



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4547 OF 2024

Young Boy's Educational and
Industrial Circle's Aqsa Road,
Vadjai Road, Dhule,
Tq. And Dist. Dhule
Through its President
Rafique Ahemad Abdul Majid,
Age: 62 years, Occu: President of
Young Boy's Educational and
Industrial Circle's, R/o. Aqsa Road,
Dhule, Tq. And Dist. Dhule

.. PETITIONER

VERSUS

1. The State of Maharashtra
Secondary Education Department,
Mantralaya, Mumbai-32
Through its Secretary.
2. The Education Officer (Secondary)
Zilla Parishad Dhule,
Tq. And Dist. Dhule.

.. RESPONDENTS

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Mr. A. S. Gandhi, Advocate for the petitioner.
Mr. A. M. Phule, AGP for respondents – State.

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

DATE : 30th APRIL, 2024.

ORDER [Per Smt. Vibha Kankanwadi, J.] :-

. Heard learned Advocate for the petitioner as well as learned AGP
for the respondents – State.

2. With limited subject, the petition has been filed. The petitioner runs a school where one Yunus Bashir Patel was serving as Headmaster since 07/10.11.1998. He was retiring from the school on the date of superannuation i.e. on 31.03.2024. It was in the middle of the academic term and, therefore, the petitioner trust by order dated 28.03.2024 re-employed him for the same post till the end of the academic year. A proposal was then sent by the trust for sanctioning approval to respondent No.2, however, respondent No.2 has rejected the same. Hence, this petition.

3. Learned Advocate for the petitioner is relying upon Rule 17(2) of the Maharashtra Employee of Private Schools (Condition of Service) Rules, 1981 (hereinafter referred to as the "M.E.P.S. Rules"), which empowers the trust to re-appoint the said retiring employee, whose retirement is in the middle of the academic year and such re-appointment can be till the end of the academic year.

4. We have considered the fact that said Yunus Bashir Patel was appointed as Headmaster by order dated 01.06.1997. His appointment was approved by order dated 07/10.11.1998 by respondent No.2. Taking into consideration his date of birth, he was to retire by superannuation on 31.03.2024. Taking into consideration the long tenure he had served on the post of Headmaster, it appears that till the end of the academic year i.e. 31.05.2024, he was re-employed by

the trust as per the provisions of Rule 17(2) of the M.E.P.S. Rules, 1981. When such re-appointment is backed by legal provision, without considering the said law/legal provision, respondent No.2 has simply rejected the proposal by saying that it is not possible to accord approval. Unnecessarily, even suggestion has been given as to who would be then the Headmaster. Taking into consideration the limited prayer and the re-appointment is from 01.04.2024 to 31.05.2024, the impugned order passed by respondent No.2 deserves to be set aside and directions are required to be issued to respondent No.2 to accord sanction. Hence, the following order :-

ORDER

- I) The Writ Petition stands allowed.
- II) The impugned order dated 22.04.2024 passed by respondent No.2 rejecting the proposal for sanction to the re-appointment of the Headmaster by the petitioner, is hereby quashed and set aside.
- III) Respondent No.2 is directed to grant sanction to the said proposal of the petitioner for re-appointment as Headmaster of Mohammadiya Boy's Urdu High School and Junior College of Science from 01.04.2024 to 31.05.2024. Such order be issued within a period of 15 days from today.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm