

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

WRIT PETITION NO. 6581 OF 2014

Nasreen Rashid Shaikh and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Ms. Pradnya S. Talekar, Advocate h/f Shri S. B. Talekar,
Advocate for Petitioners.

Smt. S. A. Dhumal, A.G.P. for Respondent Nos. 1 and 2.

Shri U. B. Bondar, Advocate for Respondent Nos. 3 and 4.

**CORAM : S. V. GANGAPURWALA AND
V. L. ACHLIYA, JJ.**

DATE : 19TH JANUARY, 2015.

PER COURT :

. Ms. Talekar, the learned counsel for petitioners submits that, the petitioners are appointed on 10.06.2007 and 16.06.2008 respectively along with one third teacher namely Shaikh Sajjad Sayyed Savkar. The proposals for approval to the appointments have not been granted and those are rejected on the ground that, now the school is derecognized and there were earlier teachers working who were not retained in service when the school was transferred. According to the learned counsel those teachers had voluntarily submitted their resignations and thereafter the petitioners were appointed. The petitioners have worked till

derecognition of the school. According to the learned counsel there was no impediment to approve the appointments of the petitioners.

2. Mr. Bondar, the learned counsel for the Education Officer submits that, when the school was transferred, the management was duty bound to retain the services of teaching and non teaching staff at the transferred place and could not have appointed new teachers. According to the learned counsel, those teachers have filed appeals before the School Tribunal. Said appeals are allowed, wherein those teachers have been reinstated with full backwages. The learned counsel submits that, though the writ petitions are filed by the management, same are pending before this Court and this Court has granted status quo. According to the learned counsel the order refusing approval in the case of petitioners is self speaking one.

3. We have considered the submissions canvassed by learned counsel for respective parties.

4. Along with present petitioners one more teacher namely Shaikh Sajjad Sayyed Savkar was appointed by the respondent No. 5 after the school was transferred. The Education Officer has granted approval to the appointment of said teacher vide order dated 06.06.2009.

5. The school is derecognized subsequently vide order dated

13.07.2010. The petitioners are seeking approval to their appointments made on 10.06.2007 and 16.06.2008 and same could have been considered for approval from the date they were appointed till closure of school as during the said period they have worked.

6. Equities will have to be adjusted. Considering the above, we pass the following order.

7. The impugned order refusing approval is quashed and set aside. The Education Officer shall consider the proposals submitted to it for approval to the appointment of petitioners from the date of their appointment till closure of school on its own merits considering all other relevant aspects and shall not reject it merely on the ground that, some other teachers were not continued in service. Depending upon the order passed by the Education Officer on the proposals for approval to the appointments, further steps can be taken by the Education Officer. However, it is made clear that, in case the Education Officer approves the appointments of the petitioners and in case the petitioners claiming absorption if otherwise they are eligible for absorption, then they will not be entitled for any salary for the period from day the school is derecognized till their

absorption if permissible. The writ petition accordingly is disposed of with aforesaid observations and directions. No costs.

[V. L ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

bsb/Jan. 15