

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

WRIT PETITION NO. 9135 OF 2018

Nikhil Madhukar Sojwal

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Kiran. M. Nagarkar, Advocate for the Petitioner.

Shri S. G. Karlekar, A.G.P. for the Respondent No. 1.

Shri Chetan T. Jadhav, Advocate for Respondent Nos. 3 and 4.

**CORAM : S. V. GANGAPURWALA AND
AVINASH G. GHAROTE, JJ.**

DATE : 12TH DECEMBER, 2019.

FINAL ORDER :

. Notice of the respondent No. 2 was served. None appeared for the respondent No. 2. Thereafter, notice of final disposal was issued to the respondent No. 2 on 06.08.2019. Notice of final disposal is also served on the respondent No. 2. However, none appears for the respondent No. 2.

2. According to the petitioner, the petitioner is employee of the respondent No. 4 and the respondent No. 4 is a minority institution. The learned counsel relies on the certificate dated 13.09.2013 issued by the Minority Development Department.

3. The proposal seeking approval to the appointment of the petitioner is basically rejected on the ground that, there is ban on

recruitment and that surplus teachers are required to be absorbed.

4. As far as minority institution is concerned, the question of absorption of surplus teacher would not arise. As per G. R. dated 13.07.2016, the minority institution cannot be directed to absorb surplus teachers.

5. In the light of the above, the impugned order rejecting the proposal seeking approval to the appointment of the petitioner is quashed and set aside. The Education Officer shall reconsider the proposal seeking approval to the appointment of the petitioner afresh on its own merits and shall not reject it on the ground that there was ban on recruitment or that surplus teachers were required to be absorbed.

6. In view of the above, the writ petition is disposed of. No costs.

[AVINASH G. GHAROTE, J.] [S. V. GANGAPURWALA, J.]