

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

WRIT PETITION NO. 2017 OF 2016

1. Ravindra s/o. Chandraharsh Suryawanshi,
Age- 37 Years, Occu. Service,
At Primary School, Krushna Nagar,
Omerga, Tq. Omerga, District-Osmanabad
2. Pandit s/o. Balu Rathod,
Age-40 Years, Occu. Service,
At Primary School, Shital Nagar,
Lohara, Tq. Lohara, Dist. Osmanabad
3. Sanjiv s/o Hiru Rathod,
Age-34 Years, Occu. Service,
At Primary School, Naiknagar [S],
Tq. Omerga, Dist. Osmanabad.
4. Basweshraw s/o. Damodar Parkale,
Age-45 Years, Occu. Service,
At Primary School, Zopadpatti,
Babhalgaon, Tq. Tuljapur,
Dist. Osmanabad.
5. Smt. Bharti Sakharam Hajare,
Age-45 Years, Occu. Service,
At Primary School, Zopadpatti
Suradgaon, Tq. Tuljapur,
Dist. Osmanabad.
6. Smt. Suvarna Ajay Shivkar,
Age-31 Years, Occu. Service,
At Primary School, Kore Vasti,
Kesegaon, Tq. Tuljapur,
Dist. Osmanabad.
7. Prafulla s/o. Dattatraya Algude,
Age-41 Years, Occu. Service,
At Primary School, Chaptpatne Nagar,

Kasgi, Tq.Omerga, Dist. Osmanabad.

8. Suvarna Dhondiram Futane,
Age-37 Years, Occu. Service,
At Primary School, Pardhi Pedhi,
Palsap, Tq. & Dist. Osmanabad.
9. Sunita Nashiket Karale,
Age-32 Years, Occu. Service,
At Primary School, Patil Vasti,
Shirsav, Tq. Paranda,
Dist. Osmanabad.
10. Sunita Kashinath Suryawanshi,
Age-39 Years, Occu. Service,
At Primary School, Datta Nagar,
Dhoki, Tq. & Dist. Osmanabad.
11. Smt. Dropadi Nagnath Landge,
Age-35 Years, Occu. Service,
At Primary School, Ambikanagar,
Katgaon, Tq. Tuljapur,
Dist. Osmanabad.
12. Shivaji s/o Mitthu Rathod,
Age-43 Years, Occu. Service,
At Primary School, Ramnagar,
Rati Tanda, Tq.Tuljapur,
Dist. Osmanabad.
13. Balu Baburao Anerao,
Age-45 Years, Occu. Service,
At Primary School, Jogeshwari Vasti,
Para, Tq. Washi, Dist.Osmanabad.
14. Smt.Sunita Suryodhan Tate,
Age-39 Years, Occu. Service,
At Primary School, Mali Vasti,
Gaur, Tq.Kallamb, Dist. Osmanabad.
15. Smt. Vaishali Rajendra Jawale,
Age-34 Years, Occu. Service,

At Primary School, Gayran Vasti,
Gandhora, Tq.Tuljapur, Dist. Osmanabad.

16. Apparao s/o. Jagannath Gofane,
Age-35 Years, Occu. Service,
At Primary School, Patil Vasti,
Bhotra, Tq.Paranda, Dist. Osmanabad.
17. Subhash s/o. Digambarrao Jadhav,
Age-48 Years, Occu. Service,
At Primary School, Zopadpatti,
Devsinga, Tq.Tuljapur,
Dist. Osmanabad.
18. Sandip s/o. Venkat Khaire,
Age-29 Years, Occu. Service,
At Primary School, Khaire Vasti,
Pachpimpala, Tq.Paranda,
Dist. Osmanabad.
19. Shivaji s/o. Yashwant Waghmare,
Age-38 Years, Occu. Service,
At Primary School, Laman Tanda,
Mendha, Tq. & Dist. Osmanabad.
20. Sunita Pandurang Maskar,
Age-37 Years, Occu. Service,
At Primary School, Barad Vasti,
Mangrul, Tq. Kallamb,
Dist. Osmanabad.
21. Smt. Mahananda Gorakh Borade,
Age-44 Years, Occu. Service,
At Primary School, Kusum Nagar,
Bhoom, Tq. Bhoom,
Dist. Osmanabad.
22. Sahebrao s/o. Appasaheb Maknikar,
Age-44 Years, Occu. Service,
At Primary School, Juni Vasti,
Makani, Tq. Lohara,
Dist. Osmanabad.

