

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

WRIT PETITION NO.8440 OF 2017

Maharashtra Ratri Pathshala
Shiksha Samiti through its
Secretary and ors.

..Petitioners

Versus

The State of Maharashtra and ors.

.. Respondents

Mr V.S. Panpatte, Advocate for petitioners
Mr A.S. Shinde, A.G.P. for respondents no.1 and 2

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

DATE : 23rd February 2018

PER COURT

1. The Counsel for petitioners submits that the petitioner-institution is a minority institution, has been recognised as such by the Deputy Director of Education, Aurangabad under order dated 10th October 1990.

2. The learned Counsel for the petitioners submits that the procedure for appointment was followed. According to learned Counsel, the institution gave an application on 21st July 2016 to the Education Officer, seeking permission to fill in the posts. No response was received from the Education Officer. The advertisement was issued on 13th August 2016 and after following selection process, appointment order was issued to the petitioners no.3 and 4 on 30th August 2016. Even the surplus candidates were not forwarded, nor the respondents insisted upon absorption of surplus candidates to the minority institution.

3. Learned A.G.P. submits that the Education Officer has not granted permission to the petitioner-institution to fill in the posts. There are large number of surplus candidates. The Education Officer has rightly passed the order.

4. The order dated 10th October 1990 recognised the petitioner as a minority institution.

5. Be that as it may. Application was filed by the petitioner-institution seeking permission to fill in the post. The Education Officer sat over the application, did not respond. Thereafter, advertisement was issued inviting applications. The petitioners no.3 and 4 were selected. It does not appear that even surplus candidates were referred to the institution for absorption.

6. Considering the above, the impugned order dated 30th March 2017 issued by respondent no.2 Education Officer is quashed and set aside. The Education Officer shall decide the proposal seeking approval to the appointment of petitioners no.3 and 4 and shall not reject on the ground that the provisions of Section 5 of Maharashtra Employees of Private Schools (Condition of Services) Regulation Act were not adhered to or surplus candidates were not absorbed. The proposal shall be decided expeditiously, preferably within four weeks.

7. Writ Petition disposed of. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)