

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Writ Petition No. 2676 of 2015

Sant Chkhamela Samaj Mulinchi Shikshan Sansha, Nagpur, Through its President.

Vs.

Deputy Director of Education, Nagpur and 3 others.

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders or directions
 and Registrar's Orders.

Court's or Judge's orders.

Mr. A.Z. Jibhkate, counsel for petitioner.
 Mrs. Hiwase, AGP for respondent nos. 1 2 & 4.
 Mr. A. Shelat, counsel for respondent no.3.
 Mr. G.G. Gurve, counsel for Intervenor.

**CORAM : B.P. DHARMADHIKARI &
 P.N. DESHMUKH, JJ.**

DATE : 4th MAY, 2016.

Heard for some time.

Petitioner management has come to this Court with a grievance that appointment of respondent no.3 is illegal. The reason put forth is that advertisement dated 9.8.2014 is not issued by management. Advertisement invited candidates for interview on 11.8.2014 when the direction issued by respondent nos. 1 & 2 mandates minimum gap of two weeks between the date of advertisement and the date of interview. Third reason is roster was to be verified and due to communication dated 30.5.2014 advertisement could not have been issued before that roster has been verified on 15.11.2014 i.e. after advertisement. It is thus pointed out that as per verified roster, vacancy is not reserved for

Scheduled Caste category candidate and there is, therefore, excess recruitment in said category. Lastly it is contended that after conduct of interview on 11.8.2014, on very same day appointment order has been issued by the then Secretary Shri Pawan Kashinath Gajbhiye and respondent no. 3 has joined on 13.8.2014. It is also submitted that on that date she was working as a music teacher and hence she could not have joined on very same day.

Intervenor before this court is the then Secretary Pawan Kashinath Gajbhiye. Advocate Gurve appearing for him denied all these allegations. He submits that everything has been done in accordance with law and management had published the advertisement. He states that petitioner has no *locus standi* to challenge the recruitment.

Advocate Shelat appearing for respondent no. 3 points out that a competent authority/Deputy Director of Education has applied his mind and thereafter granted approval to appointment of respondent no.3. He argued that petitioner no. 1 management and petitioner no. 2 Principal cannot take advantage of their own wrongs.

Learned AGP points out that respondent no. 4 Director of Education has given approval to the recruitment made.

Basic contention of petitioner is, they have not published the advertisement. No material is produced before this Court to show that advertisement is not published by them but it is published by somebody else. The learned counsel argued that negative burden cannot be cast upon petitioners. As the petitioner no. 1 is a public trust, it has got ample positive material to show that it has not published advertisement. It has not been produced.

The recruitment has been made on 11.8.2014. Petition has been filed thereafter on 27.3.2015. It is no doubt true that some representations were made in that regard by petitioner management to the office of Deputy Director of Education, in the meanwhile.

Difference of opinion between managing committee of petitioner no. 1 or then role played by Secretary cannot be a ground for approaching this court. Infighting amongst two groups also cannot be a reason for challenging the recruitment.

At this juncture, advocate Jibhkate invites attention of the Court to some documents and according to him Intervenor Pawan Kashinath Gajbhiye has signed those documents thereby accepting that advertisement was not published by management and appointment is also not made by

management.

Shri Gurve on behalf of respondent no.3 disputes those documents. The respondent no.3 is working in school as an Assistant Teacher is not in dispute.

In this situation, we are not inclined to entertain the grievance in writ jurisdiction.

Petition is dismissed. No costs.

JUDGE

JUDGE

Hirekhan