23. Sachin s/o Manohar Patil,
Age-30 Years, Occu. Service,
At Primary School, Pardhi Pedhi,
Bukkanwadi, Tq. & Dist. Osmanabad

..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through the Secretary,
School Education Department,
Mantralaya, Mumbai-32.
2. The Director of Education,
Maharashtra State, Pune.
3. The Commissioner of Education,
Pune.
4. The Zilla Parishad, Osmanabad,
Through its Chief Executive Officer
5. The Education Officer [Primary],
Zilla Parishad, Osmanabad.
6. Santosh s/o. Dashrath Kashid,
Age-30 Years, Occu.Nil & Unemployed,
R/o. Sanja, Tq. & Dist. Osmanabad.
7. Harischandra s/o. Fulchand Hogale,
Age-31 Years, Occu.Nil & Unemployed,
R/o. Gopalwadi, Post Tadwal,
Tq. & Dist. Osmanabad.
8. Hemant s/o Ashok Joshi,
Age 28 Years, Occu.Nil & Unemployed,
R/o. Sanvi [Kati], Tq.Tuljapur,
Dist. Osmanabad.
9. Annasaheb s/o. Dnyandev Jagdale,
Age-31 Years, Occu.Nil & Unemployed,
R/o. Gopalwadi, Post-Tadwal,
Tq. & Dist. Osmanabad.

10. Manjusha Shriram Kawade,
Age-43 years, Occu.Nil & Unemployed,
R/o. Washi, Tq. Washi,
Dist. Osmanabad. **RESPONDENTS**

WITH**WRIT PETITION NO. 2018 OF 2016**

1. Madhukar s/o Nivrutti Gaikwad,
Age : 47 Years, Occu. Servie,
At Primary School, Bhimnagar,
Diggri, Tq. Omerga, Dist. Osmanabad.
2. Satling s/o Kisan Lokhande,
Age : 36 Years, Occu. Service,
At Primary School, Pardhi Vasti,
Khamaswadi, Tq. Kallamb,
Dist. Osmanabad.
3. Pradeep s/o Govindrao More,
Age : 48 Years, Occu. Service,
At Primary School, Salgara,
Tq. Tuljapur, Dist. Osmanabad.
4. Smt. Maya Vitthal Survase,
Age : 53 Years, Occu. Service,
At Primary School, Patil Tanda,
Andoor, Tq. Tuljapur,
Dist. Osmanabad.
5. Subhadra Chandrakant Kulkarni,
Age : 43 Years, Occu. Service,
At Primary School, Deshmukh Kota,
Andoor, Tq. Tuljapur, Dist. Osmanabad.
6. Babasaheb s/o Pandurang Ubale,
Age : 49 Years, Occu. Service,
At Primary School, Ubale Vasti,
Satra, Tq. Kallamb, Dist. Osmanabad.

7. Smt. Anjana Somnath Adsul,
Age : 39 Years, Occu. Service,
At Primary School, Rajesh Nagar,
Dhoki, Tq. & Dist. Osmanabad.
8. Archana Govindrao Survase,
Age : 38 Years, Occu. Service,
At Primary School, Bagwan Vasti,
Dalimb, Tq. Omerga, Dist. Osmanabad.
9. Balasaheb s/o Shahaji Pade,
Age : 35 Years, Occu. Service,
At Primary School, Hanuman Nagar,
Pimpri, Tq. Kallamb,
Dist. Osmanabad.
10. Smt. Shakuntala Baban Panchal,
Age : 33 Years, Occu. Service,
At Primary School, Gavthan Vasti,
Wagholi, Tq. & Dist. Osmanabad.
11. Ananasaheb s/o Bibhishan Bondar,
Age : 37 Years, Occu. Service,
At Primary School, Giri Vasti,
Wadgaon, Kallamb,
Dist. Osmanabad.
12. Rekha Shrimant Ghodke,
Age : 39 Years, Occu. Service,
At Primary School, Dhangar Vasti,
Omerga, Tq. Omerga,
Dist. Osmanabad.
13. Vasanti Umagi Gaikwad,
Age : 40 Years, Occu. Service,
At Primary School, Indira Nagar,
Kathi, Tq. Tuljapur, Dist. Osmanabad.
14. Vandana Bibhishan Shinde,
Age : 37 Years, Occu. Service,
At Primary School, Basweshwar Nagar,
Chiuri, Tq. Tuljapur, Dist. Osmanabad.

