

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14166 OF 2017

Papabhai Dagadubhai Bagwan Trust, Rahuri
Through its Secretary

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri Hemant U. Dhage, Advocate for the Petitioner.

Mrs. A. V. Gondhalekar, Addl. G. P. for Respondent Nos. 1 to 3.

Shri Umakant U. Wagh, Advocate for Respondent No. 4.

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

DATE : **26th February, 2018**

PER COURT :

1. The proposal seeking approval to the appointment of respondent No. 4 as 'Shikshan Sevak' is rejected.

2. Learned advocate for the petitioner submits that the institution gave application seeking permission to fill the post on 10th May, 2016. No response was received from the Education Department. The institution issued an advertisement and after following due selection process, the respondent No. 4 was

appointed on 1.7.2016. The petitioner - institution is a minority institution and as such the Government Resolution about the ban on recruitment does not apply. So also, the minority institution is not required to absorb surplus candidates.

3. Learned AG.P. submits that the process followed at the time of selection has not been placed on record. There was ban on recruitment. So also, the vacancy is not communicated to the employment exchange.

4. We have consider the submissions.

5. The petitioner institution is a minority institution. The certificate to that effect is annexed on record.

6. The application was given to the Education Officer seeking approval to fill in the post. The Education Officer did not respond. Thereafter, advertisement was given on 21.6.2016 and after following selection process, respondent No. 4 was appointed on 1.7.2016. It appears that the selection process was followed. Even otherwise, the minority institution cannot be directed to absorb the surplus candidates against their wish.

7. In the light of above, the impugned order is quashed and set aside. The Education Officer shall re-consider the proposal seeking approval to the appointment of respondent No. 4 afresh and decide it on its own merits, in accordance with law, expeditiously and preferably within four (4) months. The Education Officer shall not reject the proposal on the grounds as impugned in the impugned order.

8. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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