

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

WRIT PETITION NO.6087 OF 2020

**NASHIK DIOCESAN COUNCIL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for the Petitioners : Shri Kadam Vikram S.
AGP for Respondents 1 and 2 : Shri S.B.Yawalkar
Advocate for Respondent 3 : Shri P.R. Nangare

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

DATE :- 31st August, 2021

Per Court :-

1. The petitioners are before this Court with the grievance that petitioner No.3, who was appointed on compassionate basis, has suffered rejection of approval vide the impugned order dated 10.02.2020 on the ground that there were only four posts available and as the posts were filled in, the appointment of petitioner No.3 could not be approved.

2. The learned advocate for the petitioners submits that during the pendency of this petition, two posts have fallen vacant. He relies on the rejoinder affidavit filed by the petitioners wherein, it is specifically stated that Merry Gulabrao

Chakranarayan retired on 30.09.2020 and another Assistant Teacher, namely, Gorakhnath Tulshiram Kamble died on 24.03.2021. Two posts have, therefore, fallen vacant.

3. The learned advocate for the petitioners, therefore, contends that this petition can be disposed off and the school can submit a fresh proposal to respondent No.3 in view of two posts having fallen vacant. Respondent No.3 may then consider the proposal for approval of petitioner No.3 in accordance with the date of vacancy that has occurred in view of the above.

4. Shri Nangare, learned advocate for respondent No.3, submits that if such proposal is submitted, the same would be considered on its merits expeditiously.

5. Considering the above, this Writ Petition is disposed off. Petitioner No.2/ Headmaster of the school shall submit a fresh proposal to respondent No.3 through petitioner No.1/ Management for seeking approval to the appointment of petitioner No.3 on compassionate basis in view of the two vacancies. If such proposal is submitted with respondent No.3, we expect respondent No.3 to decide the said proposal in accordance with the applicable rules, within four weeks from the date of receipt of the proposal. If the decision of respondent No.3

is adverse to petitioner No.3, it shall be supported with reasons and the said petitioner would be at liberty to avail of a remedy as may be permissible in law.

kps

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)