

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

23 WRIT PETITION NO. 9899 OF 2016
WITH WP/10181/2016 WITH WP/10199/2016

SHAIKH SHAUKAT NABI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Manoj Patil h/f. Shinde Chandrakant K.
AGP for Respondents/State : Mrs. R.P. Gour

...

**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.
DATE : 20.09.2017**

P.C. :-

. The learned counsel for the petitioners submit that in all these petitions, petitioners are appointed on the Non-Teaching staff of respondent no.3. The respondent no.3 is a minority institution. The proposal seeking approval to the appointment of the petitioners' is rejected by the Education Officer only on the ground that the appointment is after 02.05.2012 and, as such, no such appointment could have been made. The learned counsel submits that all these petitioners are appointed prior to Government resolution dated 12.02.2015. The learned counsel submits that the minority institution cannot be compelled to absorb surplus candidates.

2. The learned A.G.P. submits that the petitioners' were appointed after 02.05.2012, there are large number of surplus candidates they are to be absorbed first, so also there is a stay to appointment of 'Lab Assistant' as per the Government resolution dated

12.02.2015.

3. As per the Government resolution dated 13.07.2016, the surplus candidates cannot be directed to be absorbed in a minority institution against the wish of the institution. As such, the ban on recruitment as per the Government resolution dated 02.05.2012 would not apply.

4. The petitioners' claim to have been appointed prior to the Government resolution dated 12.02.2015.

5. Considering the above, we pass the following order:

ORDER

- i) The impugned order is quashed and set aside.
- ii) The Respondent-Education Officer shall decide the proposal seeking approval to the appointment of the petitioners' afresh and shall consider the staffing pattern and the roster and thereafter decide the said proposals on its own merits, expeditiously and preferably within six months.
- iii) Writ petition accordingly disposed of. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]