

(1)

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

916 WRIT PETITION NO.1215 OF 2020

AJMAL HUSSAIN MOHAMMAD HANIF
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr S. S. Jadhavar, Advocate for petitioner;
Mr S. B. Pulkundwar, A.G.P. for respondent Nos.1 & 2;
Mr N. N. Desale, Advocate for respondent No.3

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 8th September, 2021

PER COURT:

1. The petitioner has put forth prayer clauses (B) and (C) as under :

“B] By issuing writ of mandamus or any other appropriate writ, order or direction, the respondent No.2 may kindly be directed to notify name of petitioner as per section 3 (2) of MEPS Act in view of proposal dated 31.10.2019 submitted by respondent No.4.

C] By issuing writ of mandamus or any other appropriate writ, order or direction, the respondent No.3 may kindly be directed to grant approval to the appointment of the petitioner as Headmaster of Haji

(2)

Badlu Sardar Urdu Primary School, Deopur, Dhule vide appointment order dated 23.09.2019, by deciding proposal dated 31.10.2019 submitted by respondent No.4.”

2. It is contended that respondent No.4 – Education Society is a minority institution. Despite service of Court notice on respondent No.3, no appearance is entered. Such a minority institution has a right to choice and the petitioner was directly appointed as the Headmaster of Haji Badlu Sardar Urdu Primary School, Deopur, Dist. Dhule. Grievance is that the proposal of the petitioner sent by the Management for approval as a Headmaster on 31/10/2019, is still pending before the Education Officer, respondent No.3 herein.

3. The learned Advocate for the Education Officer submits that another Writ Petition No.7384/2021 is filed by Tanzimi Centre, Through it's President versus the State of Maharashtra and others, which is pending before a co-ordinate Bench of this Court. In the said petition, the petitioner is seeking a relief of quashing and setting aside the order of appointing In-charge Principal/ Headmaster and also seeking directions to approve the proposal of appointment of the Headmaster, dated 30/12/2019.

(3)

4. Considering the above, this petition is disposed off with the following directions :

(a) The proposal dated 31/10/2019 pending with respondent No.3, shall be dealt with on it's own merits. Respondent No.3 shall consider the entire records pertaining to the appointment of the petitioner and shall consider the Rules applicable. A reasoned order is expected to be passed taking a decision on the proposal.

(b) In the event, respondent No.3 finds that the proposal before him is likely to be affected by a decision in Writ Petition No.7384/2021, he would be at liberty to keep the proposal in abeyance until orders are passed in the said Writ Petition.

5. We make it clear that we have not expressed any opinion about the rights of the petitioner.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

sjk