

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

WRIT PETITION NO. 8121 OF 2022

1. St. Francis, De sales Education Society
through its Secretary SFS High School,
Civil Lines Nagpur.
2. St. Francis, De sales High School, Sadar,
Nagpur through its Principal.
3. Mrs. Rushina. R. Bhaik,
Aged : 36 yrs.,
R/o. Flat No. 203, Srinivas Apartments,
Walkar Road, Mahal, Nagpur.
4. Sophya Sanjay Jadhav,
Aged : 24 Yrs.
R/o. 166/3, Somwari Quarters
behind PF Office, Nagpur.

---PETITIONERS

----Versus----

1. The State of Maharashtra
through its Secretary,
Education and Sports Department,
Mantralaya, Mumbai – 32.
2. The Office of the Directorate of
Education through its Director,
Secondary and Higher Secondary,
Education, Pune – 01.
3. The Deputy Director of Education,
Nagpur Division, Nagpur.
4. Zilla Parishad, Nagpur through its
Education Officer (Secondary).

---RESPONDENTS

WITH**WRIT PETITION NO. 8125 OF 2022**

1. St. Francis, De sales Education Society
through its Secretary SFS High School,
Civil Lines Nagpur.
2. St. Francis, De sales High School, Sadar,
Nagpur through its Principal.
3. Mr. Evneet Singh Sukhdev Singh Bewali,
Aged : 25 yrs.,
R/o. 16-A, MECOSA Bagh, near Radhe
Krishna Mandir, Nagpur.
4. Mrs. Jincy Jerin Varghese,
Aged : 27 Yrs.,
R/o. 6/7, Kirthidhar Society, Suman
Nagri, Godhni, Nagpur.

---PETITIONERS**----Versus----**

1. The State of Maharashtra
through its Secretary,
Education and Sports Department,
Mantralaya, Mumbai – 32.
2. The Office of the Directorate of
Education through its Director,
Secondary and Higher Secondary,
Education, Pune – 01.
3. The Deputy Director of Education,
Nagpur Division, Nagpur.
4. Zilla Parishad, Nagpur through its
Education Officer (Secondary).

---RESPONDENTS**WITH**

WRIT PETITION NO. 8123 OF 2022

1. St. Francis, De sales Education Society
through its Secretary SFS High School,
Civil Lines Nagpur.
2. St. Francis, De sales High School, Sadar,
Nagpur through its Principal.
3. Ku. Namrata D/o. Girish Shukla,
Aged : 32 Yrs.,
R/o. Plot No. 1060,
Ashirwaad Nagar, Near Thakre School,
Nagpur.

---PETITIONERS**----Versus----**

1. The State of Maharashtra
through its Secretary,
Education and Sports Department,
Mantralaya, Mumbai – 32.
2. The Office of the Directorate of
Education through its Director,
Secondary and Higher Secondary,
Education, Pune – 01.
3. The Deputy Director of Education,
Nagpur Division, Nagpur.
4. Zilla Parishad, Nagpur through its
Education Officer (Secondary).

---RESPONDENTS

Mr. A. D. Mohgaonkar, Advocate for Petitioner.
Mr. N. S. Rao, AGP for Respondents 1 & 2/State.

CORAM: **ROHIT B. DEO AND MRS. VRUSHALI V. JOSHI, JJ.**
DATE: **03.03.2023**

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

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

2. The grievance in the petitions 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 petitions 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 petitions by quashing the rejection orders, 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 stakeholders 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 stakeholders. 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 stakeholders may appear before the concerned officer on 13.03.2023.

7. At this stage the learned Assistant Government Pleader Mr. N. S. Rao points out that the State Government has lifted the ban only as regards the teaching staff. In response, the learned Counsel Mr. Mohgaonkar 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. N. S. Rao 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 Mr. Mohgaonkar, who is appearing on behalf of some non-teaching employees states that his clients shall agitate the grievance before the concerned authority who may take an appropriate decision in accordance with law.

9. The petitions are partly allowed in the aforestated terms.

(MRS. VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)

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