

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5887 OF 2016**

Sayeeda Begum Daud Saheb and
Another

.... Petitioners.

V/s

The State of Maharashtra and Others

..... Respondents.

Mr. S.G. Kudle, Advocate for the Petitioners.

Ms. Kavita Solunke, AGP for Respondent Nos. 1 and 2.

Mr. Anand S. Kulkarni, Advocate for Respondent No.3.

CORAM: B. R. GAVAI &

SANDEEP K. SHINDE, JJ.

DATE : 11th October, 2017

P. C.

1] Rule. Rule is made returnable forthwith. Respondents waive service. Heard, by consent of parties.

2] Petitioners have approached this Court, challenging the order dated 02/04/2013 vide which representation made by the Petitioners for their absorption is rejected.

3] Petitioners, alongwith other teaching and non-teaching staff, were working in one Jamiyatul Kuresh (Khatik Samaj) Urdu Primary School, Solapur. It appears that, on account of mismanagement of the said School, the recognition granted to the said School was withdrawn. As a consequence thereof, Petitioners and the other teaching as well as non-teaching staff were discontinued.

Petitioners, therefore, made a representation for their absorption. The same is rejected on the ground that it is the teachers who were responsible for mismanagement of the School and therefore they are not entitled for absorption.

4] We find that the stand taken by the State Government is not correct. The learned Counsel for the Petitioners has placed on record communication addressed by Respondent No.2 to Respondent No.1. The same is taken on record and marked "X" for the purpose of identification. Perusal of the said communication would reveal that after withdrawal of recognition of the said School, three Assistant Teachers, one Clerk and one Peon have already been absorbed in some other School.

5] When five members of the staff of the School of which recognition is withdrawn, have already been absorbed, we find no justification in the stand of the State Government in denying the same relief to the Petitioners who are similarly situated. It is not the case of Respondents that it is only these two Petitioners who were responsible for mismanagement of the School and not five other members of the teaching as well as non-teaching staff.

6] In that view of the matter, the impugned order is not sustainable in law. The order dated 02/04/2013 is quashed and set aside. Petitioners are directed to be absorbed in other aided Urdu Schools, as expeditiously as possible and, in any case, within a

period of three months from today.

7] Though, we are not inclined to grant back-wages to the Petitioners, Petitioners would be entitled for continuity of service with all benefits including the pensionary benefits from the date on which their services stood terminated and from the date on which they will be actually absorbed.

8] Rule is made absolute accordingly. Petition is disposed of.

(SANDEEP K. SHINDE, J.)

(B.R. GAVAI, J.)