



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

WRIT PETITION NO.2573 OF 2024

1. The Amravati Cruelian Society, Amravati, through its Secretary, Amravati, Dist. Amravati.
2. Holicross Marathi High School, Amravati, Dist. Amravati Sarkartola, through its Headmaster.
3. Sister Alma Thomas Minz, aged about 39 years, Occ. Full Time Librarian.
4. Sister Phiyona Frankie Ghonsalves, aged about 37 years, Occ. Jr. Clerk,
5. Shri Kishore Manoharrao Deshmukh, aged about 41 years, Occ. Full Time, Laboratory Assistant (Petitioner no. 3 to 5 All r/o c/o Holicross Marathi High School, Amravati.)

... PETITIONERS

VERSUS

1. The State of Maharashtra, through its Secretary, Department of Education, Mantralaya, Mumbai – 32.
2. The Education Officer (Sec.), Zilla Parishad, Amravati.

... RESPONDENTS

Shri Anand Parchure, Advocate for the petitioners.
Shri G.S. Umale, Assistant Government Pleader for the respondents/State.

CORAM : SMT. M.S. JAWALKAR AND PRAVIN S. PATIL, JJ.
DATE : 22.07.2025.

ORAL JUDGMENT : (Per : Pravin S. Patil, J.)

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

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

3. By this petition, the order impugned herein is dated 21.03.2024 passed by the respondent no.2 Education Officer, rejecting the proposal for approval forwarded by petitioner no.2 by referring the Government Circular dated 05.05.2020 and communication of the Deputy Director of Education dated 01.08.2022.

4. It is the case of the petitioner, that petitioner no.1 is the registered Society and is a religious (Christian) minority institution having privilege to make an appointment of the candidate of their choice in their institution. In view of availability of vacancies, petitioner nos. 1 and 2 issued the advertisement on 11.09.2022 for the posts of Shikshan Sevika, Junior Clerk, Librarian and Full time Lab. Assistant. In pursuance of which, the petitioner nos.3 to 5 have been applied for respective post.

5. Petitioner nos.1 and 2 thereafter by following due procedure of law appointed petitioner nos.3 to 5 on clear and vacant post. After completing process of recruitment of the petitioners, on 09.11.2022 the proposal was forwarded to the Education Officer for grant of approval.

6. After receipt of the proposal for approval, it is expected from the respondent no.2 Education Officer to consider the documents enclosed with the proposal and after verification of the same, decide as to whether the approval should be granted or not. However, without doing so, respondent no. 2 Education Officer by relying upon the Government Circular dated 05.05.2020 and Communication of the Deputy Director of Education dated 01.08.2022, straight way rejected the proposal.

7. We have perused the Circular dated 05.05.2020, it is in respect of ban to fresh appointment during the period of COVID-19. The Communication dated 01.08.2022, is the general circular issued by the Director of Education that on the basis of strength of students in the school, the necessary posts be sanctioned to the respective school.

8. The petitioner has pointed out that the ban imposed by the State Government during the COVID-19 period on fresh appointment

was lifted up vide communication dated 02.02.2022. To substantiate this submission, the petitioner has relied upon the judgment of this Court in *Writ Petition No.5936 of 2022 (Ankuran Shikshan Santha, thr. Its Secretary and anr. vs. State of Maharashtra and anr.) dated 01.03.2023*, wherein in paragraph 3 this Court observed thus :

“3. The development which was occurred during the pendency of the petition is that the State Government has taken a decision to lift the ban on recruitment and to permit the minority educational institutions to fill in the vacant posts. The decision taken by the State Government as is reflected in the communication dated 02.02.2023 addressed by the Government to Director of Education is taken on record and marked Exhibit “A”.”

9. As such, the first ground on which the approval is rejected is found to be not sustainable in the eyes of law.

10. In respect of reference of communication of the Deputy Director of the Education dated 01.08.2022, which is in respect of the sanction of the post on the basis of strength of student in the school, it is pointed out by the petitioner that as per the staffing pattern in the school, posts were lying vacant and same are ear-marked by the Education Officer in the staffing pattern. As such, there is no dispute about the fact that the appointment of the petitioner nos.3 to 5 are

made on the clear and vacant post in the school.

11. Considering this factual position, we are of the opinion that before relying upon the communication dated 01.08.2022, it was necessary for the respondent no.2 to apply his mind and verify from the school record as to whether this Circular is applicable in the present case. From the record and impugned order we are confirmed opinion that there is no application of mind at the instance of respondent no. 2 while rejecting the proposal forwarded by the petitioner nos. 1 and 2. It is seen that in a very casual manner, same is rejected by respondent no.2.

12. In the circumstances, we are of the considered opinion that the impugned order is not sustainable in the eyes of law. Accordingly, we proceed to pass the following order :

- (a) The Writ Petition is allowed.
- (b) Impugned order dated 21.03.2024 issued by respondent no. 2 Education Officer (Secondary), Zilla Parishad, Amravati is hereby quashed and set aside.
- (c) Respondent no. 2 Education Officer (Secondary), Zilla Parishad, Amravati is directed to reconsider the proposal of the petitioner dated 09.11.2022 and decide the same

within a period of four weeks from the date of production of this order by granting hearing opportunity, if necessary in the matter.

12. Rule is made absolute accordingly. No costs.

(PRAVIN S. PATIL, J.)

(SMT. M.S. JAWALKAR, J.)

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