



Judgment

19 wp 3470.23

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.
WRIT PETITION NO. 3470/2023

1. Bahu-Uddeshiya Shyam Shikshan Sanstha,
Nimgaon through its Secretary, Radheshyam
Shamraoji Kapgate, aged 62 yrs., Office at
Ward No.2, near Datta Mandir, Nimgaon,
Tal. Arjuni Morgaon, Dist. Gondia,
2. Shyam Madhyamik Vidyalaya, Nimgaon,
through its Head Master Omprakash
Sadashivsingh Pawar, aged 55 yrs.,
Ward No.3, Talao Road, Nimgaon,
Tal. Arjuni Morgaon, Dist. Gondia.
3. Ku. Rupali Deodas Samrit,
Aged 25 yrs., Occ. Service,
R/o. Ward No.2, At Pindkepar,
Post Ekodi, Tal. Sakoli, Dist. Bhandara.

...PETITIONERS.

VERSUS

1. State of Maharashtra through its
Secretary, Department of School Education,
Mantralaya, Mumbai – 400032.
2. The Commissioner of Education,
State of Maharashtra, Central Building,
Pune – 411001.
3. The Deputy Director of Education,
Nagpur Division, Balbharti, Opp.
Dhantoli Park, Dhantoli, Nagpur -
440012.

4. The Education Officer (Secondary)
Zilla Parishad, Gondia, Dist. Gondia.

...RESPONDENTS.

Mr. B.G. Kulkarni, Advocate for petitioners.
Mr. A.M. Ghogare, Assistant Government Pleader for respondent
Nos. 1 to 4.

**CORAM : VINAY JOSHI AND
SMT. M. S. JAWALKAR, JJ.**
DATE : JULY 05, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.
2. Petitioner No.1 is an Education Society running petitioner No.2 Secondary School which is grant-in-aid and recognized school. The post of Assistant Teacher in petitioner No.2 School fell vacant on which the petitioner No.3 has been appointed on 15.04.2022 by following due procedure. At the relevant time, “pavitra portal” was not functioning, therefore, by following procedure of public add, the recruitment was made. The proposal for approval of petitioner No.3

services has been forwarded by the petitioner No.1 to respondent No.4 vide communication dated 11.06.2022. The said proposal was not considered by respondent No.4 for the reason of ban on recruitment. The said decision has been communicated on 26.07.2022 and 02.07.2022.

3. It reveals from the impugned communication that the proposal was not rejected on merits, but only on the sole ground of ban on recruitment, it has been rejected. The learned counsel appearing for petitioners has brought to our notice a communication dated 07.12.2020, by which the ban on recruitment was already lifted which was not considered.

4. It reveals that despite lifting of ban, the proposal was not considered by ignoring the aspect that ban has already been lifted. In the circumstances, it necessitates for respondent No. 4 to reconsider the petitioner's proposal on its own merit and to take appropriate decision.

5. In view of above, petition is allowed, We hereby quash and set aside impugned communications dated 26.07.2022 and

02.09.2022. We direct respondent No.4 to consider the proposal for approval of the service of petitioner No.3 within eight weeks from the date of communication of this order.

6. Petition stands disposed of in above terms.

(SMT. M. S. JAWALKAR, J)

(VINAY JOSHI, J.)

Gohane