



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

WRIT PETITION NO. 4400/2021

Syadwad Education Society, Ansingh and Ors.

Vs.

State of Maharashtra and Ors.

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders
.....

Court's or Judge's order

Mr. B. G. Kulkarni, Advocate for Petitioners.

Ms. S. Z. Haider, A.G.P. for Respondent(s)/State.

Mr. R. L. Khapre, Sr. Advocate with Mr. R. R. Deo, Advocate for Respondent No.4.

Mr. P R. Agrawal, Advocate for Respondent No.5.

CORAM : **SMT. ANUJA PRABHUDESSAI AND**
MRS. VRUSHALI V. JOSHI, JJ.

DATED : **22.12.2023**

P. C.

. The petitioners herein had challenged the order dated 27.09.2021 passed by the respondent No.2 – Deputy Director of Education, Amravati cancelling the approval given to the appointment of the petitioner No.3 as Headmaster of Shri P. D. Jain Vidyalaya, Ansing. While cancelling the approval, the Deputy Director has observed that the Education Officer shall take necessary action considering the seniority of the teachers.

2. It is stated that the petitioner No.3 Headmaster has resigned from the post of Headmaster with effect from 02.12.2023 and as such the challenge to the cancellation of the approval is not pressed for. The challenge is now only

restricted to the directions given to the Education Officer to consider the seniority of the teachers while appointing the Headmaster.

3. Learned Counsel for the petitioner has relied upon the decision of the Division Bench of this Court in *Hakimsingh Ram Sumer Singh Yadav Vs. Vardhaman Sthanakwasi Jain Shravak Singh and Ors.* reported in *2000(4) Mh.L.J. 626* wherein the Division Bench of this Court has observed that in case of minority institution, the issue of seniority cannot come in the way of the Management for appointing a candidate of its choice to the post of Head of the School under the protection available to it under Article 30 of the Constitution. In *Mrs. Ivy C. Da. Conceicao Vs. State of Goa and Ors.* reported in *2017(3) SCC 619*, the Hon'ble Supreme Court has reiterated that the issue of seniority would not apply to a minority institution. It is further emphasized that though the issue of seniority does not apply minority institution, it cannot act arbitrarily or unfairly in dealing with the selection out of the eligible candidates. It is held that the minority institution may not be compelled to seniority alone but it must follow a criteria which is rational.

4. The petition can be conveniently disposed of with directions to the Education Officer to keep in mind the aforesaid principles while approving the appointment of the Headmaster of Shri P. D. Jain Vidyalaya, Ansing school.
5. The petition stands disposed of.

(MRS.VRUSHALI V. JOSHI, J.) (SMT. ANUJA PRABHUDESSAI, J.)