



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 6665 OF 2025

- 1) Shahbabu Education Society, Patur,
Tq. Patur, District Akola, through its
Secretary, Syed Ishaque Syed Nabi,
- 2) Shahbabu Urdu High School, Patur
District Akola, through it's
Headmaster Mujeebullah Khan
- 3) Mr. Qaizar Shaikh s/o of Abdul Majeed
B.Sc, B.Ed (Science teacher in Class 9th
to 10th Group), Aged about 28 years,
Occ: Service, C/o Shahbabu Urdu High
School, Patur, Dist. Akola

... PETITIONERS

...VERSUS...

- 1) State of Maharashtra, /Desk Officer
Through its Secretary, Education and
Sport Department, Mantralaya,
Mumbai-32.
- 2) The Director of Education (Secondary
and Higher Secondary) Pune, Central
Building Pune
- 3) Education Officer (Secondary)
Zilla Parishad, Akola, in the premises of
DIET, Akola

...RESPONDENTS

Mr. A. S. Dhore, Advocate for the petitioners
Mr. S. V. Narale, AGP for the respondent(s)/State

**CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.**

DATED : 13th MARCH, 2026.

ORAL JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

1. **Rule.** Rule is made returnable forthwith. Heard finally with the consent of the learned counsel for the parties.

2. This is a petition seeking quashing of the letter dated 26.09.2024 issued by the respondent no.1, imposing restriction for appointment of teaching staff to the extent of 80% of the sanctioned posts in the minority institutions. It also seeks to set aside the letter/order dated 26.03.2025 issued by the respondent no. 3- Education Officer (Secondary), Zilla Parishad, Akola refusing to grant approval to petitioner no. 3.

3. The facts which can be stated are as under:-

(a) The petitioner society is a recognized minority Education Society running the petitioner no. 2 school along with other institutions.

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(b) On 18.09.2024, one Science Teacher working in petitioner no. 2 School resigned. In view of the same, a vacancy occurred for the post of Science Graduate teacher in the said school.

(c) On 23.09.2024, in order to fill up the said post, the petitioner submitted a proposal for prior permission before the respondent no. 3- Education Officer, but the said respondent no. 3 did not issue any communication either rejecting or replying to the said proposal.

(d) Therefore, on 21.10.2024, considering the requirement of the Science Teacher, the petitioner nos. 1 and 2 have appointed the petitioner no. 3, after following the due procedure of selection, as Shikshan Sevak.

(e) On 18.11.2024, the proposal for grant of approval to the appointment of petitioner no. 3 was submitted before respondent no. 3-Education Officer.

(f) On 26.03.2025, a reminder was submitted for grant of approval to the appointment of petitioner no. 3.

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(g) In the backdrop of these facts, on 26.03.2025, the respondent no. 3 issued the impugned communication stating that in view of the communication dated 26.09.2024 issued by the respondent no. 1, the approval to the appointment of the petitioner no. 3 can be granted only if his appointment is within the limits of 80% of the sanctioned posts. Both these communications are impugned in the present petition.

4. We have heard Mr. A. S. Dhore, learned counsel for the petitioners, as also Mr. S. V. Narale, learned AGP for the respondent(s)/State.

5. The learned counsel for the petitioners submits that the impugned communications are in contradiction with the law laid down by this Court time and again regarding minority institutions. He further submits that the said communications are in the teeth of the constitutional protection granted to the minority educational institutions under Article 30 (1) of the Constitution of India. He therefore submits that this Court, in **Writ Petition No. 7564 of 2025** in the case of *New Era Education Society, and others Vs. Deputy*

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Director of Education and others, and by placing reliance on the said judgment, learned counsel for the petitioners submits that the issue is no more *res integra* and therefore the impugned communications cannot be legally sustained.

6. *Per contra*, the learned AGP, while opposing the contentions canvassed by the learned counsel for the petitioners, submits that the authorities, i.e., respondent nos. 1 and 3, were right in issuing the impugned communications and thus supports them. He also submits that the staff approval proposal for the academic session 2025-2026 is pending before respondent nos. 2 and 3.

7. We have perused the contentions canvassed by the learned counsels for the respective parties and also gone through the judgment referred to *supra*. The said judgment of this Court, by relying on an earlier judgment in the case of *Canossa Society and another Vs. Commissioner, Social Welfare, Directorate, Government of Maharashtra and Others* reported in 2014 SCC OnLine Bom 536 as also in the case of *Young Boys Educational and Industrial Circle vs. State and Others* reported in 2016 (2) Mh.L.J. 212, has held that

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the bar of recruitment within the 80% appointments could not be applicable to the minority institutions.

8. Even though the learned AGP submits that the proposal for approval of staff is pending, we are hardly impressed by the said submission in view of the authoritative pronouncement referred to *supra*, in which, by placing reliance on the earlier judgments of this Court, we have categorically held that the ban/restriction would not be applicable to the minority institutions in view of the constitutional protection as envisaged under Article 30(1) of the Constitution of India.

9. We therefore are inclined to allow the petition and pass the following order:-

ORDER

- i) The Writ Petition partly is allowed.
- ii) The letter dated 26.03.2025, issued by the respondent no. 3 – Education Officer, Zilla Parishad, Akola, refusing to grant approval to the petitioner no. 3 is hereby quashed and set aside.

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iii) It is further directed that the respondent no. 3 to forthwith should grant approval to the appointment of the petitioner no. 3 as a Science Graduate Teacher in petitioner no. 2 school w.e.f. 21.10.2024 with all consequential financial and other service benefits.

10. Rule is made absolute in the aforesaid terms, and the Writ Petition is disposed of.

(NANDESH S. DESHPANDE, J.)

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

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