

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

...

WRIT PETITION NO. 2356/2022

Shri Rahul s/o Sudhakar Dhurandhar

.. Petitioner

versus

The State of Maharashtra and Others

.. Respondents

.....
Mr. S.U. Ghude, Advocate for the Petitioner

Ms. N.P. Mehta, AGP for Respondent Nos.1 & 2

Ms. Archana Murrey, Advocate for Respondent Nos. 3 to 5
.....

CORAM: A.S.CHANDURKAR & ANIL L.PANSARE,JJ.

DATED : 16th December, 2022.

PC:

Rule. Heard finally.

Challenge raised in this writ petition is to the communication dated 31.03.2022 issued by the Education Officer (Secondary), Zilla Parishad, Amravati refusing to approve the transfer of the Petitioner from non-aided school to an aided School. The reason in the impugned order is issuance of Government Resolution ('GR' in short) dated 04.05.200 and 05.05.2020. By the said GRs there was a ban on making orders of transfer during the relevant period.

The learned Counsel for the Petitioner submits that the issue with regard to applicability of GRs dated 04.05.2020 and 05.05.2020 to a minority institution has been considered and decided by this Court in Writ Petition No.2538/2021 (*Ubhajo Shikshan Sanstha and Ors. vs.State of Maharashtra and others*), wherein this Court has held that as the ban on recruitment is not applicable to a minority institution, the same cannot be a reason for refusing approval to the appointment of the

Petitioner. It is submitted that the Respondent Nos.4 and 5-Institutions are minority Institutions and hence in the light of the certificate dated 15.06.2009, the aforesaid GRs would not be applicable.

The learned Assistant Government Pleader for the Education Officer (Secondary) submits that the Education Officer can be directed to reconsider the aforesaid proposal in the light of the judgment referred to herein-above.

Hence, for aforesaid reasons and as this Court has held in Writ Petition No.2538/2021 that the ban on recruitment is not applicable to a minority institution, the following order is passed :-

The order dated 31.03.2020 is set aside. The Education Officer (Secondary) is directed to reconsider the proposal dated 23.02.2020 and after giving an opportunity to the Petitioner as well as Respondent Nos. 3 to 5 to take a fresh decision thereafter. To enable such a decision to be taken, the said parties to appear before the Education Officer (Secondary) Z.P. Amravati on 27th December, 2022. Necessary decision be taken within a period of four weeks from that date and the same be communicated to the parties.

Rule is disposed of in aforesaid terms.

[ANIL L. PANSARE, J.]

[A.S.CHANDURKAR, J.]

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