15. Smt. Nirmala Rama Rathod,
Age : 39 Years, Occu. Service,
At Primary School, Nakhori Tanda,
Tq. Tuljapur, Dist. Osmanabad.
16. Vikram s/o Shankarrao Salunke,
Age : 46 Years, Occu. Service,
At Primary School, Laman Tanda,
Ghargaon, Tq. Kallamb,
Dist. Osmanabad.
17. Anant s/o Karbhari Dongare,
Age : 43 Years, Occu. Service,
At Primary School, Ramnagar,
Kothala, Tq. Kallamb, Dist. Osmanabad.
18. Uttreshwar Marotirao Awad,
Age : 41 Years, Occu. Service,
At Primary School, Kaldate Vasti,
Awad Shirpura, Tq. Kallamb,
Dist. Osmanabad.
19. Shrimant s/o Rambhau Gambhire,
Age : 43 Years, Occu. Service,
At Primary School, Gayran Vasti,
Itkur, Tq. Kallamb, Dist. Osmanabad.
20. Smt. Mandodari Hariba Gholap,
Age : 48 Years, Occu. Service,
At Primary School, Pardhi Vasti,
Andora, Tq. Kallamb,
Dist. Osmanabad.
21. Balika Balbhim Shinde,
Age : 39 Years, Occu. Service,
At Primary School, Nana Nagar,
Dabha, Tq. Kallamb, Dist. Osmanabad.
22. Khuddus Syed Rasool Syed,
Age : 48 Years, Occu. Service,
At Primary School, Idgah Vasti,

Ranjani, Tq. Kallamb,
Dist. Osmanabad.

23. Jayshree Trimbakrao Kawade,
Age : 41 Years, Occu. Service,
At Primary School, Ramnagar,
Kanherwadi, Tq. Kallamb,
Dist. Osmanabad.
24. Kakasaheb s/o Gagdu Dhumal,
Age : 39 Years, Occu. Service,
At Primary School, Pardhi Vasti,
Gopalwadi, Tq. & Dist. Osmanabad.
25. Pratibha Ramhari Lokare,
Age : 39 Years, Occu. Service,
At Primary School, Ahilya Vasti,
Kherda, Tq. Kallamb, Dist. Osmanabad.
26. Kishor s/o Navnath Lokare,
Age : 49 Years, Occu. Service,
R/o Pavkai Vasti, Yedshi,
Tq. & Dist. Osmanabad.
27. Baliram s/o Nivrutti Chavan,
Age : 38 Years, Occu. Service,
At Primary School, Eknathwadi,
Dhogi, Tq. & Dist. Osmanabad.
28. Mahadeo s/o Baburao Sarwade,
Age : 37 Years, Occu. Service,
At Primary School, Sambhaji Nagar,
Tq. Omerga, Dist. Osmanabad.
29. Shivaji s/o Sopan Shinde,
Age : 37 Years, Occu. Service,
Primary School, Gadage Vast,
Bhotra, Tq. Paranda, Dist. Osmanabad.
30. Dhananjay s/o Shivaji Thombare,
Age : 37 Years, Occu. Service,
At Primary School, Priyadarshini Nagar,

Barul, Tq. Tuljapur, Dist. Osmanabad.

31. Aba s/o Subhashrao Magar,
Age : 40 Years, Occu. Service,
At Primary School, Zopadpatti,
Sangvi Kathi, Tq. Tuljapur,
Dist. Osmanabad.
32. Balbhim s/o Subhash Bhoite,
Age : 34 Years, Occu. Service,
At Primary School, Bhoite Vasti,
Kilaj, Tq. Tuljapur, Dist. Osmanabad.
33. Narayan s/o Jaysing Kedar,
Age : 34 Years, Occu. Service,
At Primary School, Nandgul Tanda,
Bornadi Wadi, Tq. Tuljapur,
Dist. Osmanabad.
34. Rajendra s/o Tulshiram Suryawanshi,
Age : 38 Years, Occu. Service,
At Primary School, Kharab Vasti,
Madaj, Tq. Omerga, Dist. Osmanabad.
35. Dattatraya s/o Trimbak Pawar,
Age : 43 Years, Occu. Service,
Primary School, Pardhi Vasti,
Golegaon, Tq. Bhoom,
Dist. Osmanabad.
36. Vijay s/o Bhimrao Jarande,
Age : 37 Years, Occu. Service,
At Primary School, Atole Vasti,
Pandhrewadi, Tq. Paranda,
Dist. Osmanabad.
37. Ramesh s/o Ganpati Shivankar,
Age : 38 Years, Occu. Service,
Primary School, Surve Vasti,
Chichpur, Tq. Paranda,
Dist. Osmanabad.

