



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

WRIT PETITION NO.2877 OF 2024

Shri Sharda Bhuvan Education Society,
Nanded, I.T.M. Building,
VIP Road, Nanded 431 602,
Through its Jt. Secretary and Authorized Signatory
Dr. Raosaheb Krishanathrao Shendarkar,
Age: 76 years, Occupation: Nil - Retired Principal,
R/o 6, Anand Nagar, Nanded 431 602
E-mail: ssbes1963@gmail.com
Mobile No. 7972363050.

..Petitioner

Versus

1. The State of Maharashtra through its,
Principal Secretary Higher and Technical
Education Department Mantralaya,
Mumbai 400 032.
2. The Secretary General Administration Department
Mantralaya Mumbai 400 032.
3. The Joint Director of Education (Higher Education),
Nanded Division Nanded.
4. The Director of Higher Education,
M.S., Central Building, Camp, Pune.
5. The Assistant Commissioner (B.C. Cell),
In the office of the
Divisional Commissioner (Revenue),
Aurangabad Division Aurangabad.

..Respondents

...

Mr. A. S. Deshpande, Advocate for the Petitioner.
Mrs. M. N. Ghanekar, AGP for Respondents.

...

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

**JUDGMENT RESERVED ON :- 21st MARCH 2024.
JUDGMENT PRONOUNCED ON :- 28th MARCH 2024.**

JUDGMENT (Per: S. G. Chapalgaonkar, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner approaches this Court with following reliefs:

“(B) It may kindly be held and declared that, the 'tenure post' of Principals in the colleges run by the petitioner being ex-cadre posts, do not fall within the ambit of 'roaster and reservation', and are free there from to be filled in on the basis of merit, by following the procedure prescribed under law;

(C) Pending hearing and final hearing of this petition, the respondents may kindly be directed to permit the petitioner to fill in the post of Principal of Narayanrao Chavan Law College, Nanded, without insisting for roaster and reservation, in terms of the decision and directions in Writ Petition No. 3108 of 2023;”

3. The petitioner contends that it is a Society registered under Societies Registration Act, 1960, so also a Public Trust registered under Bombay Public Trust Act, 1950. The petitioner runs as many as five aided colleges within the jurisdiction of Swami Ramanand Teerth Marathwada University. The principal of the Yashwant Mahavidyalaya, Nanded would be retiring on 30.06.2028, the principal's post at Shankarrao Chavan Mahavidyalaya is vacant since 31.05.2023, the principals post at Rajiv Gandhi College is vacant since 31.12.2023, the principals post at Indira Gandhi Senior College would be vacant by 03.04.2024 and the post of principal at Narayanrao Chavan Law College is vacant since 04.12.2023. The petitioner intends to fill up the vacancies. The respondent-State of Maharashtra issued Circulars and Government Resolutions making post of the principal susceptible

to the roster and reservation, when the Educational Institution runs more than one College. According to the petitioner, the post of principal is a tenure post and no longer continues to be regular appointment. It is an isolated post with peculiar pay band. Therefore, question of applicability of the reservation roster would not apply.

4. Mr. Deshpande, learned Advocate appearing for the petitioner submits that the issue is no more res-integra. This Court in case of ***Marathwada Legal and General Education Society, Aurangabad Vs. Dr. Babasaheb Ambedkar Marathwada University, Aurangabad and Ors.*** in ***Writ Petition No.3108 of 2023*** decided on ***07.08.2023*** uphold the similar contentions and declared that the posts of the principal in the College are not governed by the policy of the reservation and provisions of the Maharashtra Educational Institutions (Reservation in Teachers Cadre) Act, 2021 (for short 'Act of 2021'). The petitioner has, therefore, represented respondent no.4 that the posts of principal in the Colleges run by the petitioner may be permitted to be filled in through open competition and issue no objection to fill in the vacant posts without obligation of the reservation roster. However, respondent no.4 declined to consider the representation of the petitioner and insisted to fill in the posts as per the Act of 2021. He would, therefore, submit that the writ petition may be allowed in terms of the prayers in the petition.

5. Mrs. Ghanekar, learned A.G.P. opposes the prayers in the petition. She would submit that the statutory scheme under the Act of 2021 provides for reservation to the post of teachers. Relying upon the definition under Section 2(61) of the Maharashtra Public Universities Act, 2016 she would submit that word teacher

would include the principal. Since the petitioner runs five colleges, the reservation roster would apply. She would further submit that the principals in five colleges run by the petitioner draw similar pay scale. Therefore, the reservation policy can be applied to the post of principal by following reservation roster. Only because appointment of the principal is for specified term, it cannot be given status of tenure post or isolated post.

6. We have considered the submissions advanced on behalf of the respective parties. There is no dispute as regards to the factual matrix of the matter. Only the issue raised for consideration is whether the post of the principal in the Colleges run by the petitioner is susceptible to the reservation roster or it is an isolated post to which reservation policy cannot be applied. The issue raised is fairly covered by the judgment of this Court in case of ***Marathwada Legal and General Education Society, Aurangabad*** (supra). This Court after analyzing the provisions of the Act of 2021 and the Maharashtra Public Universities Act, 2016 observed in paragraph no.29 thus:

“29. In view of the interpretation of different clauses and the reasons assigned above there is no merit in the contention that G. R. dated 23.09.2016 is superseded or enervated by the Act of 2021. The G. R. dated 23.09.2016 still holds the field and applies with full force. It excludes the isolated post from applicability of reservation policy. We are of the view that the posts of principals rendering services in colleges are not covered by the reservation policy. It is immaterial that multiple colleges are run by the same institution. Being an isolated post, the principles laid down in above referred judgments apply with full force.”

7. Applying the aforesaid principles of law to the facts of the present case, we have no hesitation to hold that although the petitioner runs multiple colleges, the post of principal would not be susceptible to the roster and the reservation and would continue to

govern by the stipulation in the Government Resolution dated 23.09.2016.

8. Resultantly, we allow the Writ Petition in terms of prayer **Clause (B)**.

9. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE