

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

WRIT PETITION NO.2517 OF 2021

- PETITIONERS** : 1. Ramesh Shikshan Sanstha, Kudegaon, through its President Smt. Tarabai Jaideo Meshram, aged 75 yrs., office at Vaishali Nagar, Khat Road, Bhandara, Dist. Bhandara.
2. Panchsheel Pre-Secondary (Primary) School, Bhagdi, through its I/C Head Master Naresh Jaideo Meshram, aged 45 yrs., At post Bhagdi, Tal. Lakhandur, Dist. Bhandara.
3. Rohankumar Kundan Motghare, aged 29 yrs., Occu.-service, r/o At post Kondha, Tal. Paoni, Dist. Bhandara.

//VERSUS//

- RESPONDENTS** : 1. The State of Maharashtra through its Secretary, School Education Department, Mantralaya, Mumbai-32.
2. The Director of Secondary and Higher Secondary Education, State of Maharashtra, Central Building, Pune-1.
3. The Deputy Director of Education, Nagpur Division, Balbharti, Opp. Dhantoli Park, Dhantoli, Nagpur-440012.
4. The Education Officer (Primary), Zilla Parishad, Bhandara.

Shri B.G. Kulkarni, Advocate for the Petitioners.
Ms. N.P. Mehta, AGP for Respondent Nos.1 to 3.
Respondent No.4 served.

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 No.2 – School wherein the petitioner No.3 is serving as Shikshan Sewak. The Society has been granted minority status on 26.02.2019. Pursuant to the staff approval order dated 19.11.2018, vacant posts were sought to be 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 23.12.2020, the petitioner No.1 accordingly published an advertisement for filling in the vacant posts. By the impugned communication dated 24.03.2021, the Education Officer (Primary) 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 said order is under challenge.

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. Despite service, the respondent No.4 has not appeared in the proceedings.

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 24.03.2021 issued by the Education Officer (Primary) is quashed and set aside.
- ii. The Education Officer (Primary) shall take a fresh decision on

the proposal made by the Petitioner No.1 dated 24.02.2021 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 (Primary) on 21.03.2022 alongwith a copy of this order.

iii. The Education Officer (Primary) 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 (Primary).

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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