



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6226 OF 2022

Mahila Jagruti Shikshan Sanstha, Bagholi, Thr. Secretary R. B. Patle, Tah. Tiroda, Dist. Gondia
and anr.

-vs-

State of Maharashtra, Thr. Secretary, School Education and Sports Dept. Mantralaya, Mumbai
and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and the Registrar's orders.

Court's or Judge's Orders.

Shri A. Z. Jibhkate, Advocate for petitioners.

Shri A. M. Ghogare, Assistant Government Pleader for respondents.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : January 16, 2024

1. Heard.

2. The petitioner No.2 was appointed in a school run by petitioner No.1-Society which was admissible to 20% grant-in-aid. Consequently the petitioner No.2 was declared surplus and appears to have been transferred to other school run by the same Society having 100% grant.

3. Drawing support from the provisions of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short, the Rules of 1981), Shri A. Z. Jibhkate, learned counsel for the petitioners would urge that respondent No.4-Education Officer has erred in refusing to grant approval to the appointment of the petitioner on the said post. According to him in view of staffing pattern for 2018-2019 the list of posts which were rendered surplus upto September 2021 was already prepared by the Education Officer and to substantiate the same has drawn support from Annexure-R-1

(page 131 of the writ petition) submitted by the Education Officer. As such according to him, there was no surplus post available to fill in vacancy with petitioner No.1 which was offered/given to petitioner No.2.

4. There appears the issue as regards existence of surplus teacher on the establishment of petitioner No.1. There also appears an issue as regards the sanctioned strength of the Schools run by petitioner No.1.

5. In the aforesaid backdrop, we deem it appropriate to direct the Deputy Director of Education, Nagpur to look into the issue as regards the claim of the petitioners put forth by petitioner No.2 that she can be accommodated against the vacancy in view of provisions of Rule 41A of the Rules of 1981. The Deputy Director of Education shall elaborately deal with the claim of the petitioners and pass a reasoned order within a period of four weeks from appearance of the petitioners before him.

6. The petitioners shall appear before the Deputy Director of Education, Nagpur with all necessary documents on 29/01/2024.

7. Order accordingly. The writ petition is disposed of in aforesaid terms with no order as to costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)