

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

WRIT PETITION NO. 3673 OF 2017

Shri. Shanti Vidya Mandir Digambar
Jain Shaikshan Sanstha, Shiradshahapur,
Tq. Aundha (Nagnath) & Ors. ... Petitioner

VERSUS

The State of Maharashtra & Ors. ... Respondents

.....
Shri. C. K. Shinde, Advocate for the petitioner
Shri. A. S. Shinde, AGP for respondent/State
.....

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 15TH JANUARY, 2018.

ORDER:

. Shri. Shinde, learned counsel for the petitioner submits that, petitioner no. 3 was appointed as Shikshan Sevak in petitioner No. 1-minority institution. Petitioner No. 1-Institution is recognized as a Minority Institution. The reason for rejection of the proposal seeking approval to the appointment of the petitioner that one surplus teacher is available in the district. The ld. Counsel submits that, a minority Institution cannot be asked to absorb the surplus

candidate against the wish of the Minority Institution. The procedure was followed, the proposal could not have been rejected.

2. Mr. V. S. Panpatte, learned counsel for respondent No. 3 submits that, at the relevant time there was one surplus candidate available. The Education Officer has considered the relevant aspects while passing the order.

3. It appears that the Institution had given application on 10.02.2015 seeking permission to advertise the post. After having not received any response, the advertisement was issued for filling in the posts on 24.09.2015 and after following selection process the petitioner was appointed.

4. The Government has issued Resolution dt. 20.06.2014 stating that the minority institution cannot be compelled to absorb the surplus candidate.

5. Considering the fact that the procedure for appointment of Shikshan Sevak as required u/s 5 was followed and that the petitioner no.1 is a minority institution, the impugned is quashed and set aside.

6. The Education Officer shall reconsider the proposal seeking approval to the appointment of the petitioner afresh on its own merits and shall not reject it on the ground on which the impugned order is passed. The same shall be decided expeditiously, preferably within four months from today.

7. The petition is accordingly allowed. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde