



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

WRIT PETITION NO.3946/2023

1. Mohammad Shafiq Mohammad Sharif,
age 36 Yrs., Occ. Service,
R/o Opp. ZP Ground, Samanvay Nagar,
02, Khamgaon, Tq. Khamgaon,
Dist. Buldhana.
2. Samiur Rehman Khan Shaiqur Rehman,
age 35 Yrs., Occ. Service,
R/o C/o Anjuman High School,
Khamgaon, Tq. Khamgaon,
Dist. Buldhana.
3. Mohammad Umardaraz Mohammad
Farooque, age 37 Yrs., Occ. Service,
R/o Tayde Colony Road, Opp. Stadium,
Samanvyay Nagar 2, Khamgaon,
Tq. Khamgaon, Dist. Buldhana.
4. Mushahid Khan Mumtaz Khan,
age 33 Yrs., Occ. Service,
R/o S/o Mumtaz Khan, Malvipura,
At Post Pimpalgaon Raja, Khamgaon,
Tq. Khamgaon, Dist. Buldhana.

... Petitioners

- Versus -

1. Education Officer (Secondary),
Zilla Parishad, Buldana, office at
Jaistambh Chowk, Buldhana.
2. Anjuman High School, Khamgaon,
through its Headmaster, R/o Anjuman

Campus, Nandura Road,
Khamgaon, Tq. Khamgaon,
Dist. Buldhana.

... Respondents

Mr. P.S. Patil, Counsel for the Petitioners.

Ms. N.P. Mehta, Assistant Government Pleader for Respondent No.1 / State.

CORAM: A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.

DATE : 3.10.2023

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

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

2. The appointment of the petitioners - non-teaching staff having not been approved by the Education Officer, the order rejecting the approval to the posts of petitioners is under challenge.

3. The petitioner No.1 has been appointed as Junior Clerk, petitioner No.2 as Librarian and petitioner Nos.3 and 4 as

Laboratory Assistant in the School which is stated to be Minority Institution. The reference in the impugned order is to the ban on the recruitment.

4. After hearing the learned counsel for the parties, we find that the issue with regard to the applicability of the ban on the recruitment insofar as the Minority Institutions are concerned has been settled by holding that such ban is not applicable when the recruitment is undertaken by the Minority Institutions. The decisions in Writ Petition No.2538 of 2021 (Ubhajo Shikshan Sanstha & Others Versus State of Maharashtra & Others) decided on 16.11.2021 and Writ Petition No.1050 of 2021 (Prerana Samajik Sanskrutik Bahu-Uddeshiya Shikshan Sanstha & Others Versus State of Maharashtra & Others) decided on 07.03.2022 consider the aforesaid aspect. Since the approvals have been refused only on this count, we find that it would be necessary for the Education Officer to re-consider the matter in the light of the aforesaid decisions.

5. Hence, for the reasons assigned in the decisions referred to hereinabove the impugned order dated 1.2.2023 is set aside. The Education Officer is directed to re-consider the proposal of the petitioners-non-teaching staff sent by their School for grant of approval to the appointment of the petitioners. The approval shall not be rejected only on the ground that the appointment of the petitioners has been made during the period of ban. The necessary decision be taken within a period of four weeks of receiving the copy of this order.

6. Rule is disposed of in aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)