

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO.1050 OF 2021

PETITIONERS

- : 1. Prerana Samajik Sanskrutik Bahu-Uddeshiya Shikshan Sanstha, Wadadha, through its Secretary, Prashant Madan Meshram, aged 39 years, having its office at Wadadha, Tah. Armori, Dist. Gadchiroli.
2. Kisan Vidyalaya and Uccha Madhyamik Vidyalaya, Wadadha, through its Head Master, Prakash Kawduji Dudhe, aged 57 years, Wadadha, Tal. Armori, Dist. Gadchiroli.
3. Dr. Ambedkar Vidyalaya, Armori, through its Head Master Vinod Gokuldas Shende, aged 55 yrs., Bhagatsingh Square, Armori, Tal. Armori, Dist. Gadchiroli.
4. Sanket Parshuram Wasake, aged 30 yrs., Occ.-Contributory teacher, r/o Siddhivinayak Colony, Navargaon Road, Lonwahi, Tal. Sindewahi, Dist. Chandrapur.
5. Ku. Bharati Shivcharan Gajbhiye, aged 30 yrs., Occ.-Contributory teacher, r/o at Surgaon (Chapti), Post Pimpalgaon Khambi, Tal. Arjuni Morgaon, Dist. Gondia.
6. Prashant Puranlalji Meshram, aged 29 yrs., Occ.-Contributory Teacher, r/o at Surgaon (Chapti), Post-Pimpalgaon Khambi, Tal. Arjuni Morgaon, Dist. Gondia.
7. Ku. Shalina Jayat Meshram, aged 27 yrs., Occu.-Contributory Teacher, r/o At post Wadadha, Tal. Armori, Dist. Gadchiroli.

8. Ku. Shubhangi Kumbhidas Nagose, aged 22 yrs,
Occu.-Private, r/o At post Mokhala, Tal.-Saoli,
Dist. Chandrapur.
9. Rakesh Vyankat Nandagaoli, aged 40 yrs.,
Occu.-Private, r/o At post Khedmakka, Tal.
Brahmapuri, Dist. Chandrapur.

//VERSUS//

- RESPONDENTS** : 1. State of Maharashtra through its
Secretary, Department of School Education and
Sports, Mantralaya, Mumbai-32.
2. The Deputy Director of Education, Nagpur
Division, Balbharati, Opp. Dhantoli Park,
Dhantoli, Nagpur.
3. The Education Officer (Secondary), Zilla
Parishad, Gadchiroli, Dist.- Gadchiroli.

Shri B.G. Kulkarni, Advocate for the Petitioners.
Ms. N.P. Mehta, AGP for Respondent Nos.1 to 3.

CORAM : A.S. CHANDURKAR AND SMT. M.S. JAWALKAR, JJ.
DATE : 7th MARCH, 2022.

ORAL JUDGMENT (Per: A.S. CHANDURKAR, J.)

01] **Rule.** Rule made returnable forthwith and heard the learned
counsel for the parties.

02] The petitioner No.1 is an Education Society which is running the
petitioner Nos.2 and 3 - Schools. The Society has been granted minority

status on 27.02.2015. Pursuant to the staff approval orders dated 24.11.2018 and 15.12.2018, one post each of Middle School Teacher, Primary Teacher and Junior Clerk were vacant for being filled in. On 05.05.2020, the State Government issued a circular imposing ban on recruitment on account of the Covid-19 pandemic. On 07.12.2020, recruitment on the post of Shikshan Sewak was permitted through the Pavitra Portal. On 12.12.2020, the petitioner No.1 accordingly published an advertisement for filling in the vacant posts. By the impugned communication dated 14.12.2020, the Education Officer (Secondary) has raised an objection to the recruitment on the ground that there was a ban on such recruitment as per Government Resolution dated 05.05.2020. The petitioner No.1 made a representation on 17.12.2020 pointing out that such ban was not applicable to minority institutions. Since there has been no response to the aforesaid representation, the writ petition has been filed.

03] The learned counsel for the petitioner has invited attention to the order dated 16.11.2021 passed by this Court in Writ Petition No.2538/2021 (*Ubhajo Shikshan Sanstha & Ors. Vs. State of Maharashtra & ors.*), wherein this Court has observed that since the ban on recruitment was not applicable to minority institutions that ground could not be raised for refusing approval to the appointment as made. It is submitted that since a similar issue arises in this writ petition, the order passed in Writ Petition No.2538/2021 and the directions issued therein be also followed.

04] The learned Assistant Government Pleader for the respondent Nos.1 to 3 has referred to the Government Resolution dated 05.05.2020 by which there was a ban on recruitment and has thus justified the impugned action.

05] We find that this Court in Writ Petition No.2538/2021 has clarified that the ban on recruitment would not be applicable to minority institutions while making any recruitment. Thereafter, the Education Officer was directed to take a fresh decision in the matter. Considering the aforesaid, we pass the following order:

ORDER

- i. The communication dated 14.12.2020 issued by the Education Officer (Secondary) is quashed and set aside.
- ii. The Education Officer (Secondary) shall take a fresh decision on the proposal made by the Petitioner No.1 as well as the communication dated 17.12.2020 by granting an opportunity of hearing to the petitioner No.1. For said purpose, the petitioner No.1 through its representative shall appear before the Education Officer (Secondary) on 21.03.2022.
- iii. The Education Officer (Secondary) shall take into consideration all relevant aspects and take a decision on the said proposal

within a period of four weeks from that date. The decision taken shall be communicated to the petitioner No.1.

- iv. All points raised in the writ petition are kept open for being considered by the Education Officer (Secondary).

With these directions, the writ petition is allowed and disposed of in aforesaid terms. Rule accordingly. No costs.

(SMT. M.S. JAWALKAR, J.)

(A.S. CHANDURKAR, J.)

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