

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**APPELLATE SIDE CIVIL JURISDICTION****WRIT PETITION NO. 9477 OF 2013**

Amol Arjun Bandichode
Aged 26 years, Occu. Service,
R/o. Kajikanabas, Taluka Akkalkot,
Dist. Solapur.

....Petitioner.

Vs.

- 1 State of Maharashtra
Through its Secretary,
School Education Department,
State of Maharashtra,
Mantralaya, Mumbai-32.
- 2 Deputy Director of Education,
Pune Region, Pune.
- 3 The Administrative Officer (Primary),
Municipal Corporation Primary
Education Mandal, Having office
at Solapur, Dist. Solapur.
- 4 Friendship Bahuuddeshiya Sanshodhan
Sanstha, Having office at
Shree Renukacharya Primary School,
Jagdamba Nagar,
Mulgaon Road, Solapur,
Through its President/Chairman.
- 5 Head Master,
Shree Renukacharya Primary School,
Jagdamba Nagar,
Mulgaon Road, Solapur.

....Respondents.

WITH

WRIT PETITION NO. 9579 OF 2013

Avinash Arvind PatilPetitioner.
Vs.
State of Maharashtra & Ors.Respondents.

WITH
WRIT PETITION NO. 9752 OF 2013

1 Prashant Shivappa Sangolagi
2 Pravin Arun Ughade
3 Smt. Vaishali Digambar MetePetitioners.
Vs.
State of Maharashtra & Ors.Respondents.

WITH
WRIT PETITION NO. 9753 OF 2013

Archana Manoj ShegdarPetitioner.
Vs.
State of Maharashtra & Ors.Respondents.

WITH
WRIT PETITION NO. 9754 OF 2013

Mahadev Laxman JakunePetitioner.
Vs.
State of Maharashtra & Ors.Respondents.

WITH
WRIT PETITION NO. 9755 OF 2013

1 Yashwant Babasaheb Gapat
2 Vishwanath Shrimant Birajdar
3 Shantanu Subrao ChopadePetitioners.
Vs.
State of Maharashtra & Ors.Respondents.

WITH
WRIT PETITION NO. 9756 OF 2013

Onkar Gourishankar Belage
Vs.
State of Maharashtra & Ors.

....Petitioner.
....Respondents.

**WITH
WRIT PETITION NO. 9846 OF 2013**

Ramchandra Narayan Nikam
Vs.
State of Maharashtra & Ors.

....Petitioner.
....Respondents.

**WITH
WRIT PETITION NO. 9852 OF 2013**

1 Katageri Anubai Shivaling
2 Kabadepatil Omsbri Shivputra
3 Honrao Prasad Dilip
Vs.
State of Maharashtra & Ors.

....Petitioners.
....Respondents.

**WITH
WRIT PETITION NO. 9853 OF 2013**

Jyoti Sahebrao Raut
Vs.
State of Maharashtra & Ors.

....Petitioner.
....Respondents.

**WITH
WRIT PETITION NO. 9854 OF 2013**

Sagar Shivaji Gurao
Vs.
State of Maharashtra & Ors.

....Petitioner.
....Respondents.

**WITH
WRIT PETITION NO. 9855 OF 2013**

Annapurna Malakari Dhayagonde
Vs.

....Petitioner.

State of Maharashtra & Ors.

....Respondents.

**WITH
WRIT PETITION NO. 10119 OF 2013**

Prajakta Nivrutti Bhosale

....Petitioner.

Vs.

State of Maharashtra & Ors.

....Respondents.

**WITH
WRIT PETITION NO. 10120 OF 2013**

1 Nagnath Laxman Mhamane

2 Sharad Sudhakar Pawar

....Petitioners.

Vs.

State of Maharashtra & Ors.

....Respondents.

**WITH
WRIT PETITION NO. 10202 OF 2013**

Dhareppa Siddhappa Birajdar

....Petitioner.

Vs.

State of Maharashtra & Ors.

....Respondents.

Mr. J.G. Reddy (Aradwad) for the Petitioners.

Ms. S.S. Bhende, AGP for Respondent Nos. 1 and 2.

Mr. Sarang Aradhye for the Petitioner in Writ Petition No. 9846 of 2013.

Mr. Vijay Killedar for Respondent No.3.

**CORAM : ANOOP V. MOHTA AND
K.R. SHRIRAM, JJ.**

DATE : 24 APRIL 2015.

ORAL JUDGMENT (PER ANOOP V. MOHTA, J.):

Rule. Rule made returnable forthwith. Heard finally by

consent of the parties.

2 As the issues involved in all these matters are common, the same are being disposed of by this common Judgment.

3 We are inclined to dispose of all these Petitions, as admittedly no show cause notice/s was/were given, as contemplated under the basic principles of natural justice, apart from the observations so made by this Court in G.I. Hampannawar Vs. The State of Maharashtra & Ors.(Writ Petition No. 6253 of 2010) dated 8 September 2010 and other related matters, so also in Suresh K. Thorat Vs. The State of Maharashtra & Ors. (Writ Petition No. 4555 of 2011). dated 14 November 2011. By the impugned order/s, the Petitioners' services were terminated by withdrawing the approval, which was granted initially as "Shikshan Sevak" and later on as "Assistant Teacher". They worked for more than 7 years. These orders, therefore, are in breach of the provisions of law, as recorded above. So far as Writ Petition No. 9477 of 2013 is concerned, in reply, the submission is made that the Administrative Officer (Primary)-Respondent No.3, issued notices to Respondent Nos. 4 and 5

(Management) dated 23 September 2013, stated it to be show cause notice, though the impugned order, as communicated and passed against the Petitioner was dated 10 September 2013. Therefore, it is necessary to note that after passing the order, show cause notice was issued. This happened in all above matters. No personal notice/s and/or hearing was/were given to the Petitioner/s. Therefore, the order/s so passed deserve/s to be set aside.

4 It is also therefore, necessary to order Respondent No.3 to release the salary, if it is withheld based upon the impugned order/s, as early as possible, preferably within six weeks from today, by taking note of procedure of law.

5 The learned counsel appearing for Respondent No.3-the Administrative Officer (Primary), submitted that in view of subsequent development and Government Resolution dated 2 May 2012, all these posts, which the Petitioners holding, are surplus therefore, there is no question of granting any relief. The submission is also made that the Government Resolution was given effect from some time in March 2014 and accordingly drive was conducted. Without observing

anything so far as this submission and as recorded above, we set aside the impugned orders/actions, as they failed to observe the basic principles of law, so recorded above and not on merits of the matter/s. The Respondents are at liberty to take action, in accordance with law.

6 This Court, by order dated 8 October 2013 passed in one of the Writ Petition No. 9477 of 2013, by reasoned order granted interim relief in the following words:-

“3. We direct that till the next date, employment of the Petitioner shall not be terminated on the basis of the impugned communication dated 3/10th September 2013 (Exhibit “O” to the Petition).”

In other matters also the interim relief, as noted above, were granted by this Court.

7 Based upon this, the submission is already recorded that the Petitioner/s is/are in service. The interim relief, so passed, remained intact till this date. The Petitioners' claim that they are in service, which is opposed by Respondent No.3, needs to be considered in accordance with law. However, the salary, if withheld in respect of the order so passed above, that has to be released by following due

procedure of law by the concerned Authorities, by taking note of the circumstances and the subsequent development in the matter.

8 Therefore, by keeping all points open, all the Petitions are allowed in terms of respective prayer clause (b).

9 Rule made absolute accordingly. There shall be no order as to costs.

(K.R. SHRIRAM, J.)

(ANOOP V. MOHTA, J.)