



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

WRIT PETITION NO.5681/2023

1. Sanjay Gandhi Shikshan Prasarak
Mandal, through its President, Haji
Pyar Mohd Noor Mohd, Malvi Pyara
Saw Mill Malegaon, Tah. Malegaon,
Dist. Washim.

2. Veer Hutatma Vasudeo Balwant
Phadke Urdu High School, through
its Headmaster, Gandhi Nagar,
Malegaon, Tah. Malegaon,
Dist. Washim.

3. Syed Tausif Syed Riyaj,
age 37 Yrs., Occ. Jr. Clerk,
R/o Zilla Parishad, Urdu School,
Malegaon, Tah. Malegaon,
Dist. Washim.

... Petitioners

- Versus -

1. The State of Maharashtra,
through its Secretary, Department
of Education, Mantralaya, Mumbai-32.

2. Dy. Director of Education, Amravati
Division, Amravati.

3. The Education Officer (Secondary),
Zilla Parishad, Washim.

... Respondents

Mr. Anand Parchure, Counsel for the Petitioners.
Mr. A.S. Fulzele, Additional Government Pleader for Respondent
Nos.1 to 3.

CORAM: A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 31.8.2023

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

Heard. **Rule.** Rule made returnable forthwith. Mr. A.S. Fulzele, learned Additional Government Pleader waives notice for respondent Nos.1 to 3.

2. The challenge raised in the present writ petition is to the rejection of the proposal dated 6.9.2021 seeking approval to the appointment of petitioner No.3 on the post of Junior Clerk. The Education Officer (Secondary) has rejected the proposal principally on the ground that the petitioners have failed to remove the deficiencies in the documents submitted in that proposal. In addition, it has been stated that in view of the ban

prevailing on recruitment pursuant to the Government Resolution dated 4.5.2020 the recruitment cannot be undertaken.

3. The learned counsel for the petitioners submits that the petitioners have not been given due notice of the deficiencies by the Education Officer (Secondary). Had such notice been given, the said deficiencies would have been removed. It is further submitted that insofar as the ban on recruitment is concerned, the same would not apply since the petitioner No.2 Institution is a Minority Institution. In that regard, reliance has been placed on the decision in the case of Writ Petition No.2538/2021 (Ubhajo Shikshan Sanstha and others V/s. State of Maharashtra and others) decided on 16.11.2021. It is, therefore, prayed that the Education Officer (Secondary) be directed to reconsider the proposal by permitting the petitioners to remove the deficiencies.

4. The learned Additional Government Pleader supported the impugned order by submitting that since the

petitioners failed to remove the deficiencies the proposal came to be rejected.

5. It is seen from the impugned order that deficiencies in the nature of non-furnishing of relevant documents has been assigned as reason for rejection of the proposal. In addition, a reference is made to the Government Resolution dated 4.5.2020 imposing ban on the recruitment. Insofar as the first three reasons are concerned, we find that an opportunity can be given to the petitioners to demonstrate before the Education Officer (Secondary) that such deficiencies could be cured. Insofar as reason No.4 is concerned, we find that the decision of this Court in Writ Petition No.2538/2021 (supra) holds that insofar as Minority Institution is concerned, such ban on recruitment would not be applicable.

6. In these facts, the following order would serve the ends of justice:-

(i) With a view to grant an opportunity to remove the deficiencies in the proposal dated 6.9.2021 the order dated 28.2.2022 is set aside.

(ii) The petitioners shall remove all deficiencies as communicated in the order dated 28.2.2022 and place on record the relevant documents before the Education Officer (Secondary). The same be done within a period of four weeks from receiving the copy of this judgment. The Petitioners shall appear before the Education Officer (Secondary) on 23.9.2023 and place before said Authority all relevant documents. The Education Officer (Secondary) shall evaluate the relevant material and reconsider the proposal dated 6.9.2021 in accordance with law within a further period of four weeks. The decision taken be communicated to the petitioners.

(iii) The writ petition is disposed of in the aforesaid terms.
No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)