

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

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WRIT PETITION NO. 4465 /2022

1) Ramesh Shikshan Sanstha
Kudegaon: Through Its President
Smt.Tarabai Jaideo Meshram
Aged 76 years, 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 46 years, at Po: Bhagdi, Tal. Lakhandur
Dist.Bhandara.

3) Rohankumar Kundan Motghare
Aged 30 years occu: service
R/o At Post :Kondha, Tal.Paoni, Dist.Bhandara.

..PETITIONERS

v e r s u s

1) State of Maharashtra
Through its Secretary
School Education Department
Mantralaya, Mumbai-32.

2) The Director of Primary Education
State of Maharashtra
Central Building, Pune-110001.

3) The Deputy Director of Education
Nagpur Division, Balbharti,
Opp: Dhantoli Park, Dhantoli, Nagpur 440 012.

4) The Education Officer (Primary)
Zilla Parishad, Bhandara.

.. RESPONDENTS

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Mr. B.G. Kulkarni, Advocate for Petitioner
Ms.N.P.Mehta, AGP for Respondent Nos.1 to 3
Mr. R.S.Khobragade, Advocate for Respondent No.4
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CORAM: A.S. CHANDURKAR & ANIL L. PANSARE, JJ
DATED : 22nd November, 2022.

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

1. **Rule.** Rule made returnable forthwith. Heard finally with consent of learned counsel for the respective parties.
2. Challenge raised in this writ petition is to the order dated 12.04.2022 passed by the Education Officer (Primary), Zilla Parishad Bhandara thereby refusing to approve the appointment of petitioner No.3.
3. It is undisputed that the proposal made by the petitioner No.1 seeking approval came to be rejected by an order dated 24.03.2021. That order was challenged in writ petition No.2517/2021 and by the judgment dated 07.03.2022 after setting aside that decision, it is observed that the ban on recruitment would not be applicable to minority institutions while undertaking recruitment. The Education Officer was directed to reconsider the said proposal. On reconsideration, the very same reason has again been furnished by stating that on 05.05.2020 Government Resolution (GR) was issued seeking to ban

fresh recruitment.

4. On hearing the learned counsel for the parties, we find that this very circular dated 05.05.2020 has been subsequently recalled by the State Government on 07.12.2020. As a result, the GR dated 05.05.2020 no longer operates. Despite the GR dated 07.12.2020 the Education Officer (Primary) has relied upon the earlier GR. We find that the Education Officer was not justified in rejecting the approval on this ground.

5. Since the only reason for refusing the approval was the issuance of GR dated 05.05.2020 and the same having now been withdrawn, it is directed that the Education Officer (Primary) shall grant approval to the appointment of petitioner no.3 if there is no other legal impediment that prevents him from doing so. Necessary steps be taken within a period of four weeks, of receiving the copy of the judgment.

6. Rule is made absolute accordingly. No costs.

(ANIL .PANSARE,J.)

(A.S.CHANDURKAR, J.)

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