

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

WRIT PETITION NO.4382 OF 2021

**ASIF KHAN SHABBIR KHAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Syed Masood Chand
AGP for Respondents State: Mr. K. N. Lokhande
Advocate for Respondent No.4 : Mr. A. N. Nagargoje

**CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 23 JUNE 2022

ORDER:

By this petition, the petitioner is challenging the order dated 4 February 2021 passed by the Education Officer thereby cancelling the approval granted to the promotion of the petitioner to the post of Headmaster.

2. We have heard the learned counsel for the parties. Perused record.

3. Perusal of the order dated 4 February 2021 shows that there was a complaint lodged by one Shri Syed Salim Syed Ayyub claiming that the Society/Management is not having a certificate of minority institution. It is on this ground, that the Education

Officer has cancelled the approval granted to the promotion of the petitioner on 22 October 2020.

4. Learned counsel for the petitioner has placed reliance on the decision of this Court in Writ Petition No. 8818 of 2017 and other connected matters (Shishir Liladhar Lele & others Vs. Satish Pradhan Dnyanasadhana College of Arts, Commerce & Science and others) decided on 14 August, 2017 at the Principal Seat as well as order dated 17 November 2003 in Writ Petition No. 7830/2003 (Sunil Jibhau Khairnar Vs. Deputy Director of Education) in order to submit that the Education Officer has no power to review or recall its earlier order of granting approval, except in a case where there are allegations of fraud or misrepresentation etc.

5. It appears that the Government, taking note of the decision of this Court in Writ Petition No.10133 of 2016, had issued Government Resolution dated 23 August 2017 stipulating that in such a case, the immediate superior officer can take action after issuing show cause notice.

6. In the present case, there is no allegation that there is any fraud or misrepresentation and thus, it was not open to the

Education Officer to have cancelled the approval granted earlier that too without affording any opportunity to the petitioner.

7. In that view of the matter, we find that the petition has to succeed. The petition is accordingly allowed. The impugned order dated 4 February 2021 is hereby set aside, thereby restoring the approval granted on 22 October 2020 with all consequential benefits. It would, however, be open to the authorities, if so found necessary, to take action after following due procedure of law.

SANDIPKUMAR C. MORE, J

C. V. BHADANG, J.

JPChavan