



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 7421 OF 2024

1. Alhuda Social Welfare Society,
Malkapur, Reg. No. F-659,
through its Chairman,
Tah. Malkapur, Dist. Buldhana
2. Urdu Girls High School & Junior
College, Malkapur, District Buldhana
through its Head Master
3. Javed Khan S/o Mohd. Sharif Khan,
Aged about years, Occ. Service,
R/o Kurha Kakoda, Tah. Muktai
Nagar, District Jalgaon
4. Pathan Mukhtadir Firoz,
Aged about 25 years, Occ. Service,
R/o Mehboob Nagar, Khorli Galli,
Latur District-Latur.

...Petitioners

// VERSUS //

1. State of Maharashtra through its
Secretary, Ministry of Education and
Sports Department, Mantralaya,
Mumbai-32.
2. The Deputy Director of Education,
Amravati Division, Amravati.
3. Education Officer (Secondary),
Zilla Parishad, Buldhana.
4. Sayyed Ibrahim Sayyed Yasin,
Aged about 70 years,
R/o Ahmadshahpura, Bhag-2,
Malkapur, Buldhana. The Secretary of

Alhuda Social Welfare Society,
Malkapur, Dist. Buldhana

5. Abdul Majeed Abdul Qadeer
Quraishie, Aged about 70 yeas, R/o
Ahmadshahpura, Bhag-2, Malkapur,
Buldhana. The Chairman/President of
Alhuda Social Welfare Society,
Malkapur, Dist. Buldhana

.... Respondents

Shri R.D.Karode, Advocate for the petitioner.

Shri A.M.Joshi, AGP for the respondent nos. 1 to 3.

Shri Zeeshan Haq, Advocate for the respondent nos. 4 and 5.

**CORAM : SMT. M.S.JAWALKAR &
PRAVIN S. PATIL, JJ.**

DATED : 10th JULY, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Heard. **Rule.** Rule made returnable forthwith. Heard finally
by consent of the parties.

2. By this petition, the petitioner-Management alongwith
employees challenging the order dated 4th October, 2024 issued by the
respondent no.3 - Education Officer of returning back of proposal of
approval on the ground that, State Government by communication dated
1st August, 2024, granted stay to the recruitment exercise undertaken by
petitioner-society on 24th July, 2024.

3. The case in brief as stated by petitioners is that petitioner no.1 institute has been conferred status of minority institute by competent authority on 24th February, 2010 and running the petitioner no.2 High School & Junior College at Malkapur. In the academic sessions 2018-2019, two posts of junior clerk were sanctioned as per staffing pattern of the school. Accordingly, an advertisement was published in daily news paper Deshonnati on 17th July, 2024 and daily Matrubhumi on 18th July, 2024. In pursuance of the advertisement, petitioner nos. 3 and 4 applied for the post and then by following due procedure of law they came to be selected against the post of junior clerk. After the appointment of the petitioner nos.3 and 4, the proposal was forwarded to the Education Officer on 24th August, 2024. During the pendency of the proposal, Shri Chainsukh Sancheti, who was at the relevant time Vice President of Bharitya Janta Party, Maharashtra State lodged a complaint to the Hon'ble Deputy Chief Minister alleging that there is a dispute in the Management and therefore recruitment exercise undertaken on 24th July, 2024 requires stay.

4. On the receipt of the said complaint on 31st July, 2024, the State Government on next day i.e. 1st August, 2024, issued communication to the Deputy Director of Education stating that there is a dispute in the Management and hence inquiry should be conducted in the recruitment exercise undertaken by Management and till the completion of inquiry there would be stay to the recruitment exercise which was already completed on 24th July, 2024. Relying on the said communication on the same day i.e. 1st August, 2024, respondent no.2 - Deputy Director of Education directed respondent no.3 Education Officer to conduct enquiry in the matter and communicated that respondent no.1 has granted stay to recruitment exercise. As such, on direction of the Deputy Director of Education, learned Education Officer by the impugned order dated 4th October, 2024 returned back the proposal by stating the reason that there is a stay granted to the recruitment exercise dated 24th July, 2024. In the backdrop of above said factual position, the petitioners approached to this Court challenging the order of Education Officer.

5. At the outset, we made inquiry from the parties appearing in the matter about the status of Shri Chainsukh Sancheti and his relation with the affairs of Trust. It is informed that he is nowhere connected with the Society nor even the trustee of the Trust.

6. In the present case, it is clear that entire action is initiated on the complaint of Shri Chainsukh Sancheti. From the documents placed on record by petitioners, particularly complaint of Shri Chainsukh Sancheti dated 28th July, 2024 addressed to the Hon'ble Deputy Chief Minister of State of Maharashtra in the capacity of Vice President, Bhartiya Janta Party and seating Member of Legislative Assembly, it is seen that State Government without verifying the factual and legal aspect immediately on next day i.e. 1st August, 2024, without granting any opportunity of hearing granted stay to the recruitment exercise dated 24th July, 2024 which was already completed at the instance of petitioner nos. 1 and 2.

7. The respondent no.2 who is the Head of the Region of Education Department, seems to have come under political pressure and issued direction to respondent no.3-Education Officer to conduct enquiry

into the complaint of said Shri Sanchiti within seven days and submit the report.

