



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2406 OF 2020

**KHAN RUMAN KALIMODDIN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Petitioner : Mr. Mali D.S.
AGP for Respondents: Mr. S.R. Yadav Lonikar
Advocate for Respondent No.5 & 6 : Mr. Kawale Laxman H.

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**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 11th NOVEMBER 2024

PER COURT :

. Heard the respective Counsels finally.

2. The petitioner's proposal for approval was rejected by the impugned order dated 10.01.2020 on the ground that the Management did not have the minority certificate. The Education Officer (Secondary), Zilla Parishad, Latur, has also assigned the reason that in the year 2018-19, four posts were sanctioned, out of them two could have been filled up from the reserved category and two from the open category. However, violating this rule, the Management has filled up all four posts from the open category.

3. Learned Counsel for the petitioner submits that there was a dispute between the Management. The then Secretary had sold out

the Management to another Institution. Thereafter, the present Secretary had impugned his action of transferring the institution. He was successful and again the School Management came to the present Secretary/ Management. However, due to the dispute, the present petitioner did not have the minority certificate. He also argued that the Education Officer had erroneously held the sanction for the year 2018-19 when the petitioner was appointed in 2014. He would submit that the reasons assigned for the rejection of the proposal are against the law. When the petitioner was appointed, the posts were vacant and due procedure was followed. Hence he prayed to allow the petition.

4. Learned AGP would submit that the copy of the minority certificate could have been obtained by the Management. However, he conceded that the position of the year 2018-19 could not have been considered for filling the posts. The question goes to the root of the status of the Institution whether it is a minority institution. If it is so, the rule for filling up the posts would be different. He fairly conceded that if the certificate is produced, the position may be changed. Hence, instead of directing the Management to produce a copy of a minority Institution certificate in this petition, the matter may be remitted to the Education Officer (Secondary), Zilla Parishad, Latur for reconsidering after submitting such certificate.

5. Prima facie, the impugned order is defective and the reasons assigned for rejection are also against the rules of recruitment. The

position after the year 2018-19 has been incorrectly considered.

6. The petition is partly allowed.

7. The impugned order of Education Officer (Secondary), Zilla Parishad, Latur dated 10.01.2020 stands quashed and set aside.

8. The Education Officer is directed to reconsider the proposal, considering the position of 2014-15 on submitting the fresh proposal along with all requisite papers including a Minority Institution Certificate to the Education Officer (Secondary), Zilla Parishad, Latur by the Management within four weeks from today. Thereafter Education Officer should reconsider and decide the proposal of the petitioner within three weeks and communicate the same to the concerned.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

Najeeb..