38. Dadasaheb s/o Ajinath Jagtap,
Age : 43 Years, Occu. Service,
At Primary School, Pawar Nagar,
Ingonda, Tq. Paranda,
Dist. Osmanabad.
39. Shahaji s/o Shivaji Zagade,
Age : 45 Years, Occu. Service,
At Primary School, Shevale Nagar,
Tq. Paranda, Dist. Osmanabad.
40. Balaji s/o Mahadeo Gunjal,
Age : 42 Years, Occu. Service,
At Primary School, Gunjal Vasti,
Wangi (Bk), Tq. Bhoom,
Dist. Osmanabad.
41. Bhairu s/o Govind Shiralkar,
Age : 45 Years, Occu. Service,
Primary School Tukainagar,
Antargaon, Tq. Bhoom,
Dist. Osmanabad.
42. Balkrushna s/o Govind Shiralkar,
Age : 45 Years, Occu. Service,
At Primary School, Purva Nagar,
Jamb, Tq. Bhoom,
Dist. Osmanabad.
43. Digambar s/o Laxman Joshi,
Age : 38 Years, Occu. Service,
Primary School, Amaie Vasti,
Bhoom, Tq. Bhoom,
Dist. Osmanabad.
44. Rajkumar s/o Kisanrao Sarwade,
Age : 42 Years, Occu. Service,
At Primary School, Siddheshwar Vasti,
Padoli, Tq. Kallamb,
Dist. Osmanabad.

45. Ajim Mukram Attar,
Age : 38 Years, Occu. Service,
At Primary School, Mallikarjun Nagar,
Balsur, Tq. Omerga,
Dist. Osmanabad.
46. Adikrao s/o Shivram Waghmare,
Age : 43 Years, Occu. Service,
At Primary School, Uloop Phata,
Uloop, Tq. Bhoom,
Dist. Osmanabad.
47. Rajendra s/o Sheshrao Bhosale,
Age : 38 Years, Occu. Service,
At Primary School, Narayan Nagar,
Kond, Tq. & Dist. Osmanabad.
48. Navnath s/o Murlidhar Shelke,
Age : 37 Years, Occu. Service,
At Primary School, Laman Tanda,
Aarni, Tq. & Dist. Osmanabad.
49. Sudhakar s/o Ramrao Ghodke,
Age : 41 Years, Occu. Service,
At Primary School, Navin Vasti,
Lohara, Tq. Lohara, Dist. Osmanabad.
50. Mahadeo s/o Kisanrao Kokate,
Age : 41 Years, Occu. Service,
At Primary School, More Vasti,
Rui, Tq. & Dist. Osmanabad.
51. Rameshwar s/o Bhagwat Kande,
Age : 44 Years, Occu. Service,
At Primary School, Nathwadi,
Sapnai, Tq. Kallamb,
Dist. Osmanabad.

..PETITIONERS**Versus**

1. The State of Maharashtra,
Through the Secretary,
School Education Department,
Mantralaya, Mumbai – 32.
2. The Director of Education,
Maharashtra State, Pune.
3. The Commissioner of Education,
Pune.
4. The Zilla Parishad, Osmanabad,
Through its Chief Executive Officer.
5. The Education Officer (Primary),
Zilla Parishad, Osmanabad.
6. Santosh s/o Dashrath Kashid,
Age : 30 Years, Occu. Nil & Unemployed,
R/o Sanja, Tq. & Dist. Osmanabad.
7. Harischandra s/o Fulchand Hogale,
Age : 31 years, Occu. Nil & Unemployed,
R/o Gopalwadi, Post – Tadwal,
Tq. & Dist. Osmanabad.
8. Hemant s/o Ashok Joshi,
Age : 28 Years, Occu. Nil & Unemployed,
R/o Sanvi (Kati), Tq. Tuljapur,
Dist. Osmanabad.
9. Annasaheb s/o Dnyandev Jagdale,
Age : 31 Years, Occu. Nil & Unemployed,
R/o Gopalwadi, Post – Tadwal,
Tq. & Dist. Osmanabad.
10. Manjusha Shriram Kawade,
Age : 43 Years, Occu. Nil & Unemployed,
R/o Washi, Tq. Washi,
Dist. Osmanabad.

