

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

WRIT PETITION NO.7202/2014
WITH
WRIT PETITION NO.6799/2014

WRIT PETITION NO.7202/2014

The Fransalian Education Society, Nagpur through its Secretary and another
...Versus...
The State of Maharashtra, through the Secretary, Department of Education,
Mantralaya, Bombay – 32 and others

WITH

WRIT PETITION NO.6799/2014

Friends Welfare Society, Amravati through its Secretary and another
...Versus...
The State of Maharashtra, through its Secretary, Department of School
Education, Mantralaya, Bombay – 32 and others

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

Court's or Judge's orders

Shri B. John, Advocate for petitioners in W.P. No.7202/14
Shri S.Z. Quazi, Advocate for petitioners in W.P.No.6799/14
Mrs. B.H. Dangre, GP with Shri P.S. Tembhare, AGP for respondents – State
Shri J.B. Kasat, Advocate for respondent no.2 in W.P. No.6799/14

CORAM : SMT. VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.

DATE : 17.03.2016

Heard.

Since the issue involved in these writ petitions is identical, they are heard together and are decided by this common order.

By these petitions, the petitioners have challenged the provisions of Sub Section (2) of Section 3 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and have also challenged the orders passed by the respondent no.3 – Education Officer (Secondary), directing the petitioners – Institutions to absorb the surplus teachers in the Schools run by them.

The learned Counsel for the petitioners state that the petitioners give up their challenge to the validity of the provisions of Section 3 (2) of the MEPS Act being academic and would restrict the petition only in respect of the prayers challenging the impugned orders by which the petitioners are directed to absorb the surplus teachers in their Minority Schools. It is stated that in view of the judgment of the Hon'ble Supreme Court, reported in **2014 (4) ABR 521**, a minority institution cannot be forced to absorb the surplus employees from the other schools in the minority institutions. It is stated that the issue involved in these cases stands answered in favour of the petitioners, in view of the aforesaid judgment and the order dated 15.7.2015 in Writ Petition No.5766/2014.

Mrs. Dangre, the learned Government Pleader and Shri Tembhare, the learned Assistant Government Pleader appearing on behalf of the education authorities do not dispute that the issue involved in these cases stands answered in favour

of the petitioners by the order, dated 15.7.2015 in Writ Petition No.5766/2014 that is based on the judgment of the Hon'ble Supreme Court, reported in **2014 (4) ABR 521**.

Hence, for the reasons recorded in the order, dated 15.7.2015 in Writ Petition No.5766/2014, we quash and set aside the impugned orders.

Order accordingly. No costs.

JUDGE

JUDGE

Wadkar