Master,
Mahatma Gandhi Vidyalaya,
Mudkhed, Tq.Mudkhed,
Dist.Nanded

RESPONDENTS

Mr.P.V.Mandlik, Sr.Counsel i/b Mr.V.D.Patnoorkar, Advocate for the
petitioners.

Mr.A.G.Magre, AGP for respondent Nos. 1 to 3.

Mr.V.C.Patil Ashtekar, Advocate for respondent No.4 (Absent).

(CORAM : S.S. SHINDE AND
RAVINDRA V. GHUGE, JJ.)

DATE : 20/01/2016

ORAL JUDGMENT : (Per S.S.Shinde, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioners in this petition take exception to the order passed by the Education Officer, Zilla Parishad (Secondary) Nanded and the petitioners further seek directions to respondent Nos. 2 and 3 to allow petitioner No.2, to work as a “Shikshan Sevak” as per approval granted dated 28/08/2012.

3. The learned Senior Counsel appearing for the petitioner invited our attention to the impugned order passed by the Education Officer and submits that the Education Officer (Secondary), Zillha Parishad, Nanded had no jurisdiction to cancel the appointment of the petitioner, He further submits that the impugned order suffers from non assigning of reasons in support of the conclusions reached by the said Authority. He further submits that the ground assigned in the impugned order that backlog of 2 posts of ST and SBC category existing with the petitioner / Education Society is contrary to the

record in as much as the Education Officer himself has verified the record and endorsed that there is no backlog in the petitioner No.1 / Education Society. He, therefore, submits that petition deserves to be allowed.

4. On the other hand, learned AGP appearing for the State, relying upon the averments in the affidavit in reply, submits that after proper enquiry, it was found that petitioner No.1 has not made an appointment on 2 posts of “Shikshan Sevak” reserved for the ST and SBC category and therefore there is a backlog of 2 posts, In spite of the said position, petitioner No.1 proceeded to appoint petitioner No.2 and therefore the impugned order is rightly passed by the Education Officer and therefore this Court may not entertain this petition.

5. We have heard the learned Senior counsel appearing for the petitioner and learned AGP appearing for the respondent/State. Upon careful perusal of the impugned order, we find that the Education Officer (Secondary) Zilla Parishad, Nanded has cancelled the appointment of petitioner No.2. In the operative part of the order, it is observed thus :-

“नेमणुक आरक्षणाचे ऐवजी असल्यामुळे रद्द करण्यांत येते.”

6. In that view of the matter, there is no slightest doubt that the Education Officer has cancelled the appointment of petitioner No.2. Learned Senior Counsel appearing for the petitioner is right in contending that the Education Officer could not have cancelled the appointment of petitioner No.2. At the most, if not convinced, he could have refused the approval and therefore the order passed by the said Authority is without jurisdiction.

7. Upon careful perusal of the impugned order, it appears that the Education Officer has not assigned detailed reasons after verifying the roster and also after adverting to the documents submitted by the parties. In that view of the matter, ends of justice would be met in case the impugned order is set aside and parties are relegated back before the Education Officer (Secondary), Zilla Parishad, Nanded.

8. In the result, following is the order :-

- [a] The impugned order dated 15/11/2014 passed by the Education Officer (Secondary), Zilla Parishad, Nanded is quashed and set aside.
- [b] Respondent No.3 is directed to hear the petitioners and also respondent No.4 and then after adverting to the relevant documents, after duly verifying the roster, pass the reasoned

order.

- [c] However, we make it clear that the said Authority can restrict its findings only to the point of approval.
- [d] The said Authority to take the decision afresh, as expeditiously as possible, however, within 8 (eight) weeks from today.
- [e] The petition is partly allowed.

9. Rule made partly absolute on above terms. Parties to act upon authenticated copy of this order.

(RAVINDRA V. GHUGE, J.)

(S.S. SHINDE, J.)