

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

BENCH AT AURANGABAD.

WRIT PETITION NO.13579 OF 2017

Riyazkhan S/o Sarwarkhan
Pathan ... Petitioner.

Versus

The State of Maharashtra
and another. ... Respondents.

...

Mr.V.A.Dhakne, advocate for the petitioner.
Mrs.Vaishali Patil Jadhav, A.G.P. for the State.

...

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

Date : 27.02.2018.

PER COURT :

1. Learned counsel for the petitioner states that the petitioner is employed in Milliya Urdu D.Ed. College, Beed. He is transferred to Anjuman Ishat-E-Taleem, Beed on 1.2.2017. It is stated that both the institutions are run by the same society. Learned counsel submits that the institution has been declared as a minority

institution. Proposal seeking approval to the transfer of the petitioner from unaided to aided division has been rejected on the ground that there are surplus teachers.

2. Learned A.G.P. submits that the transfer from unaided to aided is governed by the Circular dated 28.6.2016, 31.3.2017.

3. It is trite that minority institution can not be directed to absorb surplus teachers against their wish.

4. Considering above, the ground on which the proposal is rejected is erroneous.

5. The impugned order is quashed and set aside. The Education Officer shall reconsider the proposal submitted by the institution seeking approval to the transfer of the petitioner to the aided division on the basis of the Circular dated 28.6.2016 and 31.3.2017 expeditiously. It shall not reject it solely on the ground that the surplus candidates are available as the

institution it is contended is a minority institution. The Education Officer may verify the certificate of the minority institution also.

6. The Writ Petition is disposed of. No costs.

(A.M.DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

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