

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4882 of 2016

- 1 Shabeena Bano Akhtar Hussain
Age: 35 years, Occu: Service,
R/o Chand Tara Chowk, Dhule
Taluka and District Dhule
 - 2 Amera Bano Mohammad Sidique,
Age: 28 years, Occu. Service,
R/o Aksanagar, Vadjai Road,
Dhule, Taluka & District Dhule
- Petitioners

Versus

- 1 The State of Maharashtra,
Through the Secretary for
Education & Sports Department,
Mantralaya, Mumbai
 - 2 The Director of Education (Primary)
Central Building, Pune
 - 3 The Education Officer (Primary),
Zilla Parishad, Dhule
 - 4 The Young Boys Education &
Industrial Circle, Aksanagar,
Vadjai Road, Dhule
Through its President / Secretary
 - 5 Jakariya Aghadi Urdu Primary School,
Aksanagar, Vadjai Road,
Dhule, through Its Head Master
- Respondents

Mr.P.V. Barde advocate for the petitioners

Mr.A.R. Kale, AGP for Respondent No.1 to 3

Mr. A.N. Sabnis h/f Mr. D.R. Jethliya advocate for respondent Nos.4 & 5

CORAM : R.M. BORDE &

P.R. BORA, JJ

(Date : 15TH March, 2017.)

ORAL JUDGMENT

(Per: R.M. BORDE, J)

1 Heard.

2 Rule. With the consent of the parties, petition is taken up for final decision at admission stage.

3 Proposal forwarded by respondent No.5 school to respondent No.3, seeking approval of the appointment of the petitioners has been turned down on the ground of failure of the management and the school to accommodate surplus teachers. It is recorded in the communication dated 28.12.2015 issued by the Education Officer, Zilha Parishad, Dhule that, unless the surplus teachers in Dhule district are accommodated, approval cannot be accorded to the appointment of the petitioners.

4 The petitioners place reliance on the Judgment dated 7.1.2016 delivered by the division Bench of this Court in Writ Petition(No.7806/15) presented by respondent No.4 institution objecting to the condition in respect of accommodation of surplus

teachers insisted upon by the Education Officer. While disposing of the petition presented by respondent No.4 institution, it has been held by the Division Bench that, the condition warranting the minority institution to accommodate surplus teachers cannot be insisted upon, since such an insistence affects the freedom available to the minority institution in view of Article 30(1) of the Constitution of India.

5 In view of the decision rendered by the Division Bench of this Court in a petition presented by respondent No.4, the order impugned in the instant petition issued by the Education Officer dated 28.12.2015 does not sustain and deserves to be quashed and set aside and same is accordingly quashed and set aside. The Education Officer is directed to consider the proposal for according approval to the appointment of the petitioners, in accordance with provisions of law, as expeditiously as possible and preferably within a period of three months from today.

6 Rule is accordingly made absolute.

7 There shall be no order as to costs.

(P.R. BORA, J)

(R.M. BORDE, J)