

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

**REVIEW APPLICATION NO. 230 OF 2017
IN
WRIT PETITION NO.11523 OF 2014**

Sacred Heart Society
and another

... Review Applicants.
(Orig. Petitioners)

Versus

The State of Maharashtra
and others

... Respondents.

....

Mr. Abasaheb D. Shinde, Advocate for the Review Petitioners.

Mr. Y.G. Gujrati, A.G.P. for State.

Mr. S.T. Shelke, Advocate for Respondent No.2.

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

DATED : 16th FEBRUARY, 2018

PER COURT:-

1. The proceeding is filed for review of the decision given by this Court in Writ Petition No.11523/2014. Heard both sides.
2. The petitioner had challenged the communication made by the Education Officer (Primary), Zilla Parishad, Ahmednagar on 26.11.2014, by which the direction was given to the applicant to absorb the surplus teacher of Minority Institution which is similar to the institution of the present applicants. Petitioner-Institution receives grant in aid from Government.

3. This Court referred the judgment of the Bombay High Court in *Writ Petition No.9026/2014 (Sindhudurg Zilla Shikshan Sanstha, Pandur Vs. The Union of India)* in which the policy of the State Government which was prevailing for absorption of the surplus teacher was considered by this Court. It was held that when teaching or non-teaching staff is rendered surplus in one minority institution and there is another minority institution of the same religion or language then as per the policy, the surplus staff needs to be absorbed in the other minority institution.

4. Learned counsel for the applicant submits that prior to giving of the decision, the Government Resolution was issued by the State Government on 13.07.2016, in which the Government had given option to the minority institutions to absorb such surplus staff and it was not mandatory.

5. This Court considered the policy which was prevailing at the time when the teacher was rendered surplus. In view of the policy, which was in existence at that time, this Court took the decision. Learned counsel for the applicant submits that though the Government Resolution though it was issued subsequent to the aforesaid incident, the said Government Resolution was not pointed out to this Court. In view of the facts of that case and after considering the policy in existence on the date when the said teacher was rendered as surplus, this Court decided the

matter. Thus, the contention made by the learned counsel is not within the scope of review. The point whether the previous policy was curtailing the rights given under Article 30 was considered in Writ Petition No.9026/2014 quoted above.

6. Learned counsel for the applicant then placed reliance on some reported judgments like **2014 (3) B.C.R. 556 (Kanossa Society and another Vs. Commissioner); 2005 AIR SCW (Board of Control for Cricket, India and another Vs. Netaji Cricket Club and others); 2009 DGLS(SC) 1067 (Inderchand Jain (D) through L.Rs. Vs. Motilal (D) through L.Rs.; 2015 DGLS (Bom.) 792 (Sindhudurg Zilla Shikshan Sanstha Chalak Mandal Vs. Union of India); 2017 (3) Mh.L.J. (Asifa Khanam Gula Vs. State of Maharashtra;**

7. In view of the observations made in the aforesaid paragraphs, the Review Application stands rejected.

(SANGITRAO S. PATIL)
JUDGE

(T.V. NALAWADE)
JUDGE