



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1585 OF 2025

Managing Committee Madarsa Madinatul
Uloom Nanded And Another

...Petitioners

VERSUS

The State Of Maharashtra And Others

...Respondents

...
Mr. Ashish Deshmukh, Advocate for the Petitioners
Mr. A.V. Lavte, AGP for State

.....

**CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL JADHAV, JJ.**

DATE : 18th APRIL, 2026

ORDER :

1. By this petition, the petitioners challenge the communication dated 10.09.2024 issued by respondent No. 2 thereby denying permission to the petitioners for appointing Medical Officer and Instructor.
2. Admittedly, the petitioner is minority institution and is running HSC Vocational Courses since last more than 33 years on aided basis. Two posts of Medical Officer and Instructor fell vacant due to the retirement of incumbents on those posts. Therefore, proposal was submitted by the petitioner on 29.08.2024 to the respondent No. 2

seeking permission to fill up those posts. By the impugned communication dated 10.09.2024 the permission is refused to the petitioners on the ground that there are no instructions from the Government. Therefore, vacant posts cannot be filled in.

3. Heard learned advocate for the petitioners and learned AGP for the State. Perused the writ petition memo, grounds raised therein and the impugned order.

4. This Court has consistently held that the ban imposed by the Government on the recruitment is not applicable to the minority institutions. This Court at Nagpur Bench has made following observations in Writ Petition No. 6978 of 2024 (Gangaram Bhagwan Tayade Vs. State of Maharashtra & Others).

"8. In this respect, it is stated that by and now the legal position is very much clear that ban imposed by the State Government is not applicable to the minority institute. This Court considered this aspect in Writ Petition No. 2538 of 2021 (Ubhajo Shikshan Sanstha Vs. State of Maharashtra) decided on 16th November, 2021, held that for a minority institution to make recruitment, ban imposed by State Government is not applicable. In the present case, respondent no. 5 is admittedly a Minority Institute and hence ban imposed by State Government cannot be made applicable.

9. This Court in Writ Petition No. 5936 of 2022, while considering the issue of ban imposed by Finance Department has observed as under:

"3. *The development which has 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 the Director of Education is taken on record and marked Exhibit "A".*

4. *In view of the decision of the State Government of lifting the ban on the recruitment, we dispose of the petitions by quashing the rejection orders, and by remitting the issue to the concerned officer, i.e. the Education Officer or the Deputy Director of Education as the case may be, to hear the stakeholders and to pass an appropriate order in view of the decision taken by the State Government.*

5. *We direct that the fresh decision shall be taken within eight weeks from the date of appearance of the stakeholders. We may clarify that the concerned authority shall not be precluded from rejecting the approval if there is any impediment, other than the recruitment ban, in granting approval to the appointment/s."*

5. This Court in Writ Petition No. 5547 of 2013 (St. Francis De Sales Education Society & Others Vs. The State of Maharashtra & Others) after adverting to the various judgments of the Hon'ble Supreme Court and this Court has held that, "*minority institutions are entitled to make*

appointment of teachers of its choice and such appointments cannot be vetoed until the time surplus teachers are accommodated/absorbed."

These observations are applicable to the facts of the present case.

6. The State Government cannot arbitrarily deny permission to the petitioners to fill up the posts, as non filling up of posts would adversely affect the educational interest of the students. We, therefore, find that the impugned order cannot be sustained.

7. In the result, writ petition is allowed.

8. Impugned order dated 10.09.2024 passed by respondent No. 2 is hereby quashed and set aside.

9. Respondent No. 3 is directed to grant permission to the petitioners to fill up the posts pursuant to the proposal dated 29.08.2024 within a period of two weeks from the date of receipt of copy of this order.

(VAISHALI PATIL JADHAV, J.)

(NITIN B. SURYAWANSHI, J.)