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

Writ Petition No. 12056 of 2015

District : Nanded

Parvati Vishwanath Vallapwad,
Age : 27 years,
Occupation : Service as
Shikshan Sevak,
R/o. Barhali,
Taluka : Mukhed,
District : Nanded. .. Petitioner.

versus

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

2. Deputy Director of Education,
   Latur Region, Latur.

3. Education Officer (Primary),
   Zilla Parishad, Nanded.

4. The Headmaster,
   Sant Kaikadi Maharaj Primary School,
   Barhali, Taluka : Mukhed,
   District : Nanded.

5. The Secretary,
   Tathagat Shikshan Prasarak Mandal,
   Nivali, Taluka : Mukhed,
   District : Nanded. .. Respondents.

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Mr. Sachin S. Deshmukh, Advocate, holding for
Mr. L.S. Shaikh, Advocate, for the petitioner.

Mr. S.B. Yawalkar, Addl. Government Pleader, for respondent nos.1 and 2.

Mr. S.B. Pulkundwar, Advocate, for respondent no.3.

Mr. V.S. Panpatte, Advocate, for respondent nos.4 and 5.

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With

Writ Petition No. 12057 of 2015

District : Nanded

Asha Sureshrao Marpalikar,
Age : 24 years,
Occupation : Service as
Shikshan Sevak,
R/o. Hamalpura (Vishnupura),
Taluka & District : Nanded. .. Petitioner.

versus

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

2. Deputy Director of Education,
   Latur Region, Latur.

3. Education Officer (Primary),
   Zilla Parishad, Nanded.

4. The Headmaster,
   Mahatma Phule Primary School,
   Vankatesh Nagar,
   Taluka and District : Nanded.

5. The Secretary / President,
   Akhil Bhartiya Mantang Seva Mandal,
   Vankatesh Nagar,

Taluka & District : Nanded. .. Respondents.

.....

Mr. Sachin S. Deshmukh, Advocate, holding for Mr. L.S. Shaikh, Advocate, for the petitioner.

Mr. S.B. Yawalkar, Addl. Government Pleader, for respondent nos.1 and 2.

Mr. N.S. Kadam, Advocate, for respondent no.3.

Mr. V.S. Panpatte, Advocate, for respondent nos.4 and 5.

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With

Writ Petition No. 12058 of 2015

District : Nanded

Jagdish s/o. Balajirao Mane,
Age : 28 years,
Occupation : Service as
Shikshan Sevak,
R/o. N-D/41, CIDCO, Nanded,
Taluka and District : Nanded. .. Petitioner.

versus

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

2. Deputy Director of Education,
   Latur Region, Latur.

3. Education Officer (Primary),
   Zilla Parishad, Nanded.

4. The Headmaster,
   Indira Gandhi Primary School,

CIDCO, Nanded,
Taluka & District : Nanded.

5. The Secretary,
Kai. Shankarrao Bhosale Shikshan
Prasarak Mandal, Mortalwadi (N),
Taluka : Udgir, Dist. : Latur,
C/o. Indira Gandhi Primary School,
CIDCO, Nanded,
Taluka and District : Nanded. .. Respondents.

.....

Mr. Sachin S. Deshmukh, Advocate, holding for Mr. L.S. Shaikh, Advocate, for the petitioner.

Mr. S.B. Yawalkar, Addl. Government Pleader, for respondent nos.1 and 2.

Mr. N.S. Kadam, Advocate, for respondent no.3.

Mr. V.S. Panpatte, Advocate, for respondent nos.4 and 5.

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With

Writ Petition No. 12059 of 2015

District : Nanded

Dilip s/o. Veerbhadra Konapure,
Age : 26 years,
Occupation : Service as
Shikshan Sevak,
R/o. Umardari, Taluka : Mukhed,
District : Nanded. .. Petitioner.

versus

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

2. Deputy Director of Education,
   Latur Region, Latur.

3. Education Officer (Primary),
   Zilla Parishad, Nanded.

4. The Headmaster,
   Primary School, Umardari,
   Taluka : Mukhed,
   District : Nanded.

5. The Secretary,
   Janta Shikshan Prasarak Mandal,
   Umardari, Taluka : Mukhed,
   District : Nanded. .. Respondents.

.....