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RESPONDENTS

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Advocate for Petitioners : Mr. A.N. Nagargoje
A.G.Ps. for Respondent/State : Mrs. A.V. Gondhalekar
& Mr. U.H. Bhogale
Advocate for Respondent Nos.4 and 5: Mr. N.U. Yadav
Advocate for Respondent Nos. 6 to 10 : Mr.V. S. Undre

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**CORAM : S.S. SHINDE &
SANGITRAO S. PATIL, JJ.**

**RESERVED ON : May 4, 2016
PRONOUNCED ON : June 6, 2016**

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JUDGMENT :- (PER S.S. SHINDE, J)

Both these Petitions take exception to the show-cause notice issued on 9th February, 2016 by Respondent Nos. 4 and 5, and also seek declaration that the petitioners, who are primary teachers of upgraded para-schools in view of Government Resolutions dated 27th March, 2008 and 23rd June, 2008 on converted/upgraded 82 para-schools into primary schools, are entitled to have better claim than the 44 para teachers, who were not converted into primary teachers, according to the above referred Government Resolutions.

2. The learned counsel appearing for the petitioners submits that the petitioners are working for more than one and half year. Respondent Nos. 6 to 10 are the para-teachers. Their schools were not in existence at the time of issuance of the Government Resolution dated 27th March, 2008. These para-schools are not upgraded or converted into primary schools. Respondent Nos. 6 to 10 have filed Writ Petition No. 6484 of 2014 (Santosh Dashrath Kashid and others V/s The State of Maharashtra and others) and Writ Petition No. 9920 of 2014 (Manjusha Shriram Kawade V/s The State of Maharashtra and others), challenging the appointment orders issued in favour of the present petitioners on 23rd June, 2014 and 27th June, 2014. Those Petitions have been decided by this Court. However, it was not brought to the notice of the Division Bench of this Court that the 44 teachers, who were out of

service, were given appointment for a temporary period of 10 months, in view of Government Resolution dated 31st July, 2009, on contract basis. The said appointments were on regular establishments of Zilla Parishad and not on any of the upgraded primary schools.

3. The learned counsel appearing for the petitioners submits that the show-cause notice issued by the Zilla Parishad is predetermined action, based on joint enquiry committee report. During the said enquiry, neither any notice or opportunity of hearing is given nor the enquiry report is provided to the petitioners, and it is held that the appointments made are illegal. Therefore, the 44 para-teachers, who are claiming seniority over the petitioners on the basis of their date of appointment and claiming benefit of Government Resolution dated 1st March, 2014,

are not entitled for the said relief. It is submitted that the Government Resolution dated 1st March, 2014, cannot be implemented independently without considering the effect and consequence of Government Resolutions dated 27th March, 2008, 23rd June, 2008 and 29th October, 2008. The para-teachers, who were initially appointed by Village Education Committee, were transferred to Zilla Parishad by virtue of Government Resolutions dated 27th March, 2008 and 23rd June, 2008. In the State of Maharashtra, 3384 para-schools were converted into primary schools and posts of primary teachers were created in these schools. It is submitted that the para-teachers, who were in service and the para-schools, which are in existence, are upgraded. The petitioners belong to the said upgraded 82 schools. The 44 teachers, who were claiming seniority and appointments have not placed on record information in respect

of whether their schools were upgraded and in absence of such upgradation, whether they can be appointed on the said primary schools. It is submitted that by virtue of Government Resolution dated 29th October, 2009, the para-teachers serving in the primary schools were given honorarium at the increased rate of Rs.3500/-. The petitioners are from amongst those upgraded para-teachers.

4. It is submitted that in any of the Writ Petitions referred hereinbefore, the question about consequence of upgradation of para-schools and creation of posts in primary schools was not raised, discussed and adjudicated. The 44 para-teachers and the Zilla Parishad have not placed on record the correct factual position, effect and consequence of non-upgradation of the para-schools where these candidates were initially appointed by Village Education Committee. The

notice issued by the Zilla Parishad indicates that the Zilla Parishad wants to absorb surplus primary teachers on their regular establishment, by removing the present petitioners. This action of Zilla Parishad is illegal, since the primary teachers cannot be absorbed on the posts created by the Government only for the purpose of absorption of the para-teachers.

