



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

WRIT PETITION NO.2826 OF 2023

1. Depressed Classes Education Society,
Bramhapuri, through its President, Dr.
Premlal Ramkisan Meshram, aged 73
yrs, Vidya Nagar, Wadsa Road,
Bramhapuri, Tq. Bramhapuri, Dist.
Chandrapur – 441 206
2. Savitabai Fule Vidyalaya Bramhapuri
through its Head Master Baba Mahadeo
Nagrle, aged 55 years, Vidya Nagar,
Wadsa Road, Bramhapuri, Tq.
Bramhapuri, Dist. Chandrapur – 441 206
3. Mahatma Fule Vidyalaya Kinhi
(Ranmochan) through its Head Mistress
Ku. Meenakshi Muralidhar Pilare, aged
53 years, At Post Kinhi (Ranmochan) Tq.
Bramhapuri, Dist. Chandrapur.
4. Vinay Chandramani Dethe, aged 31
years, Occu- Service, r/o c/o Shri
Mangesh Nandeshwar, Near Buddha
Vihar, Vidyanagar, Bramhapuri, Dist.
Chandrapur.
5. Pankaj Narayan Uke, Aged 35 years,
Occu- Service, r/o Shinde Layout, Near
Dhamma Bhumi, Kel Road, Bramhapuri,
Tq. Bramhapuri, Dist. Chandrapur.
6. Pradeepkumar Govindrao Dhurve, aged
41 years, Occ-Service, r/o c/o Shri
Wamanrao Kohadkar, Tilak nagar,

Bramhapuri, Tq. Bramhpuri, Dist.
Chandrapur.

7. Ku. Yogita Bhagwat Hume, aged 32 years, Occu- Service, r/o c/o Mangesh Kore, Samata Colony, Nagbhid, Tq. Nagbhid, Dist. Chandrapur.
8. Ku. Jayashree Manohar Zode, aged 32 years, Occu-Service, r/o Samata Colony, Nagbhid, Tq. Nagbhid, Dist. Chandrapur.
9. Ku. Padmini Kachru Dhanvij aged 32 years, Occ- Service, r/o At Khandala Post Kahali, Tq. Bramhapuri, Dist. Chandrapur.

... PETITIONERS

VERSUS

1. The State of Maharashtra, through its Secretary, Department of School Education and Sports, Mantralaya, Mumbai - 400032
2. The Deputy Director of Education, Nagpur Division, Balbharati, Opposite Dhantoli Park, Dhantoli, Nagpur 440012
3. The Education Officer (Secondary), Zilla Parishad, Chandrapur, Dist. Chandrapur.

... RESPONDENTS

Shri B.G. Kulkarni, Advocate for the petitioners.
Shri Lonare, A.G.P for the State.

CORAM : VINAY JOSHI AND SANJAY A. DESHMUKH, JJ.
DATE : 24.07.2024.

JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the parties.

3. Petitioner no.1 is an Educational Society, which is a minority institution. The petitioner has submitted the proposal for approval of the services of petitioner nos.4, 6 to 8, who are the teachers and petitioner no.5 who is the Junior Clark. The said proposal was rejected by different communications assigning the only reason that since there was ban on recruitment, the proposal cannot be accepted.

4. The learned Counsel for the petitioner has invited our attention to the order dated 16.11.2021 passed by this Court in Writ Petition No.2538/2021 (*Ubhajo Shikshan Sanstha and ors. vs. State of Maharashtra & ors.*), wherein this Court has observed that since the ban on recruitment was not applicable to minority institutions that ground could not be raised for refusing approval to the appointment as

made. It is submitted that since a similar issue arises in this writ petition, the order passed in writ petition No.2538/2021 and the directions issued therein be also followed.

5. The learned Assistant Government Pleader for the respondent State has referred to the Government Resolution dated 05.05.2020 by which there was a ban on recruitment and has thus justified the impugned action. Despite service, the respondent no.4 has not appeared in the proceedings.

6. We find that this Court in Writ Petition No.2538/2021 has clarified that the ban on recruitment would not be applicable to minority institutions while making any recruitment. Thereafter, the Education Officer was directed to take a fresh decision in the matter. Considering the aforesaid, we pass the following order :

- (a) The communications dated 21.05.2021, 22.06.2021, 29.08.2022 and 20.09.2022 issued by the Education Officer (Secondary), Zilla Parishad, Chandrapur for refusal of approval are hereby quash and set aside.
- (b) The Education Officer (Secondary) shall take a fresh decision on the proposal made by the petitioners by granting an opportunity of

hearing to the petitioner no.1. For said purpose, petitioner no.1 through its representative shall appear before the Education Officer (Secondary) on 08.08.2024, along with a copy of this order.

- (c) The Education Officer (Secondary) shall take into consideration all relevant aspects and take a decision on the said proposal within a period of four weeks from that date. The decision taken shall be communicated to the petitioner no.1.
- (d) All points raised in the writ petition are kept open for being considered by the Education Officer (Secondary).
- (e) We hope and expect that the Education Officer (Secondary) shall not reject the proposal for the reason of ban on recruitment.

7. With these directions, the writ petition is allowed and disposed of in aforesaid terms. Rule accordingly. No costs.

(SANJAY A. DESHMUKH, J.)

(VINAY JOSHI, J.)

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