

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

WRIT PETITION {L} NO.614 OF 2019

Trupti Nilesh Gurav Petitioner
Vs.
Asmita Samajik Sanskrutik Sanstha
& Others Respondents

AND

WRIT PETITION {L} NO.615 OF 2019

Dipika Rajesh Pawar Petitioner
Vs.
Asmita Samajik Sanskrutik Sanstha
& Others Respondents

Mr. Anant Vadgaonkar for the Petitioner in both
petitions.
Ms Jyoti Chavan, AGP, for Respondent Nos.3 to 5.

**CORAM: S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.**

DATE : MARCH 06, 2019

P.C:

1. Heard Mr. Vadgaonkar.
2. In both these cases, approval has been refused

because the Management, while appointing the petitioners, did not follow the mandatory provisions of The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, particularly Section 5(1). Consistent with that, even Rule 9(8) of The Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 has not been complied with.

3. Further, there was a backlog insofar as reserved category candidates are concerned.

4. Having found that the process of recruitment did not meet the statutory approval and particularly did not comply with the mandatory provisions, then, the orders under challenge cannot be termed as perverse or vitiated by any error of law apparent on the face of the record.

5. In the light of the fact that the process of recruitment adopted by the Management is found to be faulty and non-compliant with law, the petitioners cannot be faulted and no recovery of the amounts already disbursed and paid to them should have been directed. In the facts and circumstances

peculiar to the petitioners' case and without this order being treated as a precedent, we quash that part of the impugned orders, by which the amounts already paid are directed to be recovered. The petitions are partly allowed.

6. However, we accede to the submission of Mr. Vadgaonkar that in the event any fresh advertisement is issued by this Management and who are respondent Nos.2 & 3, the refusal to approve the petitioners' appointments made earlier shall not be a bar for seeking appointment under the fresh advertisement. Meaning thereby, the petitioners can apply for the posts which may be advertised by the same Management or any other Management. Meaning thereby, they can compete for non-teaching posts under any fresh advertisement. Granting that liberty, the petitions are disposed of in the above terms.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)