

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

WRIT PETITION NO.5030 OF 2019

1. The Maharashtra Regional Board of
Education of the Church of North India
bearing PTR No.F-5798 (Bom) having its
registered office at C/o St. Ursula Girls
High School, Civil Lines, Nagpur,
through its Authorized signatory
 2. Gardiner High School
Labour Court Lane,
Civil Lines, Nagpur,
through its Headmaster
 3. Mr Hemantkumar S/o Lukanna Kadabur
Aged about Occ. Service
R/o c/o 4/108,
Shree Om Apartments Gorevvada Road,
Borgaon, Nagpur
- ... Petitioners

-vs-

1. The State of Maharashtra,
Through the Secretary, Department of
Education, Mantralaya, Bombay – 32
 2. The Education Officer (Secondary)
Zilla Parishad, Nagpur
- ... Respondents

Shri Bernard John, Advocate for petitioners.
Smt S. S. Jachak, Assistant Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, J.
DATE : July 17, 2023

Oral Judgment : (Per : A. S. Chandurkar, J.)

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

The petitioner No.3 came to be appointed as Junior Clerk at the

petitioner No.2-School from 08/10/2015. The proposals seeking approval to his appointment was submitted by the petitioner No.2 on 23/10/2015 and 03/05/2019. The said proposals have not having been decided, the present writ petition came to filed seeking a direction to decide the said proposals.

2. During pendency of the writ petition, on 06/03/2020 the Education Officer (Secondary) approved the appointment of petitioner No.3 on the post of Junior Clerk from 23/08/2019 for a period of three years. Since such approval was not granted from the date of the petitioner No.3's appointment which is 08/10/2015 on the ground that the staff justification for non-teaching staff had not been finalised, the writ petition was amended and the petitioners have sought modification of the order dated 06/03/2020.

3. After hearing the learned counsel for the parties and after perusing the documents on record, we find that the reason for refusing to approve the appointment of petitioner No.3 from 08/10/2015 only on the ground that the staffing pattern of the non-teaching staff had not been finalised could not have been the basis for such refusal. Following the course as adopted in Writ Petition No.1746/2020 (*Society of Sisters of St. Joseph's Thr. Secretary, Nagpur and ors. vs. State of Maharashtra, Thr. Secretary, Dept. of School Education and Sports and anr.*) decided on 10/02/2023 as well as the judgment in Writ Petition No.5298/2021 (*The Maharashtra Regional Board of Education of the Church of North India and ors. vs. The State of Maharashtra, Thr. Secretary, Dept. of Education and anr.*) decided on

11/02/2022, the following order is passed :

- (i) The impugned order dated 06/03/2020 is set aside.
 - (ii) In terms of the judgment in Writ Petition No.1746/2020 (*Society of Sisters of St. Joseph's Thr. Secretary, Nagpur and ors. vs. State of Maharashtra, Thr. Secretary, Dept. of School Education and Sports and anr.*), the Education Officer (Secondary) Zilla Parishad Nagpur is directed to re-consider the proposals dated 23/10/2015 and 03/05/2019 submitted by the petitioner No.2 for grant of approval to the appointment of petitioner No.3 on the post of Junior Clerk from 08/10/2015 and onwards in accordance with law and after giving opportunity to the petitioners.
 - (iii) The decision on the said proposal be taken within a period of six weeks of receiving copy of this order.
4. Rule is disposed of in aforesaid terms with no order as to costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)