

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2533 OF 2022

The New India Education Society
Through Its President/Secretary
and Ors.

...Petitioners

vs.

The State of Maharashtra
Through Its Secretary and Ors.

...Respondents

Mr. Prashant Bhavake - Advocate for the Petitioners
Mr. N. C. Walimbe - AGP for the Respondent-State

**CORAM : S.V. GANGAPURWALA AND
 S. M. MODAK, JJ.**

DATE : 21st JUNE, 2022

P.C. :-

1. The learned counsel for the Petitioners submits that though there are three schools run by the Management, the post of Head Master is sanctioned only for two schools, unless there are three posts of Head Master the reservation would not apply. The reservation is 33%. According to the learned counsel the reference made to the matter pending with Apex Court would not apply, as the post of Head Master cannot be reserved.

2. We have heard the learned AGP

3. It does not appear from the Order that Education Officer has considered the number of posts of Head Master available in the schools

run by the Society. If there are only two schools, then certainly the reservation policy may not apply.

4. The impugned Order is set aside. The Education Officer shall reconsider the proposal seeking approval to the promotion of Petitioner No. 3 as Head Master on its own merits and it shall consider the number of post available and as to whether the reservation would apply if the posts are less than three. The proposal be decided afresh preferably within four months. The Education Officer shall consider the provisions of Rules 9 and 10 of the MEPS Rule.

5. Petition is disposed of. No costs

[S. M. MODAK, J.]

[S.V. GANGAPURWALA,J.]