

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

WRIT PETITION NO. 7389 OF 2022

Petitioners

- (1) The Gujrati Education Society,
Amravati registered Society under
Societies Registration Act having
Registration No. 14/1936 and also
registered under the Bombay Public
Trusts Act having PTR F-134/Amravati,
through its President Shri Dilipbhai
Mangaljibhai Popat
Aged about 62 Years, Occ : Business,
R/o Saturna, Badnera Road, Amravati,
Tq. and Dist. Amravati.
- (2) The Head Mistress,
Manibai Gujarati High School,
Ambapeth, Amravati-444 601
- (3) Ku. Neha S. Parekh,
Aged about 37 Yrs, Occ: Astt. Teacher,
R/o 67/B, Sharda Nagar, Amravati.
- (4) Ku. Lina H. Popat
Aged about Major, Occ: Astt. Teacher,
C/o L.S. Kariya, JNV, Navsari,
Amravati.
- (5) Rajesh S. Jadhav
Aged about Major, Occ: Astt. Teacher,
R/o 403, Gurudeo Residecy, Kailash
Nagar, Bear Arjun Nagar, Amravati.
- (6) Ku. Yogita S. Ved
Aged about Major, Occ: Astt. Teacher,
R/o Rajkalash Tower, Plot No. 15,
Behind Nanda Motors, Amravati.

- (7) Ku. Dipti Dipak Parkhi
Aged about 40 Yrs, Occ: Astd. Teacher,
C/o Harish Ramesh Kulkarni, Subhash
Colony, Near Farshi Stop, Amravati.
- (8) Ku. Priya Liladhar Gadve
Aged about 35 Yrs, Occ: Astd. Teacher,
R/o Behind ITO, Ambapeth, Amravati.
- (9) Ku. Nayan Subhash Agroya
Aged about 27 Yrs, Occ: Astd. Teacher,
R/o Prasad Nagar, Saturna, Amravati.
- (10) Ajay Kishor Seta
Aged about 30 Yrs, Occ: Astd. Teacher,
R/o 12, Prasad Nagar, Saturna, Amravati.
- (11) Vishal Kamlakar Bhangale
Aged about 32 Yrs, Occ: Astd. Teacher,
R/o Gajanan Nagar, New town,
Badnera, Distt. Amravati.

...Versus...

Respondents

- (1) The State of Maharashtra
Through its Secretary,
Ministry of Education (Secondary),
Mantralaya, Mumbai-32.
- (2) The Education Officer(Secondary),
Zilla Parishad, Amravati.
- (3) Assistant Charity Commissioner,
Amravati Region, Amravati.

Mr. R. L. Khapre, Senior Advocate with Mr. D. R. Khapre,
Advocate for the petitioners
Mr. S. M. Ukey, Addl. G. P. for the State/respondents 1 to 3

CORAM : ROHIT B. DEO AND ANIL L. PANSARE, JJ.

DATE : 25-07-2023

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

Rule. Rule made returnable forthwith. With consent, the petition is heard finally.

2. Petitioner 1 is a minority institution. Petitioners 3 to 11 are appointed as Teachers between 2018 to 2020.

3. The management submitted proposals seeking approval to the appointment of the petitioners 3 to 11 and exchange of communications ensued. Initially, the Education Officer called upon the management to cure certain deficiencies. It appears, that the management responded with the necessary compliance. However, the Education Officer directed the management to submit the copy of the Public Trust Register (Schedule-1), which the management could not submit since the office of the Assistant Charity Commissioner, Amravati informed the counsel for the petitioner that Schedule-1 is in torn and worn out condition, and therefore, copy will be supplied only after the record is reconstructed.

4. Even *dehors* the inability of the petitioners to comply with the direction to submit copy of Schedule-1, we see no reason why the Education Officer is labouring under the impression that the decision on approval to appointments cannot be taken in the absence of Schedule-1.

5. It is well settled that it is not within the domain of the Education Officer to look into the legality of the election or determine the status of the elected body which forwards the proposals seeking approval to the appointment of teachers. In every public trust, there are bound to be certain proceedings pending. Change reports are not decided expeditiously is a ground reality. In our view, unless there is a specific order by the authority under the Maharashtra Public Trusts Act which restricts the management from appointing employees or seeking approval, in normal course, the Education Officer should not venture to tread in the territory which is the exclusive domain of the authority under the Maharashtra Public Trusts Act.

6. In this view of the matter, we quash order dated 22-3-2022 passed by the Education Officer (Secondary), Zilla Parishad, Amravati since the Education Officer has refused to

consider the proposals only on the ground that copy of the Schedule-1 is not supplied.

7. We direct the Education Officer(Secondary), Zilla Parishad, Amravati to consider the proposals afresh on merit and not to reject the same on the ground that copy of the Schedule-1 or Public Trust Register is not supplied. The decision shall be taken within the next two weeks.

8. We are conscious that the Education Officer has no power of review. However, there are certain exceptions. We clarify that if it transpires that as on the date the appointments were made, the management was restrained by any judicial or quasi-judicial order to make the appointment or to go ahead with the recruitment, it shall be open to the Education Officer to revisit the issue, if at all the approvals are granted on merits.

9. The petitioners shall appear before the Education Officer(Secondary), Zilla Parishad, Amravati on 4-8-2023.

10. The petition is disposed of in aforesaid terms.

(Anil L. Pansare, J.)

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(Rohit B. Deo, J.)

Digitally signed by AVINASH
YUVRAJ WASNIK
Signing Date: 28.07.2023 15:13