Mr. Sachin S. Deshmukh, Advocate, holding for Mr. L.S. Shaikh, Advocate, for the petitioner.

Mr. S.B. Yawalkar, Addl. Government Pleader, for respondent nos.1 and 2.

Mr. N.S. Kadam, Advocate, for respondent no.3.

Mr. V.S. Panpatte, Advocate, for respondent nos.4 and 5.

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With

Writ Petition No. 12060 of 2015

District : Nanded

Maroti s/o. Baliram Choulawad,
Age : 27 years,
Occupation : Service as
Shikshan Sevak,
R/o. Umardari,
Taluka : Mukhed,
District : Nanded. .. Petitioner.

versus

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

2. Deputy Director of Education,
   Latur Region, Latur.

3. Education Officer (Primary),
   Zilla Parishad, Nanded.

4. The Headmaster,
   Primary School, Umardari,
   Taluka : Mukhed,
   District : Nanded.

5. The Secretary,
   Janta Shikshan Prasarak Mandal,
   Umardari, Taluka : Mukhed,
   District : Nanded. .. Respondents.

.....

Mr. Sachin S. Deshmukh, Advocate, holding for Mr. L.S. Shaikh, Advocate, for the petitioner.

Mr. S.B. Yawalkar, Addl. Government Pleader, for respondent nos.1 and 2.

Mr. N.S. Kadam, Advocate, for respondent no.3.

Mr. V.S. Panpatte, Advocate, for respondent nos.4 and 5.

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With

Writ Petition No. 12061 of 2015

District : Nanded

Gajanan s/o. Shivaji Kadam,
Age : 24 years,

Occupation : Service as
Assistant Teacher, R/o. Mukhed,
Taluka : Mukhed,
District : Nanded. .. Petitioner.

versus

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

2. Deputy Director of Education,
   Latur Region, Latur.

3. Education Officer (Primary),
   Zilla Parishad, Nanded.

4. The Headmaster,
   Smt. Deubai Primary School,
   Loni (Kh.), Taluka : Ardhapur,
   District : Nanded.

5. The Secretary,
   Dr. Babasaheb Ambedkar Shikshan
   Prasarak Mandal, Loni (Kh.),
   Taluka : Ardhapur,
   District : Nanded. .. Respondents.

.....

Mr. Sachin S. Deshmukh, Advocate, holding for Mr. L.S. Shaikh, Advocate, for the petitioner.

Mr. S.B. Yawalkar, Addl. Government Pleader, for respondent nos.1 and 2.

Mr. N.S. Kadam, Advocate, for respondent no.3.

Mr. V.S. Panpatte, Advocate, for respondent nos.4 and 5.

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With

Writ Petition No. 12087 of 2015

District : Nanded

Vithal s/o. Sambhaji Narwade,
Age : 31 years,
Occupation : Service as
Shikshan Sevak, R/o. Dharmabad,
Taluka : Dharmabad,
District : Nanded. .. Petitioner.

versus

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

2. Deputy Director of Education,
   Latur Region, Latur.

3. Education Officer (Primary),
   Zilla Parishad, Nanded.

4. The Headmaster,
   Hutatma Pansare Primary School,
   Dharmabad,
   Taluka : Dharmabad,
   District : Nanded.

5. The Secretary,
   Hutatma Pansare Memorial School,
   Dharmabad, Taluka : Dharmabad,
   District : Nanded. .. Respondents.

.....

Mr. Sachin S. Deshmukh, Advocate, holding for Mr. L.S. Shaikh, Advocate, for the petitioner.

Mr. S.B. Yawalkar, Addl. Government Pleader, for respondent nos.1 and 2.

