

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

WRIT PETITION NO.1791 OF 2021

Md. Hafizoddin s/o Md. Amiroddin,
Age : 59 Years, Occu.: Retired (Incharge H.M.),
R/o.: Madina-Tul-Uloom, High School &
Jr. College, Bhokar, Tq. Bhokar,
District : Nanded ... PETITIONER

Versus

1. The State of Maharashtra,
Through its Secretary,
School Education Department,
Mantralaya, Mumbai-32
2. The Education Officer (Sec)
Zilla Parishad, Nanded
3. Madina-Tul-Uloom High School &
Jr. College, Bhokar through its
Head Master
4. Madina-Tul-Uloom Educational Institution,
Nanded, through its Secretary RESPONDENTS

...

Advocate for Petitioner : Mr. H. I. Pathan
AGP for Respondent Nos.1 & 2 : Mr. K. N. Lokhande

....

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

DATED : 6 JULY 2022.

....

ORAL JUDGMENT : (PER C. V. BHADANG, J.) :

Rule. Rule made returnable forthwith. Learned AGP for the respondents-State waives service. Heard finally by consent of the parties.

2. By this petition, the petitioner is challenging the order dated 25 February 2020 passed by second respondent- Education Officer, thereby refusing to grant permanent approval to the appointment of the petitioner as a Headmaster in the respondent – school from 01 January 2019.

3. We have heard the learned counsel for the parties. It appears that on 21 February 2019 limited / temporary approval is granted by respondent – Education Officer to the appointment of the petitioner. In so far as the communication dated 25 February 2020 is concerned, the Education Officer has refused to grant approval for the reasons following :-

- i) That there is a dispute interse between trustees of the trust who are managing the respondent school;
- ii) The seniority list attached with the proposal is of the year 2016 - 17 and the up to date seniority list is not enclosed;
- iii) The senior most teacher Amirjaha Begum has not given no objection certificate (NOC) before the Education Officer and
- iv) The approval of the petitioner is not enclosed.

4. The learned counsel for the petitioner has brought to our notice an order dated 14 June 2022 in Writ Petition No. 2022 of 2021 in which this court after taking note of the judgment and order dated 15 January 2020 passed in Writ Petition No.999 of 2019 had directed the Education Officer to accept the proposal for grant of approval on the basis of the order dated 21 September 2019 in Enquiry No.636 of 2021. By the said order passed in the enquiry, the Assistant Charity Commissioner, in order to avoid any complications, has provisionally accepted the change report imposing certain conditions.

5. Upon perusal of the orders passed in respect of the same trust and in the context of the order passed by the Assistant Charity Commissioner in Enquiry No.636 of 2019, we propose to pass similar order directing the Education Officer to reconsider the proposal.

6. The learned counsel for the petitioner and the respondent Management state that even the no objection certificate from the senior most lady teacher was furnished to the Education Officer.

7. In the result, the respondent – Education Officer is directed to reconsider the proposal for grant of permanent approval to the appointment of the petitioner as a headmaster with effect from 1 January 2019, if the Education Officer finds that the proposal is submitted by the persons, who are authorized to act as per order dated 21 September 2019 in Enquiry No. 636 of 2019 and in accordance with law. The Education Officer, however, shall not reject the proposal on the ground of there being any dispute amongst trustees / management.

It would also be open to the Education Officer to intimate any discrepancies to the management which can then comply with the requirements as indicated. The Education Officer, shall take a decision, within a period of eight weeks from today.

8. Rule is made absolute in the aforesaid terms.

9. Civil application, if any, stands disposed of.

SANDIPKUMAR C. MORE, J.

C. V. BHADANG, J.

VS Maind/-