5. In pursuance of the notices issued to the Respondents, Respondent nos. 4 and 5 have filed affidavit-in-reply. Relying upon the averments in the said affidavit-in-reply, the learned counsel appearing for Respondent Nos. 4 and 5 argued that as per the orders passed by the Division Bench of this Court in Writ Petition No. 6484 of 2014, and keeping in view the Government Resolution dated 1st March, 2014, issued by the School Education and Sports Department, Government of

Maharashtra, wherein the procedure for filling up the posts of Assistant Teachers, who have worked as para-teachers in Vasti Schools has been prescribed, the fresh seniority list comprising of 126 candidates has been prepared. In view of the order passed in Writ Petition No. 6484 of 2014 and Writ Petition No.9920 of 2014, the seniority list of para-teachers has been prepared, as per their date of appointments as para-teachers. It is submitted that the present petitioner no.18 Sandip S/o Venkat Khaire, has challenged the said seniority list of para-teachers working with Zilla Parishad, Osmanabad in Writ Petition no.6453 of 2015. The said Writ Petition No.6453 of 2015, was mainly contested on the ground that the seniority list is required to be prepared only amongst those who got absorbed. It is submitted that while disposing of Writ Petition No. 6453 of 2015, the High Court

held that the Government Resolution dated 1st March, 2014, did not make any difference between para-teachers as to whether on 1st March, 2014, they were working or retrenched. Their status on the day of the Government Resolution is immaterial for getting an opportunity of absorption. The Government Resolution clearly indicated that a para-teacher, who gets appointed earlier in time, would get preference even on absorption.

6. It is further submitted that three member committee was appointed to find out the irregularity in appointments of 82 candidates. As per the report of the said Committee, keeping aside the appointments of the teachers available on roll on the post of regular primary teachers, 82 para-teachers were absorbed illegally. It is further submitted that the seniority list of para teachers, comprising of 126 names include the

present petitioners, Respondent Nos. 6 to 10 and other eligible candidates. The claim of petitioners for getting absorbed would be considered after filling up 157 excess/surplus teachers, as the same has been mentioned in the Sanch Manyata 2014-2015 (as on 30th September, 2014) unit primary and upper primary sections. It is submitted that the said report shows that 157 regular primary teachers are surplus, and therefore, as on today there are no vacant posts available with Respondent No.4. It is submitted that Divisional Commissioner, Aurangabad has issued letter to the Chief Executive Officer, Zilla Parishad, Osmanabad to fill up the posts of para-teachers after 157 excess/surplus teachers have been absorbed.

7. We have carefully considered the submissions of the learned counsel appearing

for the petitioners, the learned A.G.P. and the learned counsel appearing for Respondent Nos. 4 and 5. It is not clearly and specifically disclosed in the present Petition that the petitioner at Sr. No.18 Sandip S/o Venkat Khaire filed earlier Writ Petition No. 6453 of 2015. Though it is mentioned in the Petition that the said Writ Petition came to be filed in the High Court, there is no specific statement that the said Writ Petition was filed by petitioner No.18. In all fairness, in the beginning of the petition, it ought to have been specifically disclosed that Sandip Venkat Khaire, petitioner No.18 herein, did file Writ Petition No.6453 of 2015. Be that as it may, the Division bench (Coram : A.V. Nirgude and V.K. Jadhav, JJ) in Writ Petition No.6453 of 2015, decided on 9th September, 2015, has considered the arguments similar to those which have been raised in the present

Petition that on 1st March, 2014, the Government of Maharashtra took a policy decision to recognize the claim of all such teachers who were either working in Vasti Schools or who had been working in Vasti Schools, to get regular appointments as Assistant Teachers in Zilla Parishad Primary Schools. Soon after the decision was taken, the Zilla Parishad prepared two seniority lists. One list was of 82 para-teachers who were, at the relevant time, working as para-teachers in various schools in the district. The other list consisted of 44 names of the candidates who were not working but were retrenched earlier because of the closure of schools.

