

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

(1) WP NO.11471/2014

902 WRIT PETITION NO. 11471 OF 2014

ABDULSHAKUR AKBARALI MULANI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Doke Kishor R
AGP for Respondent State: Mr. V.H.Dighe
Advocate for Respondents :Mr.Salgare Sachin J., Advocate, for
Respondent nos.3 and 4.

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CORAM : S.S. SHINDE & P.R. BORA, JJ.
Dated: March 17, 2015

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PER COURT :-

1. Heard.

2. This petition is filed with following prayers:

"A) By issuing a writ of certiorari, or any other writ, order or direction as the case may be to quash the impugned Government Resolution dated 21.08.2014 issued by Deputy Secretary to Government of Maharashtra, School Education and Sport Department, Mantralaya, Mumbai, formulating the policy contrary to the directions of this Hon'ble Court vide its Judgment and Order dated 09.05.2014 in Writ Petition No.7106 of 2013.

B) By issuing a writ of certiorari, or any other writ, order or direction as the case may be to quash and set aside the advertisement dated 02/11/2014 issued by the Chief Executive Officer, Zilla Parishad Osmanabad is the contrary to the directions of this Hon'ble Court vide its Judgment and Order dated 09.05.2014 in Writ Petition No.7106 of 2013."

3. Learned counsel appearing for the petitioners, learned A.G.P. appearing for respondent nos.1 and 2 and also learned Counsel for respondent nos. 3 and 4, jointly submit that

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the point and controversy raised in the present petition is no longer *res integra*, and is covered by the order passed by this Court in Contempt Petition No.313/2014 in Writ Petition No.7661/2013 (Javed Babulal Sayyed and others Vs. The State of Maharashtra and others) with connected writ petitions, and further submit that this petition can be conveniently disposed of in the light of the order passed in the afore mentioned petitions.

4. We have heard Counsel for the parties, perused the order passed by this Court on 10th February, 2015 in afore mentioned petitions. Paragraph nos. 5 to 7 of the said order reads thus:

"5. In view of the statement made by the Respondent – State that they are going to modify the Government Resolution dated 21st August, 2014, it is not necessary to enter into the merits of the contentions of the rival parties. The State has agreed to modify the said scheme and the same would be done by the State. The State shall take the said policy decision and modify the scheme appropriately as agreed by them within three months. So that by the next academic year, the procedure for appointment would be streamlined.

6. The second objection is with regard to the advertisement which was issued pursuant to the Government Resolution dated 21st August, 2014. This Court had allowed the process pursuant to the said advertisement to be continued, however, had stayed the appointments to be made pursuant to the said Government Resolution. Now the period that has remained for this academic year is two months as is agreed by the learned counsel for the respective parties. The question would be appointing instructors only for this two months.

7. Naturally, the scheme vide Government Resolution dated 21st August, 2014 is being modified as per the Respondent – State's statement. Now as the Government Resolution dated 21st August, 2014, itself is being modified by the State, the advertisement given

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pursuant to the

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Government Resolution dated 21st August, 2014, would not survive. Moreover, the said advertisement also states about giving appointment on adhoc basis, which was pursuant to the Government Resolution dated 21st August, 2014, and in view of the statement made that the policy itself is going to be modified and reviewed, the said advertisement itself would not survive. Even otherwise, pursuant to the said advertisement, no appointment orders are issued. As such, no right and interest of any person is created pursuant to the said advertisement."

5. For the same reasons which are assigned by this Court while disposing of the contempt petitions and connected petitions thereto, and since the Counsel appearing for respective parties have vehemently submitted that the controversy raised in the petition is covered by the said order, we also dispose of this petition and pass the following order.

6. The advertisement assailed in this writ petition dated 2nd November, 2014, stands set aside. Since learned A.G.P. has relied upon the letters dated 2nd February, 2015 and 6th February, 2015 and 10th February, 2015, which were produced in the said writ petitions and which are part of the said writ petitions, we place reliance upon the same and, accordingly, we dispose of the present petition.

In view of the statement of the respondent State recorded above, modifying the scheme within three months, the grievance of the petitioners has been taken care of. The petition stands disposed of.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

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