

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

902 WRIT PETITION NO. 11523 OF 2014
WITH CA/2720/2015 IN WP/11523/2014

SACRED HEART SOCIETY, AHMEDNAGAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Shri. Santosh S. Jadhavar, Advocate, for
petitioners.

Shri. A.R. Borulkar, Assistant Government
Pleader, for respondent No.1.

Shri. Shivaji T. Shelke, Advocate, for respondent
No.2.

**Coram: T.V. NALAWADE &
SANGITRAO S. PATIL, JJ.**

Date: 21 February 2017

ORDER:

1) The petition is filed to challenge the order issued by the Education Officer (Primary), Zilla Parishad, Ahmednagar dated 26-11-2014 to the petitioner which is a minority institution. A direction is given to the petitioner to absorb surplus staff who was working in Churches of Christ Primary School Shrigonda which is again a minority institution. The petitioner, minority institution, is also of the same community.

2) The learned counsel for the petitioners placed reliance on some observations made by the Division Bench of this Court in **Writ Petition No.5633/2013 (Anjuman Ishaat-E-Taleem Trust, Aurangabad vs. The State of Maharashtra & Another)**. The facts of this case were totally different. The proposal given by the minority institution for approval to the appointment made of the staff was rejected by giving the reason that unless surplus staff which was available with the respondent-authority was absorbed, it was not open to the institution to make new recruitment. Facts of this case are altogether different.

3) In the present case a direction is given to absorb the surplus staff with similar minority institution. On this point, learned counsel for the respondents relied on the observations made by this Court in **Writ Petition No.9026/2014** decided with other matters **(Sindhudurg Zilla Shikshan Sanstha, Pandur vs.**

The Union of India and Others). In this case the applicability of the scheme of the Government of absorption of surplus staff in the institutions including minority institutions was under consideration. Relevant observations are at paragraph 43 and they are with regard to the minority institutions. It is made clear that when there is a direction to the minority institution to absorb surplus staff which is given from other minority institution, such staff needs to be absorbed.

4) In view of this position of law this Court holds that it is not possible to interfere in the order made by the Education Officer which is under challenge. In the result, the petition stands dismissed. Civil Application is disposed of. Interim relief, if any granted, is vacated.

Sd/-
(SANGITRAO S. PATIL, J.)

Sd/-
(T.V. NALAWADE, J.)

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