

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

41 WRIT PETITION NO.207 OF 2021

Sarangdhar Bhanudasrao Harkal ... **Petitioner.**

VERSUS

1) State of Maharashtra
and others ... **Respondents.**

...
Advocate for Petitioner : Mr. Natu Sharad V.
AGP for Respondent Nos. 1 & 2 : Mrs. M.A. Deshpande

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 17.08.2022.

PER COURT :

We have heard both the sides.

2. The petitioner is aggrieved by the rejection of approval to the promotion as a regular headmaster in one of the two schools run by the respondent No. 3 management, on the ground and insistence of filling the post by following reservation.

3. The learned advocate for the petitioner submits that the respondent No. 2 runs only two schools wherein two posts of headmaster are available and insistence of the Education Officer to have reservation is illegal, when the reservation has to be 33%.

4. In similar set of facts, this Court in the matter of Ramesh Mahadeo Rajurkar Vs. Education Officer (Secondary) Zilla Parishad, Nagpur and others in Writ Petition No. 517/2010 dated 02.03.2010 has held that when the reservation of 33% is to be followed as against only two posts, the

Education Officer cannot insist for filling up the post by following reservation policy.

5. The logic demands that in order to have 33% reservation there will have to be at least 3 posts. Fact situation being that there are only two posts of headmaster, insistence of the Education Officer to have reservation and rejection of petitioner's approval on the promotional post of headmaster solely on that count, is not sustainable in law.

6. The writ petition is allowed. The impugned order of the Education Officer is quashed and set aside. The Education Officer shall now reconsider the proposal on its own merits but shall not reject it only on the ground of reservation. The decision shall be taken within six weeks from today.

(SANDEEP V. MARNE J.)

(MANGESH S. PATIL, J.)

mkd/-