8. Keeping in view the said arguments, the Division Bench in para 2 of the judgment observed that Zilla Parishad appointed 82 persons as Assistant Teachers. Aggrieved by

this, the teachers of the second list came before this Court and made a grievance that the implementation of the policy was not proper and they were unjustly left out. Reference is given of Writ Petition No. 6484 of 2014 and Writ Petition No. 9920 of 2014. It is also observed that both these Petitions were disposed of because the Zilla Parishad had conceded that they would take proper steps by taking review of the earlier decision of absorption of para-teachers and by making further appointments as per seniority. Pursuant to this statement, the Zilla Parishad prepared the impugned seniority list of para-teachers. This list consists of 126 incumbents. In this list, the fact as to whether a para-teacher was working on 01.03.2014 as para-teacher or not has been disregarded. The list is prepared as per the date of appointment as para-teacher. Because of this, the name of petitioner no.18 herein

went down at serial no.125.

9. It further appears that the Division Bench recorded the arguments of the learned counsel appearing for the petitioner therein, i.e., who is petitioner no.18 in this Petition, that the seniority is required to be prepared only of those incumbents who are already absorbed. It is suggested that when others would get absorbed, their seniority would depend on their respective dates of appointment as para-teacher. However, the Division Bench adverting to the Government Resolution dated 1st March, 2014 observed that the said Government Resolution did not make any difference between the para-teachers working as on 1st March, 2014 or already retrenched. Their status on the day of the Government Resolution is immaterial for getting an opportunity of absorption. The Government Resolution clearly indicated that

a para-teacher, who gets appointed earlier in time, would get preference even for absorption. The Division Bench further observed that the approach is logical and correct. Petitioner no.18 was absorbed in the year 2014 and was likely to lose the advantage of getting absorbed out of turn. The petitioner has to accept this as a fact of life. Besides this, the petitioner has a good chance of getting absorbed some time later because such statement is made by the Zilla Parishad in affidavit-in-reply dated 17.08.2015. Therefore, the Division Bench disposed of the said Writ Petition with the observation that the Petition does not give rise to a question that requires admission.

10. In the present Petitions also the same issue is tried to be agitated by the petitioners, though the said issue has already been considered and decided at the

instance of petitioner no.18 herein. Therefore, in our opinion, the Respondent – Zilla Parishad has rightly prepared the seniority list comprising of 126 para-teachers, keeping in view the Government Resolution dated 1st March, 2014 and also the order passed by this Court on 9th September, 2016 in Writ Petition No. 6453 of 2015. The said order attained finality. Therefore, in our opinion, the same issue needs no reconsideration. However, we make it clear that the Respondents shall adhere to the provisions of the Government Resolution dated 1st March, 2014 and keeping in view the order passed in Writ Petition No. 4653 of 2014 proceed further to redress the grievance of the para-teachers, whose names have been included in the seniority list prepared by the Zilla Parishad.

11. The another contention of the

learned counsel appearing for the petitioners is that the issue of absorption of 157 excess/surplus teachers raised by the respondents, was not agitated in the earlier Petition. According to the learned counsel, if those 157 excess/surplus teachers are to be absorbed, in that case, the petitioners and other 44 teachers may not be absorbed by the Zilla Parishad. In that respect, it appears that the Committee was appointed consisting of three members by the Zilla Parishad for enquiry, and the said Committee found that the appointment of 82 para-teachers is made ignoring 156 excess/surplus teachers to be absorbed. There are also instructions from the Divisional Commissioner Aurangabad to the Zilla Parishad to absorb the first 157 excess/surplus teachers. In that view of the matter, we cannot direct the Respondents to keep aside the list of 157 excess/surplus teachers as per Sanch Manyata

2014-2015 (as on 30th September, 2014) unit primary and upper primary sections and contrary to the Government Policy and absorb the petitioners. However, we make it clear that the respondents shall strictly adhere to the Government Resolution dated 1st March, 2014 issued by the School Education Department, Government of Maharashtra, after absorption of 157 excess/surplus teachers.

12. With the above observations, the Petitions stand rejected. No costs. Time to reply the show-cause notice stands extended by one week from today.

(SANGITRAO S. PATIL, J.) (S.S. SHINDE, J.)

After pronouncement of the judgment, the learned counsel appearing for the petitioners prays for continuation of interim

order, which was in force during pendency of the Petitions. The prayer is vehemently opposed by the learned counsel appearing for Respondents.

2. We are not inclined to continue the interim order any further, which was in force during the pendency of the Petitions. Hence the prayer for continuation of the interim order stands rejected.

(SANGITRAO S. PATIL, J.) (S.S. SHINDE, J.)