

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

WRIT PETITION NO. 1940 OF 2016

1. Rashtramata Jijau Sevabhavi Sanstha
Rami, Tq. Sindhkhed, Dist. Dhule
Through its President
Shri Sanjay Bhavan Bhamre
occ. Social Worker
R/o 38, Gautamangar, Walwadi,
Dist. Nandurbar
2. Shri Machindra Chagan Birhade
age major, occ. Service
r/o c/o Rashtramata Jajau Sevabhavi
Sanstha, Rami, Tq. Sindhkhed
Dist. Dhule
3. Nilesh Nanabhau Kate
age major, occ. Service
r/o as above.
4. Smt. Pintibai Bhimrao Sirsat
age major, occ. Service
r/o as above.
5. Urmilabai Shriram Mali
age major, occ.service
r/o as above.
6. Avinash Manohar Wagh
age major, occ. Service
r/o as above.
7. Pankaj Santosh Mali
age major, occ. Service
r/o as above.
8. Rupesh Suresh Bhadane
age major, occ. Service
r/o as above.

.. PETITIONERS

VERSUS

1. The State of Maharashtra
Through Principal Secretary
School Education and Sports Department,
Mantralaya, Mumbai 32.

2. The Director of Education
(Primary) Maharashtra State
Pune.
3. The Zilla Parishad, Nandurbar
Through tis Chief Executive Officer,
Nandurbar
4. The Education Officer (Secondary)
Zilla Parishad, Nandurbar
Tq. & Dist Nandurbar
5. The Education Officer (Primary)
Zilla Parishad, Nandurbar
Tq. & Dist. Nandurbar

.. RESPONDENTS

Mr. V.D. Sapkal, advocate for petitioners.
Mr. M.M. Nerlikar, AGP for the State.
Mr. R.N. Jain, advocate for respondent no. 3.
Mr. S.T. Shelke, advocate for respondent no. 5.

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**CORAM : R.M. BORDE &
SANGITRAO S. PATIL, JJ.
DATE : 19th DECEMBER, 2016.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Leave to add Education Officer (Primary) as party respondent.
Learned counsel Mr. S.T. Shelke waives service of notice on behalf of added respondent.

2. Since affidavit-in-reply has already been presented by Education Officer (Primary) and since the Director of Education (Primary), Maharashtra State, Pune is party respondent in the petition, this petition can be conveniently disposed of at admission stage.

3. Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for respective parties.

4. Petitioners 2 to 8 were appointed as Special Teachers for teaching physically disable children under the scheme Integrated Education for Disable Children in petitioner no. 1 school. As per the scheme, the private management was allowed to open units in Zilla Parishad schools and the concerned Head Master of Zilla Parishad school was entrusted with the responsibility to supervise said unit. Petitioner no. 1 – private institution started unit in Zilla Parishad School under the aforesaid scheme formulated by the Central Government. Petitioners were appointed in the year 2008. Appointment of petitioners was approved by the Director of Education (Primary) with effect from 26.02.2009. The Union of India decided to close down the scheme and decided to implement revised scheme namely Inclusive Education for Disable Children at Secondary Stage. On closure of the Integrated Education for Disable Children scheme by the Central Government a decision was taken to accommodate 595 special teachers appointed under the scheme. Decision in that regard has been taken by the State Government by issuing Government Resolution dated 15.09.2012. It is decided by the State Government that since the scheme has been closed down by the Central Government since 1st March, 2009, the teachers appointed after aforesaid cut off date shall not be entitled to be accommodated. Since petitioners were appointed prior to the cut of date, they are entitled to be absorbed as regular teachers in view of Government Policy referred to above. The State Government also issued instructions to Zilla Parishad, Nandurbar and Dhule to take appropriate steps in accordance with the Government resolution dated 15.09.2012.

5. Although the proposal was forwarded to Zilla Parishad, the Education Officer (Primary), has refused to extend benefits of absorption to petitioners only on the ground that their services have been approved by the Director of Education only two days prior to the cut off date i.e. 26.02.2009. As a result of adverse decision recorded by the Education Officer (Primary), petitioners have been denied the benefits of absorption in employment in accordance with the policy formulated by the Government although they fulfilled necessary pre-requisites.

6. Reasons recorded in the order passed by the Education Officer, Zilla Parishad do not appear to be reasonable and proper and run counter to the policy adopted by the State Government. The benefits accrued by the petitioners cannot be turned down merely because their services were approved two days prior to the cut off date. The policy does not stipulate that the approval ought to be accorded before specified date prior to the decision of the State Government. Order passed by the Education Officer is devoid of merit apart from the fact that the officer has failed to apply his mind to the record of the case and as such, deserves to be quashed and set aside. The contention of petitioners that infact they were inducted in employment in the year 2008 is also to be take into account although their services have been approved at a later point of time. In any case, petitioners are entitled to claim benefits under the policy formulated by the State Government.

7. In view of above, adverse decision rendered by the Education Officer on 21.12.2015 refusing to consider the claim of petitioners for absorption deserves to be quashed and set aside and the same is accordingly quashed and set aside. Respondents 1 to 3 and added respondent are directed to consider claim of petitioners for absorption in accordance with the Government Resolution dated 15.09.2010 and issue consequential orders as expeditiously as possible, preferably within a period of four months from today and, it is accordingly directed. Rule is accordingly made absolute. No costs.

(SANGITRAO S. PATIL)
JUDGE

(R. M. BORDE)
JUDGE

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