

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

**925 WRIT PETITION NO.1494 OF 2021**

Nazim Shah Masoom Shah ... **Petitioner**  
Age 28 years, Occu: Service,  
R/o Kazi Plot, Near Moti Kirana,  
Bhusawal, Tq. Bhusawal,  
District Jalgaon

**VERSUS**

1. The State of Maharashtra,  
Through its Secretary,  
School Education Department,  
Mantralaya, Mumbai 400 032
2. The Education Officer (Primary),  
Zilla Parishad, Jalgaon
3. Urdu Education Society,  
Through its President,  
Khadka Road, Bhusawal  
Tq. Bhusawal, District Jalgaon
4. B. Z. Urdu Primary School, ... **Respondents**  
Through its Head Master,  
Khadka Road, Bhusawal  
Tq. Bhusawal, District Jalgaon

Mr. . Ajay G. Talhar, Advocate for Petitioner  
Mr. P K. Lakhotiya, AGP for Respondent No.1 State  
Mr. M.S. Sonawane, Advocate for Respondent No.2  
Mr. G.L. Kedar, Advocate for respondent No.3.  
Mr. Shaikh Tarek Mobin, Advocate for Respondent No.3,  
Mr. A. R. Syed, Advocate for Respondent No.4 .

CORAM : A.S. GADKARI & S. G. MEHARE, JJ.  
DATE : 13th January, 2022

**ORDER:**

1. Heard both sides.
2. There is dispute with respect to representation of respondent No.3-Society before this Court in present petition. Two Advocates claim that, they have been instructed to appear for respondent No.3 in the matter. It appears that, the dispute between two contesting groups claiming to be in management of respondent No.3-Society, want to use this forum as their election battle field.
3. Be that as it may. Record clearly indicates that, by an Order dated 4th November, 2020 passed in Writ petition No. 6084/22020, this court had directed respondent No.2 to decide the proposal of the petitioner on its own merits within stipulated period as mentioned therein.
4. It is the contention of respondent No.2 that, in furtherance of Order dated 4th November, 2020, he has passed impugned order dated 19.11.2020 and has complied with the directions issued by this Court.

On perusal of the impugned Order dated 19.11.2020, we are unable to accept the said contention of respondent No. 2. It clearly appears from the said order that, respondent No.2 has not taken into consideration the basic aspects of the matter such as, whether the advertisement calling applications for appointment of Shikshan Sevak/ Regular Teacher, from prospective candidates has sanctity in the eyes of law and the same was published as per procedure prescribed by law.

5. It appears from the impugned order that, respondent No.2 has given undue importance to the fight between two groups claiming control over respondent No.3-Society and in fact, without arriving at a proper and correct conclusion has simply rejected it on that ground alone.

It is stated in the impugned Order that, as Enquiry No.31/2013 is pending before the Assistant Charity Commissioner, Jalgaon Division, the proposal of the petitioner cannot be accepted. It *prima facie* appears to us that, respondent No. 2 has not considered the proposal of the petitioner on its own merits and has given superfluous reasoning for rejecting it.

6. In view thereof, we set aside the impugned order dated 19.11.2020 and remand the matter back to respondent No.2 for its consideration afresh.

It is expected from respondent No.2 that, he shall follow the directions issued in Order dated 04.11.2020 passed in Writ Petition No.6084/2020 in its proper perspective and shall record specific reasons while considering the proposal of the petitioner.

7. Petition is allowed in the aforesaid terms.

( S. G. MEHARE, J. )

( A.S. GADKARI, J. )

JPC