

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

WRIT PETITION NO.7786 OF 2015

- 1] The Village Panchayat,
Betsangavi, Tq.Loha, Dist.Nanded,
Through its Sarpanch
- 2] The School Management Committee,
Zilla Parishad Primary School
Betsangavi, Tq.Loha, Dist.Nanded,
Through Chairman / President,
Shri Eknath s/o Kisanrao Wankhede,
Age 60 Yrs. Occ. Agri. & Social Work,
R/o. Betsangavi, Tq. Loha,
Dist. Nanded.
- 3] Narhari Ramji Wankhde,
Age 45 Yrs. Occ.Aгри.
- 4] Ramesh Vitthalrao Wankhede
Age 36 Yrs. Occ. Agri.
- 5] Tukaram Santoba Tondchire
Age 40 Yrs. Occ. Agri.
- 6] Sambhaji Namdeo Wankhede
Age 45 Yrs. Occ. Agri.
- 7] Deorao Dulbaji Wankhede
Age 50 Yrs. Occ. Agri.
- 8] Datta Shankar Wankhede
Age 40 Yrs. Occ. Agri.
- 9] Munjaji Kamaji Wankhede
Age 35 Yrs. Occ. Agri.

- 10] Tulshiram Satwaji Godbole
Age 37 Yrs. Occ. Agri.
- 11] Janardhan Pandurang Godbole
Age 40 Yrs. Occ. Agri.
- 12] Chanduji Laxman Wankhde
Age: 42 Years, Occu:Agril.
- 13] Ganpat Laxman Wankhede
Age: 49 Years, Occu:Agril.
- 14] Devidas Ganpati Sontakke
Age: 36 Yrs. Occu:Agril.
- 15] Pandurang Jankoji Godbole
Age: 39 Yeras, Occu:Agril.
- 16] Dnyanoba Tukaram Wankhede
Age: 40 Yrs. Occu:Agril.
- 17] Shivaji Khemaji Wankhede
Age: 45 Yrs. Occu. Agril.
- 18] Bhanudas Ramji Wankhde
Age: 46 Yrs. Occu. Agril.
All Betsangavi, Tq.Loha,
Dist. Nanded

PETITIONERS**VERSUS**

- 1] The State of Maharashtra
Through its Secretary,
Education Department,
Mantralaya, Mumbai-32.
- 2] The Director of Education,
Maharashtra State, Pune
- 3] The Deputy Director of Education,
Latur Division, Latur

- 4] The Chief Executive Officer,
Zilla Parishad, Nanded
- 5] The Education Officer,
Zilla Parishad, Nanded
- 6] The Block Education Officer,
Panchayt Samiti, Loha,
Dist. Nanded.
- 7] The Head Master,
Zilla Parishad Primary School,
Betsangavi, Tq.Loha,
Dist. Nanded.

RESPONDENTS

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Mr. S.L.Bhapkar, Advocate for petitioners
Mr. B.V.Virdhe, AGP for respondent Nos.1 to 3
Mr. S.B.Patil, Advocate for respondent Nos.4
and 5.

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

Date: April 15, 2016

ORDER: [Per S.S.Shinde, J.]:

1] Heard the learned counsel appearing
for the petitioners, the learned AGP
appearing for respondent nos. 1 to 3, and the
learned counsel appearing for respondent nos.
4 and 5.

2] Upon perusal of the pleadings in the Petition and other documents placed on record, it appears that, the petitioners, excepting the present petitioner no.1, had filed Writ Petition No.582/2015 [The School Administration Committee, Zilla Parishad, Primary School, Nanded and others Vs. The State of Maharashtra and others], seeking the relief of granting permission to start 8th standard in respondent no. 7 school. In the present Petition also, there is prayer to allow respondent no. 7 to run classes of 8th standard.

3] According to the learned counsel appearing for the petitioners, petitioner no. 1 was not a party to the earlier Writ Petition, and therefore, the present Petition is maintainable. The Writ Petition No. 582/2015 was filed seeking the similar reliefs, as have been prayed in the present Writ Petition.

4] In pursuance of the notices issued to the respondents, respondent nos. 1 to 3 filed affidavit-in-reply. In para 6 of the affidavit-in-reply, it is stated that the present Writ Petition is not maintainable on the ground that the petitioners had earlier filed Writ Petition No.582/2015 for the same relief of granting permission to present respondent no. 7 to start and run 8th standard by way of natural growth. The said Writ Petition came up for hearing along with connected Writ Petition No.496 of 2015. During the course of hearing the Writ Petition No.482 of 2015, before the High Court on 3rd July, 2015, the petitioners sought leave to withdraw the said Petition. The Petition was disposed of as withdrawn. However, the petitioners therein did not pray for liberty to file fresh Petition. Therefore, the present Petition claiming the

same reliefs that were claimed in Writ Petition No.582/2015, is not maintainable.

5] Upon hearing the learned counsel appearing for the parties, and considering the reply filed by respondent nos. 1 to 3, it is clear that earlier Writ Petition No.582/2015 was filed by petitioner no.2 herein and the same was withdrawn unconditionally. Once the said Writ Petition was withdrawn unconditionally without seeking liberty to file fresh Petition, the order in the said Writ Petition No.582/2015 would attain finality. Therefore, the present Writ Petition claiming the same reliefs cannot be entertained, hence the same is liable to be rejected. Accordingly, it is rejected. However, rejection of this Writ Petition should not be construed as an impediment for the petitioners to avail of the appropriate remedy.

6] Civil Application No.3191/2016 and
Civil Application No.12859/2015 are also
disposed of.

[SANGITRAO S.PATIL]
JUDGE

[S.S.SHINDE]
JUDGE

DDC