

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO. 12588 OF 2021

Johrul Kuran Bahuuddeshiya Sanstha,
Latur & Anr.

...Petitioners

Versus

The State of Maharashtra & Anr.

...Respondents

.....

Mr. Vivek Dhage – Advocate for the petitioners

Mr. V. M. Kagne – AGP for respondent/State

Mr. P. R. Tandale – Advocate for respondent no. 2

.....

CORAM : RAVINDRA V. GHUGE

AND

SANJAY A. DESHMUKH, JJ.

DATED : 02nd MAY 2023

PER COURT : -

1. The petitioner has put forth prayer clauses B, C and D as under : -

“B] By issuing Writ of Certiorari or orders or any other Writ in the nature of Writ of Certiorari, the impugned order dated 01.10.2021 passed by Education Officer (Primary), Zilla Parishad, Latur, may kindly be quashed and set aside.

C] By issuing Writ of Mandamus or orders or any other Writ in the nature of Writ of Mandamus, the respondent No. 2 Education Officer (Primary), Zilla Parishad, Latur may kindly be directed to grant approval to the transfer of petitioner No. 2 from non-grant post to grant-in-aid post in the same school i.e. Maulala Azad Urdu Primary School, Murud, Tq. And Dist. Latur, run by petitioner No. 1;

D] Pending hearing and final disposal of this Writ Petition, the impugned order dated 01.10.2021

passed by Education Officer (Primary), Zilla Parishad, Latur, may kindly be stayed;"

2. We have heard the learned advocates for the respective sides and have perused the petition paper-book.

3. Apparently the impugned order indicates that the Education Officer was not aware of the introduction of Rule 41(A) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules 1981 [hereafter referred to as "MEPS Rules"] w.e.f. 08th June, 2020. The contention of the petitioners is that, it is a Minority Institution and hence, surplus teachers cannot be absorbed in the said school. This aspect has also not been considered by the Education Officer.

4. In view of the above, **this petition is partly allowed**. The impugned order dated 01st October, 2021 is quashed and set aside with the following directions : -

[a] The Education Officer shall reconsider the proposal sent by the Management dated 18th January, 2021 in the light of the policy / rules applicable, more particularly, Rule 41(A) of MEPS Rules.

[b] The Education Officer would consider as to whether the surplus teachers are legally required to be absorbed by a Minority Institution.

[c] A reasoned order be passed after considering the record and in the light of the above directions, on or before 15th June, 2023.

[SANJAY A. DESHMUKH]
JUDGE

[RAVINDRA V. GHUGE]
JUDGE