Mr. N.S. Kadam, Advocate, for respondent no.3.

Mr. V.S. Panpatte, Advocate, for respondent nos.4 and 5.

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With

Writ Petition No. 12088 of 2015

District : Nanded

Chimnaji s/o. Govind Kodewad,
Age : 26 years,
Occupation : Service as
Shikshan Sevak,
R/o. Labour Colony, Nanded,
Taluka and District : Nanded. .. Petitioner.

versus

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

2. Deputy Director of Education,
   Latur Region, Latur.

3. Education Officer (Primary),
   Zilla Parishad, Nanded.

4. The Headmaster,
   Panchshil Primary School,
   Labour Colony,
   Ganesh Nagar Road, Nanded,
   Taluka and District : Nanded.

5. The Secretary,
   Mahatma Phule Shikshan Prasarak Mandal,
   Nanded, Pivali Girni, Nanded,
   Taluka and District : Nanded. .. Respondents.

.....

Mr. Sachin S. Deshmukh, Advocate, holding for Mr. L.S. Shaikh, Advocate, for the petitioner.

Mr. S.B. Yawalkar, Addl. Government Pleader, for respondent nos.1 and 2.

Mr. N.S. Kadam, Advocate, for respondent no.3.

Mr. V.S. Panpatte, Advocate, for respondent nos.4 and 5.

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With

Writ Petition No. 12089 of 2015

District : Nanded

Aruna Namdeorao Virale,
Age : 29 years,
Occupation : Service as
Shikshan Sevak,
R/o. Gandhinagar,
Hingoli Naka,
Maharanapratap Chowk,
Nanded,
Taluka and District : Nanded. .. Petitioner.

versus

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

2. Deputy Director of Education,
   Latur Region, Latur.

3. Education Officer (Primary),
   Zilla Parishad, Nanded.

4. The Headmaster,
   Marathi Primary School,
   Sneh Nagar, Nanded,
   Taluka and District : Nanded.

5. The Secretary / President,

Peoples and Science College,
Students Circle, Sneh Nagar,
Nanded, Taluka & Dist. : Nanded. .. Respondents.

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Mr. Sachin S. Deshmukh, Advocate, holding for Mr. L.S. Shaikh, Advocate, for the petitioner.

Mr. S.B. Yawalkar, Addl. Government Pleader, for respondent nos.1 and 2.

Mr. N.S. Kadam, Advocate, for respondent no.3.

Mr. V.S. Panpatte, Advocate, for respondent nos.4 and 5.

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

DATE : 3RD MAY 2016

ORAL JUDGMENT *(Per S.S. Shinde, J.)*:

Heard the learned Counsel for the petitioners and the learned Counsel appearing for the respondents.

2. Rule. Rule made returnable forthwith. By consent of the learned Counsel for the parties, heard finally.

3. Since the common point is involved and contentions raised by the petitioners in all these petitions are same, the same are being heard and disposed of by this common order.

4. The learned Counsel for the petitioners invites our attention to the order dated 16th January 2014, passed by the Division Bench of this Court in Writ Petition No. 5981 of 2013 and submits that in pursuance of the directions of this Court, the enquiry was conducted by the Education Officer. After conducting the said enquiry, the Education Officer informed the President / Secretary of the concerned Institutions and also Head Master vide communication dated 10.11.2014 that the appointments of the petitioners were made though there were surplus Teachers to be absorbed and on that sole ground the appointments of the petitioners were cancelled. Being aggrieved by the said communication, the petitioners filed Writ Petitions and while disposing of the said Writ Petition No. 10973 of 2014 with connected petitions, the Division Bench of this Court in Clause IV of the operative part of the order observed that, in case, the Education Officer seeks to raise some other ground against the petitioners, i.e. apart from the enquiry report, then the Education Officer shall bring the said ground to the notice of the said petitioners in advance so as to give opportunity to the petitioners to reply to the same. However, the Education Officer while passing the impugned orders on 18th November 2015, while cancelling approval granted to the services of the petitioners, relied upon various grounds i.e. ground

