



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

WRIT PETITION NO. 3339 OF 2024

Sacred Heart Society Ahmednagar Through It's Manager And
Others

VERSUS

The State Of Maharashtra Through It's Secretary And Others

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Advocate for the Petitioners : Mr. A.V. Indrale Patil

AGP for Respondents 1,2 : Mr. K S Patil

Advocate for Respondent 3 : Ms. K S Bhale

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**CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.**

Dated : April 01, 2024

FINAL ORDER :- (Per S.G. Chapalgaonkar, J.)

1. The petitioners approached this Court under Article 226 of the Constitution of India, with following prayer :-

“B. By issuing writ of mandamus or any other appropriate writ, order or directions the respondent no.3 Education Officer (Primary), Zilla Parishad, Ahmednagar, be directed to grant approval to the appointments of petitioner no.2 and 3, in view of the proposal dated 15.9.2023 submitted by the School. Since, from initial date of appointment. Consequently, the petitioner no.2 and 3 be paid admissible arrears of salary as well as regular salary and for that purpose necessary directions be issued.”

2. Mr. A.V. Indrale Patil, learned advocate appearing for the petitioners submit that petitioner no.1 is a Minority Institution and runs a Primary School namely ‘Sacred Heart Marathi Primary School, Ahmednagar, which received 100% grant-in-aid. The petitioner nos.2 and 3 are qualified to be appointed as ‘assistant teachers.’ Petitioner no.1 vide advertisement dated 5.8.2023 had invited candidature of qualified persons to be appointed as ‘Shikshan Sevak’.

Petitioner nos.2 and 3 responded to said advertisement and they have been appointed w.e.f. 1.9.2023. The proposal for grant of approval to their appointment was moved to the Education Officer, Primary. However, he declined to grant proposal giving erroneous reasons.

3. Mr. Patil, learned advocate appearing for the petitioners would submit that the petitioner is Minority Institution. Procedure of 'Pavitra Portal' has no application for such institutions while making appointment of the teachers. Similarly, minority institution is not under obligation to absorb surplus teachers and for that purpose seek previous sanction to advertise vacancies. The Education Officer was therefore wrong in declining grant of approval to the appointment of the petitioner nos. 2 and 3. To buttress his contentions, he relies upon the Judgment of this Court in case of **Mohammadiya Education Society, Ahmednagar Vs. State of Maharashtra and others in Writ Petition No.2876 of 2015** dated 29.6.2015.

4. Mr. K.S. Patil, learned AGP and Ms. K.S. Bhale, learned advocate appearing for respondent no.3 supports the impugned order.

5. We have considered the submissions advanced on behalf of the learned advocates appearing for the respective parties. Perusal of the impugned order dated 6.12.2023 would depict that various reasons are employed to decline the proposal seeking approval to the appointment of the petitioner nos.2 and 3. However, apparently, such reasons are erroneous looking to the minority status of petitioner no.1. Procedure of the 'Pavitra Pranali' for appointment of teachers in minority institutions cannot be insisted. Doubt is raised as regards

reservation roaster, which may not apply to the minority institution. The impugned order nowhere depicts that there are surplus teachers from the same school. Pertinently, all these deficiencies mentioned in impugned order were never communicated to petitioner no.1 before passing the impugned order. We find that the impugned order is erroneous and liable to be quashed and set aside. Resultantly, we proceed to pass the following order.

ORDER

- i. Writ Petition is partly allowed.
- ii. The impugned order dated 6.12.2023 passed by Respondent No.3 rejecting the proposal dated 15.09.2023 seeking approval to the appointment of the petitioner nos.2 and 3 is hereby quashed and set aside.
- iii. Respondent no.3 shall re-consider the proposal dated 15.9.2023 submitted by petitioner no.1 seeking approval to the appointment of the petitioner nos.2 and 3 as per the norms as applicable to the minority institutions.
- iv. The Respondent No.3 before taking his decision shall grant an opportunity to petitioner no.1 to offer explanation on all objections/deficiencies in proposal and tender supporting documents so also grant opportunity of hearing.

- v. Petitioner nos.1 to 3 shall appear before the respondent no.3 on 15.4.2024 alongwith the requisite documents in support of their claim for grant of approval.
- vi. Respondent no.3 shall take his final decision by 1st of May, 2024.
- vii. Writ Petition is accordingly **disposed off.** No costs.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)
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