

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

WRIT PETITION NO.7055 OF 2015

1] Waghur Shikshan Prasarak Mandal,
Sakegaon, Tq. Bhusawal,
District : Jalgaon,
Through its Chairman,
Dilipsingh s/o. Pratapsingh Patil,
Age : 55 years, Occu. Agril.
R/o. As above.

2] Waghur Shikshan Prasarak Mandal,
Sakegaon, Tq. Bhusawal,
District : Jalgaon,
Through its Secretary,
Bhadu s/o. Rupchand Patil,
Age – 75 years, Occu. Agril.,
R/o. As above.

PETITIONERS

VERSUS

1] Indira Gandhi Madhyamik Vidyalaya,
Sakegaon, Tq. Bhusawal,
District : Jalgaon
Managed by Waghur Shikshan
Prasarak Mandal, through its
Head Master,
Ghanashyam s/o. Ramkrushna Chaudhari,
Age : 50 years, Occu. Service,
R/o. As above.

2] Education Officer [Secondary],
Zilla Parishad, Jalgaon.

3] The State of Maharashtra,
Through Education and Sports
Department, Mantralaya,
Mumbai-32

[Copy to be served Government
Pleader, High Court of Bombay,
Bench at Aurangabad]

4] Chetan s/o. Milind Pandav,
Age : 28 Years, Occu. Service

5] Chandrasingh s/o. Rama Valvi,
Age : 27 years, Occu. Service,

Both R/o. Indira Gandhi Madhyamik
Vidyalaya, Sakegaon, Tq. Bhusawal,
District : Jalgaon **RESPONDENTS**

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Mr. V. J. Dixit, Senior Counsel, instructed by
Mr. L. V. Sangit, Advocate for the petitioners
Mrs. Surekha Mahajan, Advocate for Respondent
No. 1
Mr. A. V. Deshmukh, AGP for Respondent Nos. 2 & 3
Mr. Girish S. Rane, Advocate for Respondent
Nos. 4 & 5.

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

Date: 15.06.2016

PER COURT: [Per S. S. Shinde, J.]:

Heard the learned Senior Counsel
appearing for the petitioners, the learned
AGP appearing for the respondent – State, and
the learned counsel appearing for the
respective respondents.

2] This Petition is filed praying therein for quashing and setting aside the order dated 22nd June, 2015, bearing Outward No.JZP/Education/Second-3/complaint-2015/132, passed by respondent no.2, whereby the petitioners were directed to allow respondent nos.4 and 5 to resume duty as Assistant Teachers.

3] The learned Senior Counsel appearing for the petitioners submits that respondent nos. 4 and 5 have not completed two years probation period and therefore, the communication dated 22nd June, 2015 issued by respondent no. 2 Education Officer could not have been issued. Issuing such directions amounts to interference in the affairs of the management. It is submitted that the Education Officer is not empowered to issue such directions to the management, when the appointment of respondent nos.4 and 5 was not valid. The learned Senior Counsel invites

our attention to the various documents placed on record and submits that respondent no.2 has no jurisdiction to issue such directions and he is only empowered to consider the proposal sent by the management for approval of the services of the employees, who are appointed after following due procedure.

4] On the other hand, the learned counsel appearing for respondent nos.4 and 5 invites our attention to the averments in the affidavit-in-reply and submits that, respondent nos.4 and 5 were appointed so as to absorb eligible candidates from Scheduled Caste and Scheduled Tribe Categories. Respondent nos. 4 and 5 are appointed after following proper procedure, and therefore, the Petition may be rejected.

5] The learned AGP appearing for the respondent — State submits that the appointment of respondent nos. 4 and 5 was proper, and after following due procedure.

Respondent no.2 has granted approval to their appointments. There was no complaint against them during their probation period. After satisfactory completion of probation period, respondent nos. 4 and 5 have acquired the status of deemed permanent employees. He also invites our attention to the order passed by this Court in the case of *Waghur Shikshan Prasarak Mandal & another Vs. Indira Gandhi Madhyamik Vidyalaya & others* Writ Petition No.1647/2014 along with connected Writ Petition and submits that the Writ Petition filed by the present petitioners challenging approval granted to the services of respondent nos. 4 and 5 by the Education Officer. However, the said Writ Petition was rejected by the High Court.

6] We have considered the submissions of the learned Senior Counsel appearing for the petitioner, the learned AGP appearing for the respondent – State, and the learned counsel appearing for the respective

respondents. We have carefully perused the copies of the documents placed on record, and in particular the order passed by this Court in Writ Petition No.1647 in the case of *Waghur Shikshan Prasarak Mandal & another Vs. Indira Gandhi Madhyamik Vidyalaya & others*, wherein there was challenge by the petitioner - management to the approval granted to the appointment and probation period, granted by the Education Officer to the appointment of respondent nos. 4 and 5. By the reasoned order, the said Writ Petition was rejected.

7] In our opinion, respondent no.2 Education Officer was well within its jurisdiction to give directions to the management to ask the petitioner - Institution to allow Shri C.M.Pandav and Shri C.R.Walvi to attend duty. The said two teachers were also party before this Court in Writ Petition No.1675/2014, wherein the petitioners challenged the order of the Education Officer, granting approval to the

appointment of the aforementioned two Assistant Teachers. As already observed, the said Writ Petition was dismissed by this Court and as a result the order passed by the Education Officer granting approval to their appointment stood confirmed.

8] In the light of the discussion in the foregoing paragraphs, inevitable conclusion is that the respondent – Education Officer was well within its jurisdiction to issue directions to the petitioner to allow Mr.C.M.Pandav and Mr.C.R.Walvi to resume duty. Hence, the Writ Petition stands rejected.

Sd/-
[SANGITRAO S.PATIL]
JUDGE

Sd/-
[S.S.SHINDE]
JUDGE