

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3621 OF 2015

(Gyanrao Namdevrao Shirsat vs. Education Officer (Secondary))

Office Notes, Office Memoranda of

Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri A.S. Kilor, Advocate for petitioner.

Shri N.S. Rao, Assistant Government Pleader for
respondent.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : MARCH 22, 2016

Heard Adv. Kilor for petitioner no.1
Assistant Teacher and petitioner nos.2 and 3, i.e. Society
and its School. Shri Rao, learned Assistant Government
Pleader for respondent Education Officer is seeking time.

Adv. Kilor points out that this Court has
issued notice in the matter on 30/6/2015.

In this situation, we have considered the
controversy on merits.

Perusal of the impugned order dated
25/2/2015 shows refusal on the part of respondent to
consider the proposal for grant of approval forwarded by
petitioner nos.2 and 3 to him on the ground that in Writ
Petition No. 1193/2007 when compromise was reached
on 21/7/2014, it was without consent of Education
Officer.

It is apparent that consent by Education Officer is not necessary for entering into any compromise. The Education Officer has to find out whether petitioner no.1 was recruited properly in accordance with provisions of Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and if he finds nothing wrong with the recruitment, then only because the matter is compromised before this Court, he cannot refuse approval.

As such, we find that the impugned communication dated 25/2/2015 is suffering from non-application of mind. It is accordingly quashed and set aside.

The respondent Education Officer to apply his mind afresh to the proposal submitted by petitioner nos.2 and 3 within further period of four weeks from today.

Accordingly, writ petition is partly allowed and disposed of. Needless to mention that other contentions and defences available to the parties in the matter are kept open and can be looked into at appropriate time, if occasion therefor arises. No costs.

JUDGE

JUDGE