

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

BENCH AT AURANGABAD.

WRIT PETITION NO.14449 OF 2017

Faizul Uloom Education Society,
Nanded through its Secretary
and others. ... Petitioners.

Versus

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

...

Mr.S.R.Choukidar, advocate for the petitioners.
Mr.A.S.Shinde, A.G.P. for the State.
Mr.S.B.Pulkundwar, advocate for Respondent No.2.

...

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

Date : 19.03.2018.

PER COURT :

1. The proposal seeking approval to the appointment of the petitioner Nos.2 to 4 is rejected. Aggrieved thereby, the present petition.

2. Mr.Choukidar, learned counsel submits that on 29.7.2014, the institution had given application to the Education Officer seeking permission to fill in the post as the post had become vacant on account of retirement. The petitioner did not receive any response. Thereafter, advertised the post and after following selection process, appointed petitioner Nos.2 to 4.

3. The learned counsel submits that the petitioner No.1 institution is a minority institution. The certificate to that effect is issued by the competent authority on 3.11.2012.

4. Mr.Pulkundwar, learned counsel for the Education Officer submits that the conditions stipulated under GR dated 13.7.2016 are not followed. The advertisement was not in a largely circulated newspaper. The permission was not obtained. On all these counts, the order is correctly passed.

5. Learned counsel for the petitioner

submits that the petitioner institution has accommodated six surplus teachers also. Those surplus teachers were referred by the Education Officer.

6. We have heard learned A.G.P. also.

7. According to GR dated 13.7.2016, a minority institution can not be compelled to absorb surplus teacher.

8. It appears that the application was given by the petitioner seeking permission from the Education Officer for filling the posts. No response was received. Thereafter, advertisement was issued and appointments are made of petitioner Nos.2 to 4. It is stated that the petitioner No.1 institution is Urdu medium School. It can not be said that the newspaper in which advertisement is issued is not a largely circulated paper.

9. Considering above, the impugned order is quashed and set aside. The Education Officer

shall decide the proposal seeking approval to the appointment of petitioner Nos.2 to 4 expeditiously on its own merits, preferably within four (4) months. The proposal shall not be rejected on the ground on which the impugned order is passed.

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

(A.M.DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

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