8. It is clear from record that, respondent no.1 who has no authority under any provision of law, illegally issued communication dated 1st August, 2024. The respondent no.2 being a responsible officer, who is supposed to know his powers, under political pressure and without verifying record seems to have issued the order on same day i.e. 1st August, 2024. By impugned order dated 1st August, 2024, the respondent no.2 by exceeding his jurisdiction directed respondent no.3 to conduct enquiry into the complaint Shri Chainsukh Sanchiti. As such, it is crystal clear that entire Education Department is acting on the instruction of political influence person and stop applying their judicial mind, particularly when this Court time and again made clear that Education Authorities should refrain from entertaining complaint of strangers. But present case is the classic example how the Education Department works under political pressure.

9. It will be apt to rely upon the observations made by this Court in the case of Murlidhar S/o Janrao Kale and others Vs. State of

Maharashtra and others reported in 2011(1) Mh.L.J 849, in paragraph 9 as under:

“9. In the light of the above discussion, we hold that the Deputy Director of Education had no authority, power or jurisdiction to decide which board of trustees or trustees shall run the management of the Trust and the Schools but the jurisdiction is with the Assistant Charity Commissioner. We therefore hold that the order dated 30-1-2010, passed by the Deputy Director of Education, Amravati Division, Amravati holding that the elected Management led by President in the election on 16-3-2008 and the members shown in the Change Report No.119/2008 are the authorized trustees to look after the management of the Trust and the school, is without any authority and without jurisdiction. It is noteworthy that this Court while remitting the matter to the Deputy Director of Education while deciding Writ Petition No.3983/2009 on 11.1.2010 had never asked the Deputy Director of Education to decide this question as to who shall run the Trust and its institutions.”

10. It is pertinent to note that in the above referred judgment the respondent no.2 is the same authority wherein this Court made clear the legal position by holding that education authorities cannot interfere in the administration of the Trust. The issue of validity of the Management or Trust comes within the purview of Charity Commissioner and same can be decided by office of Charity Commissioner only. Hence, interference at the instance of respondent nos. 2 and 3 is *prima facie* illegal in the matter.

11. This Court further by the judgment in the case of Sandeep Chudaman Shinde and another Vs. the State of Maharashtra and others reported in 2024(4) ALL MR 471, observed in paragraph 18 which reads thus:

“18. A G.R. dated 26.12.2019 has been issued by the Education Department of the State of Maharashtra directing all Education Authorities and other Authorities, not to entertain such complaints from strangers and unconnected persons. We, therefore, conclude that the Education Department should refrain from entertaining complaints from strangers. It has to be extremely alert and diligent, more so, to avoid the department being used for torturing employees or jeopardizing the career of teachers / employees.”

12. So also, in the case of Navnath Narsing Gore Vs. State of Maharashtra and others reported in 2021 (5) ABR 698, this Court has specifically observed in paragraphs 31 and 32 as under :

“31. A perusal of the said order which is in the form of a letter would go to show that proposal was submitted by respondent No.5 on 30.10.2015 for grant of personal approval to the permanent non-grant basis post held by the petitioner. It is also seen that a hearing had taken place in the office of respondent No.3 on 18.12.2015. Respondent No.3 informed respondent No.5 that there was a dispute in the management of the institution. Therefore personal approval could not be granted to the petitioner till the final disposal of the dispute as to management of the institution.

32. From the pleadings as well as during the hearing it become evident that the dispute referred to in the order 20.01.2016 was in relation to management of the institution by rival claimants. Such dispute had no nexus or connection with the selection and appointment of the petitioner

and the approval sought for. Just because there was a dispute as to control of management of the Institution that could not have been a ground to decline approval or to keep such approval in abeyance. Routine affairs of the institution including appointments and approvals thereto are to be considered de-hors such tussle as to management of the institution. That being the position impugned order dated 20.01.2016 cannot be sustained and is liable to be set aside and quashed.”

13. As such, it is made clear that dispute as to the management of the institute had no nexus or connection with the selection, appointment and the approval of candidate. Routine affairs of the institution including appointments and approvals thereto are to be considered de-hors such tussle as to management of the institution. It is further clarified that dispute in the management of the Institution should not have been a ground to decline approval or to keep such approval in abeyance.

14. In view of above settled legal position of law, we find *prima facie* the impugned order of the Education Officer dated 4th October, 2024, is contrary to the settled position of law. Hence, in our considered opinion, the impugned order dated 4th October, 2024 passed by the Education Officer is not sustainable in law and accordingly same is hereby quashed and set aside.

15. The respondent no.3 - Education Officer is directed to decide the issue of approval of petitioner nos. 3 and 4 on the basis of relevant documents made available before him by the Management alongwith proposal and on the basis of same decided the issue of approval.

16. It is further made clear that all the parties of the present petition shall be given opportunity of hearing while deciding the issue of approval.

17. Parties are directed to appear before the respondent no.3 - Education Officer (Secondary), Zilla Parishad, Buldhana on **21st July, 2025** at 11.00 am.

18. The respondent no.3 - Education Officer is directed to conduct hearing and to take the decision in the matter within a period of four weeks, after conclusion of hearing.

19. The writ petition is disposed of in aforesaid terms. No order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M.S.JAWALKAR, J.]