

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

WRIT PETITION NO. 4037 OF 2022

Ku. Mayuri D/o. Dhyaneshwar Lokhande
@ Sou. Mayuri Sagar Potdukhe,
Aged about 33 years, Occ. Service,
R/o. C/o. Sukhdeorao Abhyankar Vidyalaya,
Hatunda, Tq. Anjangaon Surji,
District Amravati.

.... **PETITIONERS**

...VERSUS...

1. The State of Maharashtra,
Through its Secretary, Department of
School Education & Sports Department,
Mantralaya, Mumbai – 32.
2. Education Officer (Secondary),
Zilla Parishad Amravati,
Tq. & Dist. Amravati.
3. Headmaster/Principal,
Sukhdeorao Abhyankar Vidyalaya,
Hatunda, Tq. Anjangaon Surji,
District Amravati.
4. The President,
Rahul Vyam Prasarak Mandal,
Bhumiputra Colony, Near Congress Nagar,
Tq. & District Amravati.

.... **RESPONDENTS**

Ms S. S. Dashputre, Advocate for Petitioner.
Mr. M. K. Pathan, A.G.P. for Respondents 1 & 2/State.

CORAM: **ROHIT B. DEO AND MRS. VRUSHALI V. JOSHI, JJ.**
DATE: **02.03.2023**

JUDGMENT: **(PER ROHIT B. DEO, J.)**

1. Heard. **Rule.** Rule made returnable forthwith by consent of the learned counsels for the parties.

2. The grievance in the petition is that the Education Officer or the Deputy Director of Education, as the case may be, has rejected approval to the appointment of the teaching and non-teaching staff appointed by minority institutions, on the ground that at the relevant time the ban on recruitment imposed by Government Resolution dated 04.05.2020 and reiterated/clarified by communication dated 05.05.2020 issued by the Education Department of the State Government, was in force.

3. The development which has occurred during the pendency of the petition is that the State Government has taken a decision to lift the ban on recruitment and to permit the minority educational institutions to fill in the vacant posts. The decision taken by the State Government as is reflected in the communication dated 02.02.2023 addressed by the Government to the Director of Education is filed in Writ Petition 5936/2022, which is decided by this Court vide judgment dated 01.03.2023.

4. In view of the decision of the State Government of lifting the ban on the recruitment, we dispose of the petition by quashing the rejection order, and by remitting the issue to the concerned officer, i.e. the Education Officer or the Deputy Director of Education as the case may be, to hear the stakeholder and to pass an appropriate order in view of the decision taken by the State Government.

5. We direct that the fresh decision shall be taken within eight weeks from the date of appearance of the stakeholder. We may clarify that the concerned authority shall not be precluded from rejecting the approval if there is any impediment, other than the recruitment ban, in granting approval to the appointment/s.

6. The stakeholder may appear before the concerned officer on 13.03.2023.

7. At this stage, the learned Assistant Government Pleader Mr. Pathan points out that the State Government has lifted the ban only as regards the teaching staff. In response, the learned Counsel Ms. Dashputre submits, that even *de hors* the decision of lifting ban, this Court has already taken a view that the ban on

recruitment would not apply to minority institutions. The learned Assistant Government Pleader Mr. Pathan would submit that the view taken may have to be revisited.

8. We are not inclined to delve deeper in the submission noted *supra* since the learned Counsel Ms. Dashputre, who is appearing on behalf of non-teaching employee, states that her client shall agitate the grievance before the concerned authority who may taken an appropriate decision in accordance with law.

9. The petition is partly allowed in the aforestated terms.

(MRS. VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)

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