

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 472 OF 2015

Yateemkhana & Madrass Anjuman Khairul
Islam Trust & ors. .. Petitioners.

V/s.

The Deputy Education Officer, Aided Private
Primary Schools B.M.C. Education
Department & ors. .. Respondents.

Mr. A.G. Kothari, advocate for petitioners.

Mr. Javed Shaikh, advocate for respondent-MCGM.

**CORAM : RANJIT MORE &
SMT. SADHANA S. JADHAV, JJ.**

DATE : APRIL 2, 2018.

P. C. :

1 Heard the learned Counsel for the petitioners and the
learned Counsel for respondent-MCGM.

2 By this Petition filed under Article 226 of the Constitution
of India, the petitioner is challenging various circulars, particularly,
circular dated 5/6/2014 issued by respondent No. 2. It is the contention
of the petitioner that as per the said circular, no objection certificate for

appointment of teaching staff cannot be rejected on the ground that surplus teachers from aided schools are required to be absorbed. It is the case of the Petitioners that being minority school, no objection certificate cannot be withheld on the ground of absorption of surplus teachers from other schools.

3 Mr. Shaikh , learned Counsel for respondent-MCGM also fairly states that so far as the minority institution is concerned, they cannot be compelled to absorb surplus teachers from other schools. He submitted that in order to ascertain whether there is vacancy, work load and qualification of the teacher, no objection certificate is required to be obtained by the minority institution before filling up the vacancies of the teachers. This statement is not disputed by Mr. Kothari, learned Counsel for the Petitioner.

4 Be that as it may, during the pendency of this petition, approval is already granted by respondent No. 1 to the appointment of four assistant teachers appointed by the Petitioner school on 14/2/2015. So far as one non-teaching staff namely, Mohd. Umar Haroon Khan is concerned, as on today, approval is not granted. Mr. Kothari, learned Counsel however submitted that so far as this non-teaching employee, he is not pressing this petition and he may be granted liberty to

challenge non-approval by filing fresh proceedings. Liberty granted.

5 Subject to above, the petition is disposed of.

[SMT. SADHANA S. JADHAV, J.]

[RANJIT MORE, J.]