Nos.1, 2, 3, 5, 6 & 7, which were not mentioned in the earlier communication dated 10th November 2014 of the Education Officer. In view of the directions of the Division Bench of this Court in the said Writ Petitions, the Education Officer ought to have issued notices to the petitioners, setting out grounds therein on which the petitioners were supposed to reply and thereafter the Education Officer ought to have taken appropriate decisions. Therefore, the learned Counsel for the petitioners submit that the impugned communications / orders dated 18th November 2015, passed by the Education Officer (Primary), Zilla Parishad, Nanded, deserve to be quashed and set aside.

5. On the other hand, the learned Counsel appearing for respondent no.3, relying upon averments in the affidavit in reply and contents of the impugned orders, submits that the Education Officer has taken into consideration the entire material / documents and thereafter passed the impugned orders. Therefore, this Court may not interfere in the impugned orders.

6. We have considered the submissions of the learned Counsel for the petitioners and also the learned Counsel appearing for the respective respondents. With their able assistance, perused the pleadings in the petitions, annexures thereto, the

order passed by this Court in Writ Petition No. 10973 of 2014 with connected petitions and also the reasons assigned by the Education Officer in the impugned communications / orders.

7. While disposing of the aforementioned Writ Petitions, the Division Bench of this Court in Clause IV of the operative part of the order, has observed thus :-

> " In case, the Education Officer seeks to raise some other ground against the petitioners, i.e. apart from the enquiry report, then the Education Officer shall bring the said ground to the notice of the said petitioners in advance so as to give opportunity to the petitioners to reply to the same. "

Therefore, it follows from the said observations / directions that if the Education Officer wanted to rely upon any new grounds or new material, the Education Officer was under an obligation to issue notices to the petitioners mentioning therein new grounds / material on which the Education Officer wanted to proceed and then to take the decision afresh about the approval to the services of the petitioners. However, upon perusal of the impugned orders, ground Nos.1, 2, 3, 5, 6 and 7, which are set out by the Education Officer, are altogether different grounds than the ground which was mentioned in his communication dated 10th November 2014.

Therefore, there is no slightest doubt that the Education Officer in breach of the directions issued by the Division Bench of this Court contained in Clause IV of the operative order in Writ Petition No. 10973 of 2014 and connected petitions, proceeded to cancel the approval to the services of the petitioners on various grounds, without affording an opportunity to the petitioners or without issuing any notice so as to enable the petitioners to put forth their contentions in respect of the new grounds on which the Education Officer wanted to rely.

8. In the result, the Writ Petitions are partly allowed.

(a) The impugned communications / orders dated 18th November 2015 in these petitions are quashed and set aside.

(b) The Education Officer (Primary), Zilla Parishad, Nanded, is directed to consider the issue about grant of approval to the services of the petitioners afresh and take the decision as expeditiously as possible, however, on or before 10th June 2016.

(c) All the points raised in these petitions are kept open to be agitated before the Education Officer. In case, the Education Officer desires to rely upon the same grounds which are stated in the impugned order,

at least, one week's notice should be given to the petitioners mentioning therein the grounds and further one week should be granted to them to reply to the said grounds and after hearing the petitioners, the Education Officer to take appropriate decision.

(d) We make it clear that the Education officer (Primary), Zilla Parishad, Nanded, shall not venture to commit breach of the directions issued by this Court in Writ Petition No. 10973 of 2014 and connected petitions on 26th June 2015, and also the directions issued today. The Education Officer shall take timely decision in the matter and communicate the decision so taken within the aforesaid period to respondent nos.4 and 5.

9. Rule is made absolute in the above terms. In the circumstances of the case, parties shall bear their own costs.

10. Parties to act upon an authenticated / certified copy of this judgment.

(SANGITRAO S. PATIL)
JUDGE

(S.S. SHINDE)
JUDGE

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